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17/04/2025



REPUBLIC OF KENYA

**Rt. Hon. Speaker**  
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J. M. Nyegenye, C.B.S.,  
Clerk of the senate/secretary, PSC  
Date: 17/04/25



13<sup>TH</sup> PARLIAMENT | 4<sup>TH</sup> SENATE | 4<sup>TH</sup> SESSION

**STANDING COMMITTEE ON DEVOLUTION AND  
INTERGOVERNMENTAL RELATIONS**

**PROGRESS REPORT ON THE OPERATIONAL AND LEADERSHIP  
CRISIS AFFECTING THE COUNTY ASSEMBLY OF NYAMIRA**

17/04/25

Clerk's Chambers,  
The Senate,  
Parliament Buildings,  
NAIROBI.

| PAPERS LAID        |             |
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| DATE               | 17/04/2025  |
| TABLED BY          | CHAIRPERSON |
| COMMITTEE          | -           |
| CLERK AT THE TABLE | ABIGAIL N.  |

APRIL, 2025

DC-EG  
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17/04/2025

*Re. Hon. Speaker  
You may apply for ruling  
CSC*

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## **LIST OF ABBREVIATIONS/ACRONYMS**

|       |   |                                   |
|-------|---|-----------------------------------|
| CASB  | - | County Assembly Service Board     |
| C.o.B | - | Controller of Budget              |
| CECM  | - | County Executive Committee Member |
| MCA   | - | Member of County Assembly         |

## PRELIMINARIES

### **Mandate of the Committee**

The Senate Standing Committee on Devolution and Intergovernmental Relations is established under the Standing Order 228 (3) and the Fourth Schedule of the Senate Standing Orders. The Committee is mandated to “*consider all matters relating to devolution, intergovernmental and inter-county relations, governance and management of county governments, cities, towns and urban areas.*”

### **Membership of the Committee**

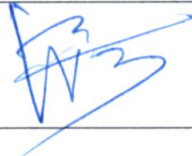



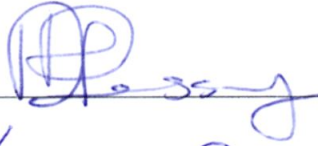




|  |   |                         |
|--|---|-------------------------|
| 1. Sen. Sheikh Mohamed Abbas, CBS, MP    | - | <b>Chairperson</b>      |
| 2. Sen. Catherine Muyeka Mumma, MP       | - | <b>Vice Chairperson</b> |
| 3. Sen. (Prof.) Margaret Kamar, EGH, MP  | - | Member                  |
| 4. Sen. (Dr) Oburu Oginga, MGH, MP       | - | Member                  |
| 5. Sen. Peris Pesi Tobiko, CBS, MP       | - | Member                  |
| 6. Sen. Paul Karungo Thangwa, CBS, MP    | - | Member                  |
| 7. Sen. Richard Momoima Onyonka, EBS, MP | - | Member                  |
| 8. Sen. Mohamed Said Chute, MP           | - | Member                  |
| 9. Sen. Hezena M. Lemaletian, MP         | - | Member                  |

The Minutes of the Committee in considering the matter are herein attached as (*Annex1*).



**ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON DEVOLUTION  
AND INTERGOVERNMENTAL RELATIONS ON THE OPERATIONAL AND  
LEADERSHIP CRISIS AFFECTING THE COUNTY ASSEMBLY OF NYAMIRA**

**We, the undersigned Members of the Standing Committee on Devolution and Intergovernmental Relations, do hereby append our signatures to adopt this Report-**

|                                       |                   |   |
|---------------------------------------|-------------------|---|
| Sen. Sheikh Mohamed Abass, CBS, MP    | - Chairperson     |    |
| Sen. Catherine Muyeka Mumma, MP       | -Vice-Chairperson |    |
| Sen. (Prof.) Margaret Kamar, EGH, MP  | -Member           |    |
| Sen. (Dr) Oburu Oginga, MGH, MP       | -Member           |   |
| Sen. Peris Pesi Tobiko, CBS, MP       | -Member           |  |
| Sen. Paul Karungo Thangwa, CBS, MP    | -Member           |  |
| Sen. Richard Momoima Onyonka, EBS, MP | -Member           |  |
| Sen. Mohamed Said Chute, MP           | -Member           |  |
| Sen. Hezena M. Lemaletian, MP         | -Member           |  |

## CHAPTER ONE: INTRODUCTION

### **1.0 Background**

1. The Senate Standing Committee on Devolution and Intergovernmental Relations noted with concern, the reported long-standing dispute in the County Assembly of Nyamira, that allegedly split the Assembly into two factions. The Committee was further concerned that the dispute was affecting the smooth functioning of the county assembly and effective service delivery in the county.
2. On Tuesday 1<sup>st</sup> April, 2025, the Senator for Nyamira County, Sen. Okong'o Mogeni, CBS, SC, MP, rose pursuant to standing order 53(1) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the leadership and operational crisis currently affecting the County Assembly of Nyamira.  
**(Annex 2)**
3. In the statement, the Senator informed that the Assembly had split into two rival factions, each conducting parallel sittings in different venues, led by separate individuals claiming to be the legitimate Speaker and Clerk. This state of affairs caused confusion, undermined legislative integrity and would potentially jeopardize public confidence in the institution and the oversight role of the Senate.
4. The Senator requested that the Committee addresses the following;
  - (i) The officially designated and gazetted location of the County Assembly of Nyamira and whether sittings held outside that location were duly approved, tabling evidence.
  - (ii) The status and legal standing of business transacted by the two factions, including the adoption of the supplementary budget and other legislative decisions made during the standoff.
  - (iii) The process through which the two Speakers and Clerks were appointed, and whether due process and relevant Standing Orders were followed in their installation.

## **CHAIRPERSON'S FOREWORD**

**Hon. Speaker,**

The Senate Standing Committee on Devolution and Intergovernmental Relations noted with concern, the reported long-standing dispute in the County Assembly of Nyamira, that allegedly split the Assembly into two factions. The Committee was further concerned that the dispute was affecting the smooth functioning of the county assembly and effective service delivery in the county.

Additionally, on Tuesday 1<sup>st</sup> April, 2025, the Senator for Nyamira County, Sen. Okong'o Mogeni, CBS, SC, MP, rose pursuant to standing order 53(1) to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the leadership and operational crisis currently affecting the County Assembly of Nyamira.

In the statement, the Senator informed the Senate that the Assembly had split into two rival factions, each conducting parallel sittings in different venues, led by separate individuals claiming to be the legitimate Speaker and Clerk. The Senator further stated that the state of affairs caused confusion, undermined legislative integrity and would potentially jeopardize public confidence in the institution and the oversight role of the Senate.

The Senator requested that the Committee addresses the following;

- (i) The officially designated and gazetted location of the County Assembly of Nyamira and whether sittings held outside that location were duly approved, tabling evidence.
- (ii) The status and legal standing of business transacted by the two factions, including the adoption of the supplementary budget and other legislative decisions made during the standoff.
- (iii) The process through which the two Speakers and Clerks were appointed, and whether due process and relevant Standing Orders were followed in their installation.



- (iv) The steps taken by the relevant constitutional and intergovernmental bodies to resolve the leadership dispute and restore order in the County Assembly.

The Senator further recommended that the Committee initiates and leads a reconciliation and mediation process to return the Assembly to institutional normalcy, safeguard the rule of law, and protect the interests of the residents of Nyamira County.

**Mr. Speaker,**

The Committee considered the matter and resolved to send invitations to the leadership of each of the factions claiming to be the legitimate Speaker and Clerk, to a meeting of the Committee scheduled to be held on Tuesday, 8th April, 2025, to apprise the Committee on the dispute. The individuals were Hon. Thaddeus Nyabaro and Hon. Enock Okero, both claiming to be the legitimate Speaker; and Mr. Duke Onyari and Mr. Sylvanus Ndemo, both claiming to be the legitimate Clerk. The Committee also invited the Controller of Budget to provide information on financial issues arising from the approval of County Budgets and requisitions.

The invited parties appeared before the Committee on Tuesday, 8<sup>th</sup> April, 2025.

**Hon. Speaker,**

The Committee conducted extensive discussions with the stakeholders, regarding the matter, noting the major issues arising from the deliberations.

Further, the Committee did an in-depth analysis into the issues emerging from the stakeholders' submissions and made various observations as set out in the report. The Committee observed that;

- (i) There are two factions that consist of separate leadership structures (including Speakers, Clerks, and Assembly Service Boards), leading to confusion, legal uncertainty, and an inability of the County Assembly to effectively fulfill its Constitutional duties.

- (ii) The County Assembly of Nyamira also faces operational challenges owing to ongoing parallel county assembly sittings held by two factions, each claiming legitimacy, one faction holding its sitting in gazetted wards, and the other holding its sittings within the County Assembly Chamber.
- (iii) The contestation of the office of the Speaker has the dire consequence of affecting all other county assembly service structures, therefore making it imperative for the legitimate Speaker to be ascertained.

Based on its findings and observations the Committee made the following interim recommendations:

- (i) that Section 7B (2) of the County Governments Act, Cap 265, which provides for the “*Location of sittings of County Assembly*” and in particular, subsection (2) which provides as follows—

*...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 and gazette notice 7653 of 2017, the sittings of the county assembly be held at the county assembly premises located in Nyamira Assembly Building, opposite Kenyan Industrial Estates, Nyamira.*

- (ii) that pending the determination of the court cases, the county assembly resumes its normal operations in accordance with the Constitution, the County Governments Act and the Standing Orders of the County Assembly of Nyamira.

The Committee also notes that there are a number of issues that affect the operations and running of the county Assembly of Nyamira that are related to and connected with the dispute concerning the legitimate holder of the office of the Speaker, the office of the clerk, and the offices of the county Assembly service board. The Committee therefore requests for more time to further investigate these matters and other emerging issues that affect the effective governance of the County Assembly. To this end, the Committee has scheduled a visit to the County during the upcoming recess period.

**Mr. Speaker,**

May I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which led to the successful consideration of the matter.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this important assignment. Lastly, I wish to thank the stakeholders who presented their submissions to the Committee.

**Mr. Speaker,**

It is now my pleasant duty, pursuant to Standing Order 148(1), to present the Progress Report of the Standing Committee on Devolution and Intergovernmental Relations on its consideration of the operational and leadership crisis affecting the County Assembly of Nyamira.

Signed ..... Date.....

**SEN. SHEIKH MOHAMED ABASS, CBS, MP**

**CHAIRPERSON,**

**STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL  
RELATIONS**

---



- (iv) The steps taken by the relevant constitutional and intergovernmental bodies to resolve the leadership dispute and restore order in the County Assembly.
  - (v) The Committee's recommendations on initiating and leading a reconciliation and mediation process to return the Assembly to institutional normalcy, safeguard the rule of law, and protect the interests of the residents of Nyamira County.
5. The Committee considered the matter and resolved to initiate and lead a reconciliation and mediation process to return the Assembly to institutional normalcy, safeguard the rule of law and protect the interests of the residents of Nyamira County, as requested.

## **CHAPTER TWO: INQUIRY INTO THE MATTER**

### **2.0 Introduction**

#### **(i) Invitations**

6. In consideration of the matter, the Committee sent invitations on 2<sup>nd</sup> April, 2025 and 3<sup>rd</sup> April, 2025 to the leadership of each of the factions claiming to be the legitimate Speaker and Clerk to a meeting of the Committee scheduled to be held on Tuesday, 8<sup>th</sup> April, 2025, to apprise the Committee on the dispute in Nyamira County Assembly. The individuals were Hon. Thaddeus Nyabaro and Hon. Enock Okero, both claiming to be the legitimate Speaker; and Mr. Duke Onyari and Mr. Sylvanus Ndemo, both claiming to be the legitimate Clerk.
7. The invited parties were required to address the following issues;
  - (i) Inform the Committee on the cause of the dispute, the extent to which it has affected operations of the county assembly, any steps taken to ensure the matter is resolved;
  - (ii) The officially designated and gazetted location of the County Assembly of Nyamira and whether sittings held outside that location were duly approved, tabling evidence;
  - (iii) The status and legal standing of business transacted by the two factions, including the adoption of the supplementary budget and other legislative decisions made during the standoff; and
  - (iv) The process through which the two Speakers and Clerks were appointed, and whether due process and relevant Standing Orders were followed in their appointment.
8. The Committee also sent an invitation on 2<sup>nd</sup> April, 2025 to the Controller of Budget to provide information on;
  - (i) Whether the Office of the Controller of Budget continued issuing payments to the County Assembly of Nyamira despite the duplication of various offices in the County Assembly;

- (ii) How the county budget was passed in light of the two factions in operation;
  - (iii) Which of the two factions was in consultation with the office of the Controller of Budget; and
  - (iv) Any steps taken to ensure the matter is resolved.
9. The Committee met Hon. Thaddeus Nyabaro and Hon. Enock Okero, claiming to be the legitimate Speaker; Mr. Duke Onyari and Mr. Sylvanus Ndemo, both claiming to be the legitimate Clerk of the Assembly; and The Controller of Budget, at its meeting held on Tuesday, 8<sup>th</sup> April, 2025.

(ii) **Submissions received by the Committee**

**2.1 Submissions received from Hon. Enock OKero**

10. Hon. Enock Okero informed the Committee as follows-

- (1) He stated that, in the months of October 2023 and September, 2024 the County Assembly, acting within the law, procedure and in accordance with Nyamira County Assembly Standing Orders, attempted to impeach H.E Governor Amos Nyaribo but in vain. This was a procedural and democratic trend in the County Assemblies Legislative processes. The outcome of the failed attempts split the County Assembly Members to two factions.
- (2) that he was elected to the office as the Speaker of the County Assembly of Nyamira on 27<sup>th</sup> September, 2022. On 8<sup>th</sup> October, 2024, he was violently evicted from the Assembly while presiding over the morning session. He reported the matter to Nyamira Police station.
- (3) that he was on the 9<sup>th</sup> October, 2024, served with a suspension letter via WhatsApp platform by Hon. George Abuga, MCA for Bogichora ward.
- (4) that he challenged the suspension at the Nyamira High Court vide **Petition E008/2024** and was granted conservatory orders and that he was blocked from accessing his office at the County Assembly buildings, on 15<sup>th</sup> October,



2025 by a section of MCAs, staff members and armed strangers. (*The video was annexed as evidence*)

- (5) that on 24<sup>th</sup> October, 2024, a section of MCAs proceeded to carry out an impeachment of the Speaker, Hon. Okero, which he claimed was illegal since they rushed to amend the Standing orders to reduce the threshold from the current 75% which was 26 MCAs, to two-thirds of the Assembly translating to 23 MCAs.
- (6) that he went ahead and cited the Assembly's actions for contempt, for an illegal impeachment and the Nyamira High Court found that the application merited and that the six respondents including the Ag. Clerk then (Mr. Duke S. Onyari) were found guilty in its ruling on the 4<sup>th</sup> November, 2024. (*Ruling annexed under **Annex 3***). The court then summoned the MCAs to appear in court on 16<sup>th</sup> December, 2024 to show cause why they should not be committed to civil jail for contempt.
- (7) that upon pleading for leniency, the Court pardoned the guilty contemnors and had a Preliminary Objection Ruling addressing the issue of jurisdiction raised by the respondents. The Court then transferred the case to Kisumu ELRC, where there were other similar matters that ought to have been consolidated, and the orders were in place as petition **E052 of 2024**.
- (8) that afterwards, the County Assembly service Board resolved to suspend the then Acting Clerk, Mr. Duke Onyari in line with the provisions of the County assembly Services Act 2017. The Board instructed Mr. Duke S. Onyari to hand over to the new Ag. Clerk Mr. Silvanus Ndemo Nyamora and also instructed the Director Finance Mr. Leonard Nyamasege to facilitate a smooth transition process. Both Mr. Duke S. Onyari and Mr. Leonard Nyamasege did not oblige to facilitate the smooth transition process as direct by the CASB.
- (9) that Mr. Nyamora was gazetted as the new Acting Clerk vide gazette notice number 14230. The Gazette Notice No.14230 of 2024 appointing Mr.

Silvanus Nyamora was stayed by the Court Orders in the High Court of Nyamira **JR PTN.E007 of 2024**

- (10) that despite the matter being active in Court, the same section of MCAs with the assistance of the suspended Ag. Clerk Mr. Duke Simeon Onyari, went on to conduct an election to fill the otherwise non vacant seat of the Speaker, with one Honorable Thaddeus Nyabaro (MCA Ekerenyo Ward). Additionally, that the Acting clerk was elevated irregularly to the position of clerk.
- (11) that the same matter was challenged in court vide Petition **E001 of 2025** at Nyamira High Court. Consequently, Orders were issued restraining Hon. Thaddeus Nyabaro from acting or purporting to act as Speaker. The irregular appointment of clerk was also challenged by a member of the public in the Employment and Labour Relations Court case number: **ELRCPET/E001/2025** and the ruling is expected to come up on 6<sup>th</sup> May 2025.
- (12) that the Court, vide Petition **no. E004 of 2025** granted Acting Clerk Mr. Silvanus Nyamora partial access to the Nyamira County Assembly Bank Accounts to enable payment of salaries to MCAs, staff members and essential services to avert imminent collapse and closure of operations.
- (13) that the composition of the County Assembly Service Board was also interfered with, creating confusion and the following damages were caused by the Suspended Acting Clerk Mr. Duke S. Onyari and the reconstituted board-
- (a) suspension and dismissal of staff members who held contrary opinion;
  - (b) harassment and stoppage of salaries of members of staff mainly those who are perceived to obey and observe the law;
  - (c) payment of an illegal Speaker while removing the legitimate Speaker from the payroll.



The letters, videos, petitions, rulings, court orders and other supporting documents referred to in his submissions are annexed under (Annex 3.)

## **2.2 Submissions received from the Controller of Budget**

11. The Controller of Budget submitted as follows-

### **2.2.1 The Original Nyamira County Budget**

- (1) The original Nyamira County budget for FY 2024/25 totaled to **Kshs. 7.54 billion**. The budget comprised of **Kshs. 2.28 billion** (30%) allocated for development programs and **Kshs. 5.26 billion** (70%) for recurrent programs. A summary of the Nyamira County budget was presented as annexed in her submissions. (**Annex 4**)
- (2) The Vellum was signed by H.E Governor Amos Kimwomi Nyaribo, the Clerk of the County Assembly Mr. Duke Onyari, and the Speaker of the County Assembly Hon. Enock Okero on 2<sup>nd</sup> July, 2024. Further, the County Executive Committee Member (CECM) of Finance Dr. Geoffrey Morara Nyakoe signed the forwarding letter, on 2<sup>nd</sup> August 2024. The County Appropriation Act was assented to on 26<sup>th</sup> July, 2024 and printed on 29<sup>th</sup> July 2024.

### **2.2.2 Nyamira County's First Supplementary Budget for FY 2024/25**

- (3) The County passed the First Supplementary Budget on 26<sup>th</sup> November 2024, which was gazetted on 27<sup>th</sup> November 2024. The Supplementary Budget amounted to **Kshs. 8.10 billion** and comprised of **Kshs. 5.23 billion** (65%) for recurrent expenditure and **Kshs. 2.87 billion** (35%) for development expenditure.
- (4) The CECM for Finance, Dr. Geoffrey Morara Nyakoe, submitted this Supplementary Budget on 28<sup>th</sup> November, 2024. The Vellum was signed by H.E Governor Amos Kimwomi Nyaribo, the Speaker of the of the County Assembly Hon. Enock Okero, and the Acting Clerk Mr. Sylvanus Ndemo



Nyamira on 26<sup>th</sup> November 2024. The Nyamira County Supplementary Appropriation Act, 2025 was assented to on 26<sup>th</sup> November, 2024 and printed on 27<sup>th</sup> November, 2024

### **2.2.3 Changes after passage of the Supplementary Budget**

- (5) The Budget estimates were increased by 7.4% from **Kshs.7.54 billion** in the Original Approved budget to **Kshs.8.10 billion** in the First Supplementary Budget for FY 2024/25. The increase is attributable to the inclusion of unspent balances of conditional grants from the previous year, amounting to **Kshs. 399.97 million**, and own source revenue, which was revised upwards by **Kshs. 50 million**.

### **2.2.4 Exchequer Issues to the County Government of Nyamira**

- (6) As of 31<sup>st</sup> March, 2025, total exchequer issues amounted to **Kshs.3.53 billion**, which represents **44%** of the approved budget. Exchequer issues comprised of Kshs.2.92 billion for recurrent expenditure and Kshs.615.89 million towards payment of development expenditure activities.

### **2.2.5 Exchequer issues to the County Assembly of Nyamira**

- (7) The approved budget for the County Assembly of Nyamira amounts to **Kshs.797.76 million**, comprising Kshs.699.76 million for recurrent expenditures and Kshs.98 million for development expenditures.
- (8) Exchequer issues to the County Assembly as of 31<sup>st</sup> March 2025 amounted to **Kshs.294.49 million**, which translates to **37%** of the approved budget for the County Assembly. Exchequer releases comprised of Kshs.263.87 million for recurrent expenditures and Kshs.30.62 million for development expenditures, as summarized in Table 4 of their submissions. **(Annex 4)**

### **2.2.6 Leadership Disputes in The County Assembly of Nyamira**

- (9) that on 8<sup>th</sup> October 2024, Hon. Enock Okero was suspended as Speaker of the County Assembly. He later filed a court case challenging his suspension. Further, On 16<sup>th</sup> October 2024, the County Assembly proceeded with an

impeachment vote removing Hon. Okero from office. Subsequently, Gazette Notice No.14050 (24<sup>th</sup> October, 2024) confirmed the impeachment of Hon. Okero, while Gazette Notice No. 13376 (9<sup>th</sup> October, 2024) indicated the appointment of new County Assembly Service Board (CASB) members.

- (10) that Hon. Okero challenged his removal, asserting that court orders had barred any interference with his role as per the court order issued on 11<sup>th</sup> October, 2024 in **HCCHRPET/E008/2024**. Additionally, the Assembly, through its Acting Clerk, issued Gazette Notice No. 14230 dated 26<sup>th</sup> October 2024, appointing Mr. Sylvanus Ndemo Nyamora as Acting Clerk. Meanwhile, Mr. Duke Onyari, who was removed from office, maintained that he was the legitimate Clerk.
- (11) That several court cases had since been filed regarding the legitimacy of appointments and leadership disputes, namely:
- (a) HCJR/E007/2024 – County Assembly of Nyamira vs. Enock Okero (Judicial Review on the impeachment and gazettements)
  - (b) HCCHRPET/E008/2024 – Enock Okero vs. Nyamira County Assembly & Others (Challenge against impeachment)
  - (c) HCCC/E050/2025 (Mlilimani High Court) – County Assembly of Nyamira vs. Central Bank of Kenya (Financial dispute regarding access to funds).

#### **2.2.7 Steps taken to ensure the matter is resolved**

- (12) The office of the Controller of Budget sought clarification on the legitimate holders of the office of the Speaker and Clerk due to the ongoing disputes through various letters namely:
- a) A letter dated 10<sup>th</sup> December 2024 to the Ag. Clerk Duke Onyari requesting him to:
    - i. Clarify leadership structure
    - ii. Immediate compliance with court orders
    - iii. Confirm the validity of the appointments of the board members



- b) A letter dated 24<sup>th</sup> March 2025 addressed to the CECM-Finance seeking for clarification of who was the legitimate speaker and clerk of the County Assembly. (Annexed in her submissions, **Annex 4**)
  - c) A letter dated 2<sup>nd</sup> April 2025 to M.N Advocates updated Mr. Ndubi on who was responsible for overseeing the county's financial matters, including identifying the legitimate accounting officer.
- (13) The CECM-Finance for the County Government of Nyamira responded to the letter dated 24<sup>th</sup> March, 2025 from the Controller of Budget. While quoting the Court Orders dated 11<sup>th</sup> October, 2024 and 28<sup>th</sup> October, 2024 in Nyamira HCCHR PET/011/2024, the Order dated 30<sup>th</sup> January, 2025 in Nyamira HCJR/E007/2024 and the Order dated 6<sup>th</sup> February, 2025 in Nyamira HCCHR PET/E001/2025, the CECM stated that the sum effect of the Court Orders was the recognition that Mr. Enock Okero and Mr. Silvanus Ndemo Nyamora are the Speaker and Acting Clerk of the County Assembly of Nyamira respectively.
- (14) that there were no court orders prohibiting the Controller of Budget from disbursing funds, and therefore, requisitions for withdrawal of funds from the County Revenue Fund continue to be considered in line with the law and the set-out Exchequer Guidelines.
- (15) that the Controller of Budget relied on the following legal provisions in addressing the financial matters of Nyamira County;
- a) Section 103 of the Public Finance Management Act, 2012 establishes the County Treasury for each County Government while Section 104(1) of the Public Finance Management Act, 2012 indicates that the County Treasury shall monitor, evaluate and oversee the management of public finances and economic affairs of the county government. County Government in this instance denotes the County Executive and the County Assembly as stated in Article 176(1) of the Constitution.

- b) Section 109(6) of the Public Finance Management Act, 2012, states that the County Treasury shall obtain the written approval of the Controller of Budget before withdrawing money from the County Revenue Fund. This means that the Controller of Budget can only receive requisitions from the County Treasury. The County Treasury consolidates requests for funding from all departments, including the County Assembly, and forwards the requisition to the Controller of Budget. Consequently, the onus is on the County Executive Committee Finance to clarify the Accounting Officer from whom the request for funding was received.
- (16) that it is the responsibility of CECM-Finance to provide clarifications on financial matters, including the identification of the legitimate accounting officer of the County Government.
- (17) that the Controller of Budget concluded by stating that the matter remained highly contentious, with multiple pending court cases affecting the governance and financial operations of Nyamira County Assembly. Given the legal complexities, the clarification of the legitimate Accounting Officer is the responsibility of the County Treasury.

### **2.3 Submissions received from Hon. Thaddeus Nyabaro**

12. Hon. Thaddeus Nyabaro informed the Committee as follows-

#### **2.3.1 The Dispute in The County Assembly of Nyamira**

##### **a) Accountability/Oversight Mechanism over the County Executive**

- (1) that the County Assembly of Nyamira had been deliberately made dysfunctional by the Governor, who sponsored a splinter faction of MCAs and a former impeached speaker to frustrate oversight, accountability and get away with wanton theft of resources.
- (2) that 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 implied that a total of sixteen (16) wards were not represented in the conduct of business by the splinter faction.

- (3) that since November 2024 to date, the Governor has 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.

**b) The Speaker of the County Assembly of Nyamira**

- (4) that the County Assembly had an officially elected speaker and an impeached former Speaker conducting illegal meetings of a splinter faction naming it "Bunge Mashinani" from ad hoc premises not published in the Kenya Gazette and/or appointed by the County Assembly contrary to Sections 6A(1), 7B(2) and the third schedule of the County Governments Act, 2012.
- (5) that the impeached former speaker Enock Ogori Okero proceeded to court vide ELRC-Kisii **Pet. E001 of 2024** 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. Hon. Nyabaro was equally constrained by Court from performing the duties of Speaker of the County Assembly vide a court order which he was abiding to, even though he appealed against the Orders.

**c) Official Location/Precincts of County Assembly of Nyamira**

- (6) that the two factions comprising of Members of the County Assemblies are conducting their business from parallel locations. The County Assembly led by Hon. Nyabaro holds its sittings at the official gazetted physical location, in Nyamira urban area as per Gazette Notice No.7653 of 2017.
- (7) that the splinter faction holds its sittings anywhere, on account of a fake gazette notices, 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.

**d) Instruments of Authority (Mace, Official Seal and Stamps)**

- (8) that the County Assembly he represents has the majority of members and was 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 transacted business without the official mace. He alleged that 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.
- (9) that the Assembly he represents was in custody of the Official County Assembly Seal and Stamps, and claimed that the splinter faction had created a fake mace, a fake seal and fake stamps.

**e) Clerk of the County Assembly of Nyamira**

- (10) that Assembly represented by Hon. Nyabaro appointed Mr. Duke Simeon Onyari as Clerk of the County Assembly on 19<sup>th</sup> December, 2024 who had acted in the same office prior to his appointment. The splinter faction has an Acting Clerk, Mr. Silvanus Ndemo Nyamora, who was appointed by the impeached Speaker two days after his impeachment.
- (11) that the existence of an illegitimate Clerk culminated in the introduction of strangers as Signatories to the Nyamira County Assembly Bank Accounts at the Central Bank of Kenya allowing room for illegal access to public funds.



(12) Ever since this illegal change was effected, Silvanus Ndemo Nyamora had 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 occasioned a delay in payment of salaries and other allowances to staff and Members of the County Assembly for the last four months. On account of his illegal activities, the County Assembly Service Board dismissed Silvanus Ndemo Nyamora from the County Assembly Service effective 5<sup>th</sup> February 2025.

**f) County Assembly Leadership and Committees**

(13) that Hon. Nyabaro's Assembly had 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.

**g) The County Assembly Service Board**

(14) that Hon. Nyabaro's Assembly had a fully constituted County Assembly Service Board while the splinter faction had individuals who were former members of the County Assembly Service Board and who contested their removal from the Board in Court and lost.

(15) that the former members of the former County Assembly Service Board that were **extinct**, include-

- i. Enock Okero – was Impeached on 24<sup>th</sup> October 2024
- ii. Joel Ombongi – was Recalled by majority coalition on 20/9/2024
- iii. Lameck Sikweya - was Recalled by minority coalition on 20/9/2024
- iv. Leonard Mogaru – was Removed by the Assembly on 21/11/2024

- v. Edith Nyaboke Omari – was Removed by the Assembly on 21/11/2024
  - vi. Duke Onyari – Secretary and Clerk to date
- (16) that Joel Ombongi and Lameck Sikweya did challenge their removal as member of the Board vide PPDTC/E004/2024. Consequently, their case was **struck out**.
- (17) that the current the list of members of the current Nyamira CASB as published vide gazette Notice number 13376 of 2024 that comprised of;
- i. Thaddeus Nyabaro – Chairperson
  - ii. Josiah Obegi Mang'era – Vice Chair
  - iii. Reuben Miinda Riechi – Member
  - iv. Leonard Mogaru – Member – Revoked on 21<sup>st</sup> November, 2024
  - v. Edith Omari – Member – Revoked on 21<sup>st</sup> November, 2024
  - vi. Duke Simon Onyari – Secretary and Clerk

### **2.3.2 The Cause of The Dispute in The County Assembly of Nyamira**

#### **a) The Role of the Governor in the dispute**

- (18) that there was instigated total paralysis in Nyamira County Government by H.E Amos Nyaribo, the Governor of Nyamira county, to defeat scrutiny and oversight in the management of public resources. There had been two attempts to impeach the Governor on account of misuse of Public finances among others grounds.
- (19) that the Governor assisted the impeached former speaker Hon. Enock Ogori Okero to start a splinter faction referred to as “Bunge Mashinani”, to perform the functions of the County Assembly of Nyamira. He claimed that this was an attempt by the Governor to avoid any meaningful oversight and/or impeachment. This impaired, among other issues, the discussion of FY2022/23 and 2023/2024 audit reports which reveal massive loss of public funds under the leadership of Governor Amos Nyaribo.

**b) The role of the Controller of Budget in the Dispute**

- (20) that 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 FY2024/25 amounting to **Kshs.8,102,897,542.**
- (21) that they made an official complaint to the Controller of Budget reporting this illegality on 11<sup>th</sup> February 2025 and a reminder on 18<sup>th</sup> March 2025. To this date, the Controller of Budget has never responded to the Complaint while implementation of the said illegal Supplementary Budget FY2024/25 was ongoing.
- (22) that the Controller of Budget continued to approve withdrawal of funds when accountability structures in Nyamira County had 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.

**c) The role of Court Orders in the Dispute**

- (23) that there were 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. The petitions and Court orders are annexed in the submissions (**Annex 5**).
- (24) that 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.
- (25) that 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.



- (26) that 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 Acting Clerk named Silvanus Ndemo Nyamora.
- (27) that 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. (*County Assembly of Nyamira Petition to the Judicial Service Commission for Removal of Justice Wilfrida Okwany*(**Annex 5**))

**d) The role of the Impeached Speaker Enock Ogori Okero in the Dispute**

- (28) that prior to his impeachment, Hon. Enock Ogori Okero had been suspended on 8<sup>th</sup> 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.
- (29) that Enock Ogori Okero, the former Speaker of Nyamira County Assembly was formally removed from office by way of impeachment on 24<sup>th</sup> 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 24<sup>th</sup> October 2024.
- (30) that on 16<sup>th</sup> 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.
- (31) that on 25<sup>th</sup> October 2024, Enock Ogori Okero did file in the Kisii Employment and Labour Relations Court Petition Number **E001 of 2024** challenging his impeachment. Hon. Nyabari noted 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. Further, in the affidavit sworn by Enock Ogori Okero and filed in support of this Petition, he stated that he was present during the vote to impeach him as Speaker of the Nyamira County Assembly. Additionally, to date, no court has reinstated him as Speaker of the Nyamira County Assembly.

- (32) that Subsequent to his impeachment on 24<sup>th</sup> October 2024, Enock Ogori Okero wrote to the then acting 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 24<sup>th</sup> October 2024 to respond to the charges. Having been impeached on 24<sup>th</sup> October 2024, Enock Ogori Okero did not have the capacity to suspend Mr. Duke Onyari on 25<sup>th</sup> October 2024.
- (33) that Hon. Enock Okero issued three (3) gazette notices in October 2024, which were 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 24<sup>th</sup> October 2024.
- (34) that **no Motion was passed** in the County Assembly plenary to appoint alternative areas for County Assembly Sitzings (*Bunge Mashinani*) to take place as required under Section 7B (2) of the County Governments Act, 2012.
- (35) that Standing Order No.28 of the County Assembly of Nyamira Standing Orders, which provides for Special Sitzings of the County Assembly, was equally not observed.



**e) The role of Gazette Notices by the Impeached Speaker Enock Ogori Okero in the Dispute**

(36) that there were three illegal gazette notices issued by Enock Ogori Okero (Gazette Notice Number 14229, 14230 and 14273 of 2024) vide Kenya Gazette dated 31<sup>st</sup> October 2024 long after his impeachment.

- i. 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.
- ii. 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.
- iii. Gazette Notice No.14273 of 2024 wherein the impeached Speaker Enock Ogori Okero appointed 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.

(37) that 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.

(38) that additionally, Enock Ogori Okero caused the publication of Gazette Notice No. 15844 dated 28<sup>th</sup> November 2024 and published on 29<sup>th</sup> November 2024; wherein the impeached former Speaker Enock Ogori Okero published an adjournment of the Assembly Business "Sine Die". Having been



impeached on 24<sup>th</sup> October 2024, Enock Ogori Okero did not have authority to cause such adjournment.

(39) that Hon. Enock Ogori Okero recently circulated Notice No.2203 dated 20<sup>th</sup> February 2025 purportedly published by the Kenya Gazette on 26<sup>th</sup> February 2025 on "Resumption of County Assembly Business". Hon. Nyabaro stated that the said notice has been confirmed to be FAKE by the Government Printer.

(40) that on account of this notice, Hon. Enock Ogori Okero together with the splinter faction, have continued to conduct meetings disguised as County Assembly Sittings from ad hoc premises where they processed the following statutory documents and appointments on behalf of the County Government of Nyamira.

(a) The County Fiscal Strategy Paper, 2025

(b) Approval of the Selection Panel for the Recruitment of Members of the County Public Service Board

(c) Approval of a Nominee for appointment as a Member of the County Executive Committee for Gender, Youth, Sports, Culture and Social Services

### **2.3.3 The Extent to which the Dispute has affected the Operations of County Assembly**

(41) that the impact of the dispute on the operations of the County Assembly which included-

(a) 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.

(b) 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.

- (c) Executive Committee Members have failed to honor summons to County Assembly Oversight Committees
- (d) 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.
- (e) 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.
- (f) Publishing of alternative areas of County Assembly Sitzings has led to a conflict between the different factions, potentially threatening the public order.
- (g) Creation of parallel legislative authority outside the law which is a direct violation of the Constitution. There is no single provision in law that allows for the existence of parallel assembly.
- (h) 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.
- (i) Duplication of instruments of authority has caused confusion to the public and other entities on the legitimate Assembly.
- (j) 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.
- (k) 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.

- (l) 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.
- (m) 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 access to official mails. Consequently, the County Assembly is unable to receive correspondences from the public and other organizations.
- (n) 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.
- (o) 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 created a parallel administrative structure that has caused confusion and brought disrepute to the governance of the County Assembly.

#### **2.3.4 The Steps Taken to Resolve the Dispute**

- (42) that the actions taken to resolve the dispute between the County Assembly of Nyamira include-
  - (a) On several occasions, he asked Enock Ogori Okero to serve the County Assembly with any orders reinstating him back to the Office after Impeachment, which he failed to do.
  - (b) They wrote a complaint to the Controller of Budget to notify her office of an illegal Supplementary budget and followed up with a reminder. In addition, they notified the Controller of Budget of the unlawful processing of the County Fiscal Strategy Paper (2025), and were waiting for her response on the matter.
  - (c) They 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.
- (d) Held a meeting with the local leaders (Members of parliament) with the Governor and the County Commissioner but the Governor remained obstinate.
  - (e) 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 they were arrogantly chased from his office by the Governor himself.
  - (f) On the disabling of the County Assembly Website, they officially communicated and made a complaint to the ICT Authority to enable access and activate the website as a major communication channel.
  - (g) On illegal change of Signatories by officers of the Central Bank of Kenya, they officially registered a complaint to the Director Banking Services and the DCI Banking Fraud Unit.
  - (h) 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; they wrote to the County Secretary Nyamira and cautioned them of such malpractices.
  - (i) On illegal and fake gazette notices, they wrote to the Government Printer and the Attorney General and got an advisory that Gazette Notices from the County Assembly shall forthwith be requested through the Attorney General to avoid contradictory notices.
  - (j) The County Assembly of Nyamira Staff Welfare Association wrote a petition to various government entities protesting the recognition of Silvanus Ndemo Nyamora as Clerk and Signatory of County Assembly, since he was already dismissed from the County Assembly Service.

- (k) On illegal allocation of user rights on the IFMIS platform, they wrote an official complaint to the National Treasury, Director-IFMIS to delete and/or deactivate such rights.
- (l) On impersonation, forgeries, illegal acquisition of a fake “mace”, fake stamp and fake official seal of the County Assembly, they notified the DCI on several occasions but no action has been taken so far.
- (m) On leadership wrangles, they wrote to the Commission on Administrative Justice, reported administrative malpractices by various government entities and proposed for their intervention. The Commission wrote back and proposed for a meeting which was yet to happen.
- (n) They also petitioned the Courts to resolve contentious issues and respond to matters filed against the County Assembly.

### **2.3.5 Conclusion**

- (43) That the Committee considers the following prayers-
  - (a) 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.
  - (b) A declaration that the alleged appointment of one Silvanus Ndemo Nyamora as Ag. Clerk of County Assembly is null and void
  - (c) 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.
  - (d) 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 have been pending for the last four months.
  - (e) Declare the activities of the Splinter “Bunge Mashinani” Unconstitutional, Null and Void

- (f) An order to the Controller of Budget to halt the withdrawal of monies from the County Revenue Fund save for Salaries and Medical Drugs
- (g) Order a recovery of all public funds expended by the Splinter “Bunge Mashinani”
- (h) Declare the following decisions of the Splinter “Bunge Mashinani” Null and Void
  - i. Supplementary Budget FY.2024/25 of Kshs.8.1 billion for the County Government of Nyamira
  - ii. Approval and subsequent appointment of Members of Nyamira and Keroka Municipalities' Boards
  - iii. Approval of the County Fiscal Strategy Paper (2025)
  - iv. Approval and subsequent appointment of Selection Panel for recruitment of County Public Service Board Members.
  - v. Approval and subsequent appointment of Member of County Executive Committee for Gender, Sports, Culture & Social Services
  - vi. FastTrack financial autonomy to County Assemblies.
  - vii. Make a pronouncement on the extent to which the court may interfere in legislative processes.
  - viii. Order Special Audit.

(44) That the Committee urgently intervenes in the matter to restore hope for the people of Nyamira and improve service delivery.

All referenced materials, including videos, court orders, petitions, letters, affidavits, gazette notices, audit reports, and other supporting documents, are annexed to his submissions.

**(Annex 5)**



## CHAPTER THREE:

### COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

#### 3.1 Committee Observations

13. In considering the matters raised in the Statement by the Senator of Nyamira County, those that arose from the submissions by the two factions of the County Assembly and raised by the Controller of Budget, the Committee observes as follows-

- (1) there were ongoing parallel county assembly sittings of the County Assembly of Nyamira.
- (2) there were allegations on the suspension of Mr. Duke Onyari as the Clerk of the County Assembly of Nyamira and consequent appointment of Mr. Sylvanus Ndemo as the Acting Clerk of the County Assembly.
- (3) there were allegations on the suspension/ impeachment of Hon. Enock Okero as the Speaker of the County Assembly of Nyamira;
- (4) there were allegations of the election of Hon. Thaddeus Momanyi Nyabaro as Speaker of the County Assembly of Nyamira.
- (5) there were allegations of the removal of the County Assembly Service Board Members and consequent approval of a new set of Members of the County Assembly Service Board.
- (6) the County Assembly of Nyamira faces operational challenges owing to ongoing parallel county assembly sittings held by two factions, each claiming legitimacy. These factions have separate leadership structures (including Speakers, Deputy Speakers, Clerks, County Assembly Service Boards, and a divided staff serving the different factions), leading to confusion and legal uncertainty, thereby affecting the ability of the County Assembly to effectively fulfill its Constitutional duties.
- (7) the disputes before the County Assembly had culminated in numerous cases filed before various courts which have further complicated the situation in the Assembly.

Some of these cases included:

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- (i) Nyamira HCCHRPET/E008 of 2024 *Enock Okero Ogori vs Nyamira County Assembly and Others* **challenging the suspension of Hon. Enock O. Okero as the Speaker.**
  - (ii) Petition No. ELRC E001 of 2024 at the Kisii High Court *Enock O. Okero and Others vs The County Assembly of Nyamira and Ag. Clerk, County Assembly of Nyamira* **challenging the impeachment of Hon. Enock O. Okero as the Speaker.**
  - (iii) HCJRMISC/E007/2025 *County Assembly of Nyamira vs State Law Office and the Government Printers* **challenging the legality of various gazette notices.**
  - (iv) HCCHRPET/E001/2025 *Edwin Onchoko vs IEBC and Nyamira County Assembly & others* **challenging the election of Hon. Thaddeus Momanyi Nyabaro as Speaker of the County Assembly of Nyamira.**
  - (v) HCCC/E050/2025 (*High Court in Milimani*) *County Assembly of Nyamira vs Central Bank of Kenya* **regarding the granting of Mr. Sylvanus Ndemo partial access to the bank accounts of the County Assembly to facilitate payment of salaries for MCAs, staff, and ward offices; remittance of KRA taxes and statutory deductions; and payment to essential service providers.**
- (8) the issue of the parallel sittings of the county assembly had led to systemic weaknesses in the running of the County Government and caused confusion as to the location of sittings of the County Assembly and was therefore a critical matter that required the urgent intervention of the Senate.
- (9) Pending a visit of the Committee to the County Assembly of Nyamira the issue of the location of the sittings and pending court cases require the Committee to make interim recommendations and in its progress report to the House.
- (10) On the issue of the **location of the Sittings of the County Assembly** of Nyamira County Assembly the Committee observes as follows-
- (i) The simultaneous operation of the two factions within the Nyamira County Assembly (one convening at the gazetted premises (Nyamira Assembly Building) and the other at venues under Gazette Notice 14229 of 2024) has severely disrupted legislative functions and institutional legitimacy of the Assembly.

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- (ii) the official location of the County Assembly of Nyamira was published vide Gazette Notice 7653 of 2017 dated 27<sup>th</sup> July 2017 issued in Kenya Gazette Vol. CXIX – No. 114 on 11<sup>th</sup> August 2017, which states as follows—

*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.*

- (iii) the genesis of the parallel county assembly sittings commenced following the publication of Gazette Notice No. 14229 of 2024 on 29<sup>th</sup> October, 2024 made by Hon. Enock Okero notifying the members of the public of 'Alternate Areas of County Assembly Sittings' as follows—

*Pursuant to Article 126(1) the general public is hereby notified that in the quest to promote Bunge Mashinani, effective from 31<sup>st</sup> 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

- (iv) the Gazette notice presents various ambiguities including, lack of specificity as to the dates for sittings at the alternate locations, lack of clarity regarding whether sittings would occur concurrently across all designated venues and the omission of details regarding the business to be transacted at each location. Additionally, the Gazette Notice states that the sittings will "also" occur at the alternate locations, implying continued operations at the original venue (Nyamira Assembly Building, as per Gazette Notice 7653 of 2017), without further elaboration on how multiple locations would function within the Assembly's calendar.

- (v) the Gazette Notice cites Article 126(1) of the Constitution, which pertains to - "Location of sittings of Parliament", rather than the provisions

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under section 7B of the County Governments Act, Cap 265, which provides for the “*Location of sittings of County Assembly*” and in particular, subsection (2) which provides as follows—

**7B. Location of sitting of a county assembly**

(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.*

(vi) while Gazette Notice 14229 of 2024 dated 29<sup>th</sup> October, 2024 sought to designate alternate sitting locations (Masaba North, Nyamira North, Manga, and Borabu Sub-County Offices), it does not explicitly make reference to a resolution by the County Assembly of Nyamira appointing these locations, as contemplated under Section 7B (2) of the County Governments Act.

(vii) the county assembly sittings that may have been held contrary to the provisions of section 7B (2) of the County Governments Act, Cap 265 are invalid and contrary to the law.

(11) On the issue of the **pending court cases** the Committee observes that there were two ongoing cases relating to the holder of the Office of the Speaker-

(i) Petition E001 of 2024 filed at the Employment and Labour Relations Court in Kisii: *Enock O. Okero and Others vs the County Assembly of Nyamira and Ag. Clerk, County Assembly of Nyamira* challenging the impeachment of Hon. Enock Okeri Okero as Speaker of the County Assembly of Nyamira, were no court orders were issued.

(ii) Petition HCCHRPET/E001/2025 filed at Nyamira High Court *Edwin Onchoko vs. the Independent Electoral Boundaries Commission and Nyamira County Assembly* challenging the election of Hon. Thaddeus Momanyi Nyabaro, MCA as the Speaker of the County Assembly of Nyamira, conservatory orders had been issued staying the effect and

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implementation including gazetting of the election of Hon. Thaddeus Momanyi Nyabaro as Speaker of the 1st Respondent.

### **3.2 Interim Committee Recommendations**

14. The Committee Recommends as follows-

- (1) that pursuant to section 7B (2) of the County Governments Act and Gazette Notice 7653 of 2017 sittings of the county assembly be held at the County Assembly premises located in the Nyamira Assembly Building, opposite Kenya Industrial Estates, Nyamira.
- (2) that pending the determination of the court cases, the county assembly resumes its normal operations in accordance with the Constitution, the County Governments Act and the standing orders of the County Assembly of Nyamira.

### **3.3 Way Forward**

15. The Committee therefore requests for more time to undertake a visit to the County Assembly of Nyamira during the upcoming recess period to further investigate these matters and other emerging issues that affect the effective governance of the County Assembly and prepare a conclusive report on the matters raised before the Committee.

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## **ANNEXURES**

1. Minutes of the Committee
2. The Statement by Sen. Okong'o Mogeni, CBS, SC, MP.
3. Submissions by Hon. Enock Okeru
4. Submissions by the Controller of Budget
5. Submissions by Hon. Thadeus Nyabaro