



THIRTEENTH PARLIAMENT
THE SENATE
OFFICIAL REPORT



Fourth Session

**Friday, 29th August, 2025 at
2.30 p.m. - Special Sitting**

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Friday, 29th August, 2025

Special Sitting

*(Convened via Kenya Gazette Notice
No.11796 of 21st August, 2025)*

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

[The Deputy Speaker (Sen. Kathuri) in the Chair]

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): Clerk, do we have quorum?

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

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

(The Quorum Bell was rung)

Hon. Members, we have quorum. We should now start the afternoon session. I am told Madam Korir was being cross-examined before the rise of the House. Can you usher her in again? She has some minutes.

HEARING AND DETERMINATION ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) ERIC KIPKOECH MUTAI, GOVERNOR OF KERICHO COUNTY

PRESENTATION OF THE CASE OF THE
KERICHO COUNTY GOVERNOR

Counsel, take note of your time. We should be within time as we finish; about one hour and 22 minutes for the Governor and 41 minutes for the Assembly.

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I request that Madam Fancy Korir to spend the remaining few minutes.

Mr. Elisha Ongoya: May I proceed, Mr. Deputy Speaker, Sir?

The Deputy Speaker (Sen. Kathuri): Proceed, counsel.

Mr. Elisha Ongoya: Thank you so much. On that note, there are no more questions for this witness.

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

Mr. Katwa Kigen: Mr. Speaker Deputy, Sir, I would like to call the next witness, Jepkoech Langat Winny.

(Hon. Winny Langat took the Stand)

Could you please tell the hon. Senators and the Deputy Speaker, your names, please?

Hon. Winny Langat: I am Hon. Winny Langat, a nominated Member representing the great women of Kericho County.

The Deputy Speaker (Sen. Kathuri): Sorry, I think we need some management. I request the Serjeant-at-Arms to keep these witnesses somewhere, then they can be coming one by one. They cannot stand there for one hour and 20 minutes.

Mr. Katwa Kigen: Okay. Your name is Hon. Winny Langat, is it not?

Hon. Winny Langat: Yes.

Mr. Katwa Kigen: Nominated Member of the County Assembly (MCA)?

Hon. Winny Langat: Yes.

Mr. Katwa Kigen: Now, is it true that you signed the joint affidavit at pages 113 to 116 of the Governor's bundle, volume one?

Hon. Winny Langat: Yes.

Mr. Katwa Kigen: You signed it together with how many people?

Hon. Winny Langat: Mr. Speaker, Sir, we were 18.

Mr. Katwa Kigen: Do you stand by its contents?

Hon. Winny Langat: Yes.

Mr. Katwa Kigen: I want you to answer three questions then my learned colleagues will ask you a few questions. Could you confirm whether you were in the Assembly on 15th August?

Hon. Winny Langat: Yes, I was there.

Mr. Katwa Kigen: Did you vote?

Hon. Winny Langat: No.

Mr. Katwa Kigen: What was in issue on that date?

Hon. Winny Langat: Mr. Deputy Speaker, Sir, they introduced electronic voting-

--

Mr. Katwa Kigen: Just a minute. What was the agenda, the subject matter under discussion?

Hon. Winny Langat: Motion on the removal of the Governor.

Mr. Katwa Kigen: It was a discussion about the removal of the Governor and it eventually got to a point of voting, is it not?

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Hon. Winny Langat: Yes.

Mr. Katwa Kigen: What kind of voting process was adopted?

Hon. Winny Langat: Electronic Voting.

Mr. Katwa Kigen: Had it previously been used?

Hon. Winny Langat: No.

Mr. Katwa Kigen: Okay. Did you vote yourself?

Hon. Winny Langat: No.

Mr. Katwa Kigen: Could you tell the hon. Senators and the Deputy Speaker why you did not vote?

Hon. Winny Langat: Mr. Deputy Speaker, Sir, there was an introduction of electronic voting, which I was not conversant with.

Mr. Katwa Kigen: Okay. So, the only reason you did not vote was because you were not conversant?

Hon. Winny Langat: Yes.

Mr. Katwa Kigen: Only that?

Hon. Winny Langat: Yes, I was not conversant with the electronic voting and I had never been trained.

Mr. Katwa Kigen: You have not been trained?

Hon. Winny Langat: Yes.

Mr. Katwa Kigen: What became of your vote? What kind of a vote was it?

Hon. Winny Langat: Repeat the question.

Mr. Katwa Kigen: In your Standing Orders, if somebody does not vote, what kind of a vote is it?

Hon. Winny Langat: There is a roll call voting.

Mr. Katwa Kigen: You wanted a roll call voting?

Hon. Winny Langat: Yes, I wanted a roll call voting.

Mr. Katwa Kigen: Okay, thank you. Those are all the questions I had in evidence-in-chief.

Mr. Elisha Ongoya: Mr. Deputy Speaker, Sir, I have very few questions in cross-examination. Hon. Winny, have you sworn any individual affidavit in these proceedings?

Hon. Winny Langat: No.

Mr. Elisha Ongoya: That is all in cross-examination for this witness.

Mr. Katwa Kigen: Thank you, I have no re-examination questions. I would request to call Kipng'eno Kirui.

(Hon. Kipng'eno Kirui took the Stand)

Kipng'eno Kirui, please tell the hon. Senators your full names and where you represent.

Hon. Kipng'eno Kirui: Jina langu ni Kipng'eno Kirui, Mwakilishi Wadi wa Tebesonik, Eneo Bunge la Bureti.

Mr. Katwa Kigen: Ungependa kutumia Kiswahili kutoa ushahidi wako?

Hon. Kipng'eno Kirui: Ndiyo.

Mr. Katwa Kigen: Kwa hivyo umesema wewe ni MCA. Tarehe 15/8/2025, ulikuwa wapi?

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- Hon. Kipng'eno Kirui:** Nilikuwa Bunge.
- Mr. Katwa Kigen:** Ulikuwa Bunge la Kaunti ya Kericho?
- Hon. Kipng'eno Kirui:** Ndiyo.
- Mr. Katwa Kigen:** Ni nini ilikuwa inajadiliwa siku hiyo?
- Hon. Kipng'eno Kirui:** Kulikuwa na Motion ya kumtoa Gavana wa Kericho.
- Mr. Katwa Kigen:** Kulikuwa na Motion ya Impeachment?
- Hon. Kipng'eno Kirui:** Ndiyo.
- Mr. Katwa Kigen:** Mwishowe mkaamua mtapiga kura?
- Hon. Kipng'eno Kirui:** Hapana.
- Mr. Katwa Kigen:** Kulikuwa na uamuzi wa kupiga kura?
- Hon. Kipng'eno Kirui:** Kulikuwa na--- Yes.
- Mr. Katwa Kigen:** Iliamuliwa kwamba watu wapige kura?
- Hon. Kipng'eno Kirui:** Ndiyo.
- Mr. Katwa Kigen:** Spika aliamua iwe kura ya aina gani?
- Hon. Kipng'eno Kirui:** Aliamua tupige kwa simu.
- Mr. Katwa Kigen:** Ilikuwa inaitwa vipi kwenye Standing Orders?
- Hon. Kipng'eno Kirui:** Labda nisome. Sina---
- Mr. Katwa Kigen:** Ilikuwa inaitwa Electronic Voting?
- Hon. Kipng'eno Kirui:** Ndiyo.
- Mr. Katwa Kigen:** Swali langu la maana na sababu ya wewe kuwa hapa nini? Hebu eleza hawa waheshimiwa Maseneta, wewe ulipiga kura?
- Hon. Kipng'eno Kirui:** Sikupiga.
- Mr. Katwa Kigen:** Mbona hukupiga?
- Hon. Kipng'eno Kirui:** Kwa sababu tuliambiwa tunapiga kwa simu na sikuwa na simu. Nilikuwa nimeacha kwa gari.
- Mr. Katwa Kigen:** Sababu pekee ni kuwa haukuwa na simu?
- Hon. Kipng'eno Kirui:** Ndiyo. Tuliambiwa tumetumiwa *link*.
- Mr. Katwa Kigen:** Mliambiwa mmetumiwa *link* na ikawa hauna simu kupiga?
- Hon. Kipng'eno Kirui:** Ndiyo.
- Mr. Katwa Kigen:** Wewe ulipata link?
- Hon. Kipng'eno Kirui:** Sikupata.
- Mr. Katwa Kigen:** Baada ya wewe kuchukua simu yako, ulipata *link*?
- Hon. Kipng'eno Kirui:** Sikupata.
- Mr. Katwa Kigen:** Haukupata link kamwe? Na wewe ulikuwa na imani na hiyo Electronic Voting?
- Hon. Kipng'eno Kirui:** Hapana. Sikuwa na imani.
- Mr. Katwa Kigen:** Haukuwa na imani na nini?
- Hon. Kipng'eno Kirui:** Kwa sababu hatukuwa tume---
- Mr. Katwa Kigen:** What was it that you had no faith in? Haukuwa na imani na nini?
- Hon. Kipng'eno Kirui:** Kwa sababu kabla hatujapiga, tulikuwa tume suspect ya kwamba kuna jambo wamefanyia hiyo machine.
- Mr. Katwa Kigen:** Okay. Utaulizwa maswali na wenzangu. That is all in evidence-in-chief, Mr. Deputy Speaker, Sir.
- The Deputy Speaker (Sen. Kathuri):** Proceed, counsel for the County Assembly.

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Mr. Elisha Ongoya: Mheshimiwa Kipng'eno, ningependa utazame affidavit yako. Unaiona?

Hon. Kipng'eno Kirui: Ndiyo.

Mr. Elisha Ongoya: Nataka wakili wako akuonyeshe paragraph nine. Ebu soma 9.1.

Hon. Kipng'eno Kirui: “---electronic voting was--- was given after over 18 members had observed the use of electronic voting majority by--- speaker---”

Mr. Elisha Ongoya: I asked him to read by himself.

The Deputy Speaker (Sen. Kathuri): Ningeomba wakili wa Kaunti Assembly, tafadhali msomee wewe.

Mr. Elisha Ongoya: There is a reason why that question was posed like that. I want to have the effect of that for the next question.

The Deputy Speaker (Sen. Kathuri): You know the paragraph is not in Kiswahili.

Mr. Elisha Ongoya: That is correct.

The Deputy Speaker (Sen. Kathuri): Yet he is using Kiswahili and not English.

Mr. Elisha Ongoya: May I then put the question?

The Deputy Speaker (Sen. Kathuri): So, be fair to him. Labda umusomee au wakili wake amusomee ili aweze pia kupata haki.

Mr. Elisha Ongoya: That is okay. My apologies. We are looking at the Governor's documents volume one starting page 132. I am now directing the witness to page 133.

Mheshimiwa Kipng'eno Kirui, kuna certificate/cheti cha translation. Kuna mtu yoyote ambaye alitafsiri hii affidavit kwako kwa lugha ya Kiswahili ili ukielewa na kuweka sign yako? Umeona cheti mahali popote?

Hon. Kipng'eno Kirui: Sijaona.

Mr. Elisha Ongoya: Hii affidavit imeandikwa kwa lugha ambayo huelewi. Kweli au si kweli? Lugha ambayo imetumika kwenye hii affidavit ni lugha ambayo wewe uko na ugumu nayo. Sio lugha ambayo unakielewa. Ni kweli, siyo? Ongea kwa sauti kwenye microphone.

Hon. Kipng'eno Kirui: Kweli.

Mr. Elisha Ongoya: Ni kweli. Mwenye aliye kuandikia *hakutranslate* kwa lugha unayoelewa na kuweka certificate yake. Si ni ukweli? Umeona hiyo certificate yake?

The Deputy Speaker (Sen. Kathuri): Hii swali ambayo unamuuliza saa hii sio ile swali ambayo ulikuwa unamuuliza. Ulikuwa unamuomba asome kifungu fulani lakini umebadilisha tena unamuuliza swali tofauti.

Mr. Elisha Ongoya: Mr. Deputy Speaker, Sir, I abandoned that question and I have asked a different question and he is answering. An issue arose as to whether he could read it, so, I abandoned it. I am now asking a different set of questions.

Aliyekusaidia *kuswear* hii affidavit kwa lugha ambayo unakielewa hajaweka certificate kuonyesha kwamba *alitranslate* hii lugha. Si ni ukweli? Tafadhali jibu swali langu.

Hon. Kipng'eno Kirui: Kweli.

Mr. Elisha Ongoya: Nashukuru. That is the end of my cross examination.

Mr. Katwa Kigen: One question in re-examination, Mr. Deputy Speaker, Sir. Bw. Kirui, ushahidi wako hapa Seneti ni nini?

Hon. Kipng'eno Kirui: Ushahidi wangu hapa Seneti ni kwamba mimi sikupiga kura.

Mr. Katwa Kigen: Okay. La pili, ulikuwa na jambo lolote kusema kuhusu Electronic Voting?

Mr. Elisha Ongoya: Mr. Deputy Speaker, Sir, the purpose of re-examination is to clarify matters that arose in cross-examination. None of these issues arose in cross-examination.

Mr. Katwa Kigen: Mr. Deputy Speaker, Sir, the question that was put to the witness is whether he understood what his affidavit was saying. The bottom line of what I am asking him to clarify is why he is here and the whole purpose of his testimony.

The Deputy Speaker (Sen. Kathuri): You did ask that question when he was giving his evidence.

Mr. Katwa Kigen: It is okay, Mr. Deputy Speaker, Sir. I can leave that issue there.

Thank you.

The Deputy Speaker (Sen. Kathuri): Next witness.

(Hon. Irine Chebet Langat took the Stand)

Mr. Katwa Kigen: Irine Chebet Langat.

Could you tell the Hon. Senators and the Speaker your names, please?

Hon. Irine Langat: My name is Irine Chebet Langat.

Mr. Katwa Kigen: Are you an MCA?

Hon. Irine Langat: Nominated MCA.

Mr. Katwa Kigen: Nominated MCA, Kericho County.

Hon. Irine Langat: Yes.

Mr. Katwa Kigen: Now, you signed the joint affidavit with the other MCAs, is it not?

Hon. Irine Langat: I did.

Mr. Katwa Kigen: How many were you?

Hon. Irine Langat: We were 18 in number.

Mr. Katwa Kigen: You were 18 in number.

Hon. Irine Langat: Yes.

Mr. Katwa Kigen: What was the main issue in that affidavit?

Hon. Irine Langat: We were contesting the fact that we never voted in that Assembly on the 15th.

Mr. Katwa Kigen: Okay. The voting was on 15th August, 2025, is it not?

Hon. Irine Langat: Yes.

Mr. Katwa Kigen: What was the issue under discussion on that day?

Hon. Irine Langat: It was a Motion; impeachment of His Excellency, the Governor.

Mr. Katwa Kigen: Could you tell the Hon. Senators why you did not vote?

Hon. Irine Langat: I did not want to partake in an exercise that was going to be shambolic.

Mr. Katwa Kigen: Why were you fearing it would be shambolic?

Hon. Irine Langat: Because we were told of the electronic voting a few minutes before voting; something that we had never used before.

Mr. Katwa Kigen: So, there was a late introduction of electronic voting, which you did not---

Hon. Irine Langat: Yes.

Mr. Katwa Kigen: What exactly was your problem? Is it the newness or was there another reason?

Hon. Irine Langat: We heard rumours before this particular day of impeachment, the 15th, that these people were going to rig the election.

Mr. Katwa Kigen: So you were fearing that they would be rigging of the voting?

Hon. Irine Langat: Yes.

Mr. Katwa Kigen: Mr. Deputy Speaker, Sir, that is all for this witness.

The Deputy Speaker (Sen. Kathuri): Counsel representing the County Assembly, proceed.

Mr. Elisha Ongoya: Very few questions.

Irine, do you have your individual affidavit for the Senate?

Hon. Irine Langat: We did a joint---

Mr. Elisha Ongoya: No, I am asking about your individual, singular affidavit in your own name.

Hon. Irine Langat: No.

Mr. Elisha Ongoya: Thank you. You are saying you never knew before that there was going to be electronic voting?

Hon. Irine Langat: Yes.

Mr. Elisha Ongoya: When did you first know that there was going to be electronic voting?

Hon. Irine Langat: Those rumours were running around our corridors in the Assembly a few minutes before voting.

Mr. Elisha Ongoya: A few minutes to voting?

Hon. Irine Langat: Yes.

Mr. Elisha Ongoya: Okay. Do your Standing Orders provide for electronic voting?

Hon. Irine Langat: Yes.

Mr. Elisha Ongoya: Were these Standing Orders passed by among other MCAs, you?

Hon. Irine Langat: Yes.

Mr. Elisha Ongoya: Thank you. Mr. Deputy Speaker, Sir, that is all.

Mr. Katwa Kigen: Mr. Deputy Speaker, Sir, there is no re-examination. I request that you call Hon. Bavina Serem.

(Hon. Bavina Chepkurui Serem took the Stand)

Could you tell the Hon. Senators and the Deputy Speaker, your full names, please?

Hon. Bavina Serem: Thank you, counsel. My name is Bavina Chepkurui Serem, a nominated MCA, representing the great women of Kericho County.

Mr. Katwa Kigen: You represent only women? You signed a joint affidavit with others, it is not?

Hon. Bavina Serem: Yes.

Mr. Katwa Kigen: How many others?

Hon. Bavina Serem: With 17 others.

Mr. Katwa Kigen: So, that you were a total of 18, is it not?

Hon. Bavina Serem: Yes.

Mr. Katwa Kigen: Okay. What was the main issue in that affidavit?

Hon. Bavina Serem: It was a complaint that---

Mr. Katwa Kigen: What was the main issue that you were complaining about in the affidavit?

Hon. Bavina Serem: It was about the voting issue that emerged at the Kericho County Assembly.

Mr. Katwa Kigen: Okay, you were raising issues about voting. The voting had been done on which date?

Hon. Bavina Serem: On 15th.

Mr. Katwa Kigen: 15th August.

Hon. Bavina Serem: Yes.

Mr. Katwa Kigen: It relates to what Motion?

Hon. Bavina Serem: The impeachment of the Kericho Governor, Dr. Erick Mutai.

Mr. Katwa Kigen: Okay. What kind of voting was adopted?

Hon. Bavina Serem: Electronic voting.

Mr. Katwa Kigen: Did you vote?

Hon. Bavina Serem: No.

Mr. Katwa Kigen: You did not vote? Your testimony in this Assembly is that you did not vote. Why did you not vote?

Hon. Bavina Serem: First of all, we were surprised on that day when the Speaker announced that we were going to use electronic voting. We were not prepared because we had never used the system in our County Assembly for voting. Therefore, we were not comfortable voting electronically. We raised an issue with the Speaker requesting to vote manually through roll call.

Mr. Katwa Kigen: You preferred roll call as opposed to electronic voting and one of the reasons is because it was just newly introduced.

Hon. Bavina Serem: Yes.

Mr. Katwa Kigen: Is there another reason why you did not vote other than the newness of the system?

Hon. Bavina Serem: Yes. The other reason is that we did not trust the system. This is because the previous night there was information circulating in the social media

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that a system has been introduced. Some Members from the other side who were supporting the impeachment were posting that they already had 33 votes. So, we could not trust the system.

Mr. Katwa Kigen: So, you did not trust the system because even long before the time of voting, there was already information that the impeachment Motion had been supported?

Hon. Bavina Serem: Yes.

Counsel, another issue is that at a personal level, I could not trust the system because some two minutes to the tabling of the Notice of Motion to impeach the Governor, the Speaker, out of the blues, communicated that the seats of six MCAs could be declared vacant based on the reasons that we had missed sessions. Yet, at a personal level, I know that I have never missed sessions. It is about the system we were not trusting.

Mr. Katwa Kigen: Okay. Apart from not trusting the system based on the social media communications, including the Members supporting the Motion saying that they already 33 votes, there was also an attempt to remove you as an MCA.

Hon. Bavina Serem: Yes, just two minutes to tabling of the impeachment Motion. I did not know the motive of the Speaker because it was out of the blues that he said he could declare our seats vacant.

Mr. Katwa Kigen: What was the reason for the Speaker attempting to remove you?

Hon. Bavina Serem: I suspect that maybe he was---

Mr. Katwa Kigen: No, what did he say was the reason why he wanted to remove you?

Hon. Bavina Serem: That I have missed sessions at the County Assembly.

Mr. Katwa Kigen: Had you missed the sessions?

Hon. Bavina Serem: No. He said I had missed eight consecutive sessions, which was a lie.

Mr. Katwa Kigen: Which was not true. How did you then survive that intention?

Hon. Bavina Serem: Through a court order.

Mr. Katwa Kigen: You went to court to challenge the decision to remove you as MCAs. You managed to be back in the Assembly and to participate in this impeachment Motion?

Hon. Bavina Serem: Yes.

Mr. Katwa Kigen: Mr. Deputy Speaker, Sir, those are all the questions I have for this witness.

Thank you.

The Deputy Speaker (Sen. Kathuri): Counsel, proceed to cross-examine.

Mr. Elisha Ongoya: Thank you again; very few questions.

Hon. Bavina, do you have any individual affidavit of yours before the Senate?

Hon. Bavina Serem: No, we did have a joint affidavit.

Mr. Elisha Ongoya: In that joint affidavit, have you attached these so-called social media posts that you are referring to?

Hon. Bavina Serem: No.

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Mr. Elisha Ongoya: You have not. That is all in cross-examination.

The Deputy Speaker (Sen. Kathuri): Next.

Mr. Katwa Kigen: That is all; there is no re-examination.

I request to call Hon. Dominic Mutai.

(Hon. Dominic Mutai took the Stand)

Could you tell the Hon. Senators and the Deputy Speaker your name, please?

Hon. Dominic Mutai: I am Dominic Mutai, MCA from Kabianga Ward, Kericho County.

Mr. Katwa Kigen: You represent Kabianga Ward in Kericho?

Hon. Dominic Mutai: Yes.

Mr. Katwa Kigen: Were you in the County Assembly on 15th August, 2025?

Hon. Dominic Mutai: Yes, I was present.

Mr. Katwa Kigen: What was the issue being discussed on that day?

Hon. Dominic Mutai: The impeachment Motion of Governor, Dr. Eric Mutai.

Mr. Katwa Kigen: It was a Motion to impeach the Governor?

Hon. Dominic Mutai: Yes.

Mr. Katwa Kigen: It got to a point of voting, is it not?

Hon. Dominic Mutai: Yes.

Mr. Katwa Kigen: What kind of voting system was adopted?

Hon. Dominic Mutai: The Speaker ruled that electronic voting was to be used.

Mr. Katwa Kigen: Okay. After you decided that electronic voting would be used, were you okay with that idea?

Hon. Dominic Mutai: We were not okay because that was the first time it was introduced. It was introduced some few minutes to voting.

Mr. Katwa Kigen: What did you prefer?

Hon. Dominic Mutai: We preferred a roll call.

Mr. Katwa Kigen: Did you express your wishes for a roll call?

Hon. Dominic Mutai: Yes, we stood for Division, which was not granted.

Mr. Katwa Kigen: It was denied. Did you vote?

Hon. Dominic Mutai: No, I did not.

Mr. Katwa Kigen: Does the Standing Order say what happens to a vote which has not been cast?

Hon. Dominic Mutai: Yes, it is said to be abstain.

Mr. Katwa Kigen: So, if you have not cast your vote, it is supposed to be reflected as abstained?

Hon. Dominic Mutai: Yes.

Mr. Katwa Kigen: When you saw the results that were posted by the County Assembly on the voting, is your vote of abstaining featured?

Hon. Dominic Mutai: It is not featured anywhere.

Mr. Katwa Kigen: Apart from the fact that the system was new, was there another reason why you did not participate in the electronic voting?

Hon. Dominic Mutai: Yes. Prior to that, there was a lot of suspicion. We are from that Assembly and we know the issues of integrity of the system; it can be manipulated.

Mr. Katwa Kigen: You feared that the system would be manipulated?

Hon. Dominic Mutai: Yes.

Mr. Katwa Kigen: Is that the reason why you did not vote?

Hon. Dominic Mutai: Yes.

Mr. Katwa Kigen: Okay, thank you. You will be asked a few questions by my colleagues.

Mr. Elisha Ongoya: Mr. Dominic, very few questions for you.

It is your case that this is the first time this system was being used in the Assembly?

Hon. Dominic Mutai: Yes.

Mr. Elisha Ongoya: But you already knew it had been manipulated?

Hon. Dominic Mutai: We did not know that it had been manipulated.

Mr. Elisha Ongoya: You did not know that it had been manipulated?

Hon. Dominic Mutai: Yes.

Mr. Elisha Ongoya: Let me get that right just for clarification.

You did not know it had been manipulated?

Hon. Dominic Mutai: Yes.

Mr. Elisha Ongoya: You were in the Assembly when the Governor and his advocates made submissions to that Assembly?

Hon. Dominic Mutai: Yes.

Mr. Elisha Ongoya: You remember the Governor's advocate in the Assembly saying your vote had already been manipulated?

Hon. Dominic Mutai: Yes, I remember he said so.

Mr. Elisha Ongoya: Thank you so much. This was well before the vote was taken?

Hon. Dominic Mutai: Yes.

Mr. Elisha Ongoya: Now you have seen the results of the vote? You finally are aware of the results of the vote?

Hon. Dominic Mutai: Yes, later.

Mr. Elisha Ongoya: Later you know the results of the vote?

Hon. Dominic Mutai: Yes.

Mr. Elisha Ongoya: They show that you did not vote?

Hon. Dominic Mutai: Before that, can I explain?

Mr. Elisha Ongoya: No, you cannot explain; those results show that you did not vote?

Hon. Dominic Mutai: I do not want to explain---

Mr. Elisha Ongoya: Do not explain, state to me. Those results that you have seen later show that you, Dominic, did not vote?

Hon. Dominic Mutai: Yes.

Mr. Elisha Ongoya: The allegation by the counsel for the Governor in the Assembly that your vote had been manipulated was, therefore, false?

Hon. Dominic Mutai: Counsel---

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Mr. Elisha Ongoya: No, was that allegation true or false?

Hon. Dominic Mutai: Mr. Deputy Speaker, Sir, allow me because I was the one who was in the Assembly and I know why---

Mr. Elisha Ongoya: Now you are in the Senate and you must answer my question.

The Deputy Speaker (Sen. Kathuri): Witness, just answer the questions as you are asked. It is just a yes or no answer question.

Mr. Elisha Ongoya: Was that allegation true or false?

Hon. Dominic Mutai: It is true.

Mr. Elisha Ongoya: It is true; that is enough, thank you. But the results show you did not vote?

Hon. Dominic Mutai: I did not vote.

Mr. Elisha Ongoya: In fact, you did not vote?

Hon. Dominic Mutai: I did not vote.

Mr. Elisha Ongoya: Thank you so much. That is all.

The Deputy Speaker (Sen. Kathuri): Yes, counsel representing the Governor; any re-examination.

Mr. Katwa Kigen: Did you know or did you not know that that there would be a likelihood of manipulation of the votes?

Hon. Dominic Mutai: Prior to that, our colleagues had said that my name was already one of those that were supposed to have voted for--- That is why when I was submitting at that Assembly, I said that my vote should be respected. That is what I wanted to explain. I told whoever wanted to vote for me that my vote should be respected.

Mr. Katwa Kigen: So, out of your concern that there is a likelihood of intention to manipulate your vote, you anticipated it by making comments on the floor?

Hon. Dominic Mutai: Yes.

Mr. Katwa Kigen: It is captured on the HANSARD, is it not?

Hon. Dominic Mutai: It is captured in the HANSARD that I said so.

Mr. Katwa Kigen: I would like to end there.

Mheshimiwa, thank you very much.

I would like to call Hon. Omolo.

The Deputy Speaker (Sen. Kathuri): Let us have the next witness.

Mr. Katwa Kigen: Hon. Omolo.

(Hon. Opile Noela Omolo took the Stand)

Could you tell the Hon. Senators and the Deputy Speaker, your name, please?

Hon. Opile Omolo: My name is Hon. Opile Noela Omolo.

Mr. Katwa Kigen: Describe yourself.

Hon. Opile Omolo: I am a nominated MCA representing the minority in Kericho County.

Mr. Katwa Kigen: Were you in the Assembly on the 15th August, 2025?

Hon. Opile Omolo: Yes.

Mr. Katwa Kigen: What was being discussed on that day?

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Hon. Opile Omolo: The Motion to impeach the Governor.

Mr. Katwa Kigen: The discussion was on the impeachment of the Governor. The discussion went on up to the point of voting, is it not?

Hon. Opile Omolo: Yes.

Mr. Katwa Kigen: What kind of voting process was adopted?

Hon. Opile Omolo: Electronic voting.

Mr. Katwa Kigen: Were you agreeable to the electronic voting?

Hon. Opile Omolo: No.

Mr. Katwa Kigen: What did you prefer?

Hon. Opile Omolo: Roll call.

Mr. Katwa Kigen: Did you make known your wishes that you prefer roll call voting?

Hon. Opile Omolo: Yes.

Mr. Katwa Kigen: Did you eventually vote at all?

Hon. Opile Omolo: No, I did not, I abstained.

Mr. Katwa Kigen: Do the Standing Orders provide for a case where somebody does not vote?

Hon. Opile Omolo: It does.

Mr. Katwa Kigen: What does it say?

Hon. Opile Omolo: It says that if there is a Division supported by five people, then the Speaker can opt for the option of roll call.

Mr. Katwa Kigen: You did not answer my question, but that is still okay. You are saying that where more than five people disagree with the voting system; they should have been allowed to go for roll call, is it not?

Hon. Opile Omolo: Yes.

Mr. Katwa Kigen: How many of you were supporting the option of roll call?

Hon. Opile Omolo: We were 18 of us.

Mr. Katwa Kigen: Noela, why did you not vote?

Hon. Opile Omolo: We had prior knowledge that the system was already not transparent.

Mr. Katwa Kigen: You feared that the system was not transparent?

Hon. Opile Omolo: Yes.

Mr. Katwa Kigen: That is why you did not vote?

Hon. Opile Omolo: Yes.

Mr. Katwa Kigen: When you do not vote, how is your vote supposed to be captured?

Hon. Opile Omolo: If I do not vote, it should be, abstain.

Mr. Katwa Kigen: When the report was brought back about the number of votes, is your vote of abstain reflected?

Hon. Opile Omolo: No, it does not.

Mr. Deputy Speaker, Sir, that is all for this witness in evidence-in-chief.

The Deputy Speaker (Sen. Kathuri): Counsel for the County Assembly, proceed.

Mr. Elisha Ongoya: Noela, in 30 seconds; you have not sworn any individual affidavit of yours before the Senate.

Hon. Opile Omolo: Yes, I have not.

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Mr. Elisha Ongoya: Sorry?

Hon. Opile Omolo: I have not.

Mr. Elisha Ongoya: Thank you so much. That is all in cross-examination.

Mr. Katwa Kigen: Thank you, *Mheshimiwa*, you can retire.

The Deputy Speaker (Sen. Kathuri): Next witness.

Mr. Katwa Kigen: I request to call Hon. Vincent Kirui.

(Hon. Vincent Kirui took the Stand)

Please, tell the Hon. Senators and the Deputy Speaker, your full name.

Hon. Vincent Kirui: My name is Hon. Vincent Kirui.

Mr. Katwa Kigen: Could you just describe yourself, please?

Hon. Vincent Kirui: Member of the County Assembly representing Litein Ward.

Mr. Katwa Kigen: You are MCA for Litein Ward?

Hon. Vincent Kirui: Yes.

Mr. Katwa Kigen: You signed the joint affidavit with the others?

Hon. Vincent Kirui: Yes.

Mr. Katwa Kigen: How many in total were you?

Hon. Vincent Kirui: We were 18.

Mr. Katwa Kigen: What was the main reason you were signing that affidavit?

Hon. Vincent Kirui: They had said we were---

Mr. Katwa Kigen: What was your main complaint? *Mlikuwa mnacomplain juu ya nini?*

Hon. Vincent Kirui: Impeachment of Governor Mutai.

Mr. Katwa Kigen: Were you in the Assembly on the 15th August?

Hon. Vincent Kirui: Yes.

Mr. Katwa Kigen: What was the issue being discussed on that 15th August?

Hon. Vincent Kirui: Impeachment of our Governor.

Mr. Katwa Kigen: It was a discussion on the impeachment of the Governor. You debated it and eventually came to a voting, is it not?

Hon. Vincent Kirui: Yes.

Mr. Katwa Kigen: What kind of voting was adopted?

Hon. Vincent Kirui: Electronic voting.

Mr. Katwa Kigen: Were you agreeable to the electronic voting?

Hon. Vincent Kirui: No.

Mr. Katwa Kigen: What did you prefer?

Hon. Vincent Kirui: I prefer to be counted.

Mr. Katwa Kigen: What is it called?

Hon. Vincent Kirui: Roll call.

Mr. Katwa Kigen: Was it you alone who wanted roll call?

Hon. Vincent Kirui: No, it was 18 of us.

Mr. Katwa Kigen: Did you tell the Speaker that you wanted to use a roll call?

Hon. Vincent Kirui: Yes.

Mr. Katwa Kigen: Did he accept?

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Hon. Vincent Kirui: No.

Mr. Katwa Kigen: Did you vote?

Hon. Vincent Kirui: I never voted.

Mr. Katwa Kigen: Do your Standing Orders provide for what happens to a vote that has not been cast?

Hon. Vincent Kirui: It is supposed to be abstained.

Mr. Katwa Kigen: When you saw the results brought to this Senate by the County Assembly saying that 33 people voted in support of impeachment, does it reflect your vote of abstain as a consequence of not voting?

Hon. Vincent Kirui: Yes.

Mr. Katwa Kigen: Is your vote captured in that data?

Hon. Vincent Kirui: No.

Mr. Katwa Kigen: It is not captured.

Mr. Deputy Speaker, Sir, that is all for this witness in evidence-in-chief.

Mr. Elisha Ongoya: Again, in 30 seconds, Hon. Vincent, you have not sworn any individual affidavits before this Senate, have you?

Hon. Vincent Kirui: Yes.

Mr. Elisha Ongoya: Have you sworn it?

Hon. Vincent Kirui: No.

Mr. Elisha Ongoya: No. Did you log into the system to vote?

Hon. Vincent Kirui: No.

Mr. Elisha Ongoya: Did you seek assistance from the technical staff and were you denied?

Hon. Vincent Kirui: No.

Mr. Elisha Ongoya: Did you press the abstain button?

Hon. Vincent Kirui: No.

Mr. Elisha Ongoya: Thank you so much; that is all.

The Deputy Speaker (Sen. Kathuri): Next witness.

(Hon. Gilbert Ng'etich took the Stand)

Mr. Katwa Kigen: Hon. Gilbert Ng'etich, could you tell the Hon. Members your full name, please?

Hon. Gilbert Ng'etich: I am Hon. Gilbert Kiprop Ng'etich.

Mr. Katwa Kigen: Describe yourself.

Hon. Gilbert Ng'etich: I am an MCA representing the good people from Kisiara Ward. I am an elected member.

Mr. Katwa Kigen: In Kericho County?

Hon. Gilbert Ng'etich: In Kericho County.

Mr. Katwa Kigen: Okay. Were you in the County Assembly on the 15th August, 2025?

Hon. Gilbert Ng'etich: Yes, I was.

Mr. Katwa Kigen: And what was being dealt with on that date?

Hon. Gilbert Ng'etich: It was an Impeachment Motion, the main Motion to be precise, from Hon. Rogony, on impeachment of His Excellency.

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Mr. Katwa Kigen: It was a Motion to impeach the Governor, moved by Hon. Rogony?

Hon. Gilbert Ng'etich: Yes.

Mr. Katwa Kigen: It was discussed and eventually it was decided to go into voting, is that correct?

Hon. Gilbert Ng'etich: Yes.

Mr. Katwa Kigen: What kind of voting was adopted?

Hon. Gilbert Ng'etich: Electronic voting, directed by the Speaker.

Mr. Katwa Kigen: The Speaker decided that it would be by electronic voting. Were you agreeable to the electronic voting?

Hon. Gilbert Ng'etich: We did not.

Mr. Katwa Kigen: You? Speak for yourself.

Hon. Gilbert Ng'etich: I did not.

Mr. Katwa Kigen: Did you express your objection?

Hon. Gilbert Ng'etich: I did.

Mr. Katwa Kigen: You expressed your objection?

Hon. Gilbert Ng'etich: Yes.

Mr. Katwa Kigen: Were you alone in that objection?

Hon. Gilbert Ng'etich: No, we were 18.

Mr. Katwa Kigen: What did you prefer?

Hon. Gilbert Ng'etich: We preferred roll call voting.

Mr. Katwa Kigen: You preferred roll call voting?

Hon. Gilbert Ng'etich: Yes.

Mr. Katwa Kigen: Do you have the right to ask for roll call voting?

Hon. Gilbert Ng'etich: We have.

Mr. Katwa Kigen: For roll call voting to be adopted, what does it require?

Hon. Gilbert Ng'etich: It requires a Division illustrated by five or more members.

Mr. Katwa Kigen: So, if five or more people ask for a roll call, then it should be given by the Speaker?

Hon. Gilbert Ng'etich: Yes.

Mr. Katwa Kigen: Did you ask for that?

Hon. Gilbert Ng'etich: We did.

Mr. Katwa Kigen: How many people?

Hon. Gilbert Ng'etich: We were 18 of us.

Mr. Katwa Kigen: Was it granted?

Hon. Gilbert Ng'etich: It was not.

Mr. Katwa Kigen: Okay. So, eventually they started the process of voting electronically. Did you vote yourself, *Mheshimiwa*?

Hon. Gilbert Ng'etich: I abstained.

Mr. Katwa Kigen: You abstained. How did you abstain exactly? Did you press a button to abstain or what do you mean?

Hon. Gilbert Ng'etich: There was nowhere to be pressed.

Mr. Katwa Kigen: There was nothing to be pressed.

Hon. Gilbert Ng'etich: Yes.

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Mr. Katwa Kigen: So, what do you mean by telling these Senators and the Speaker you abstained?

Hon. Gilbert Ng'etich: We illustrated by standing up.

Mr. Katwa Kigen: Speak for yourself.

Hon. Gilbert Ng'etich: I illustrated by standing up to show that I was not satisfied with the electronic voting.

Mr. Katwa Kigen: And so, why do you think your vote should have been abstain?

Hon. Gilbert Ng'etich: Pardon?

Mr. Katwa Kigen: Why are you saying your vote is an abstain, yet you did not press anything?

Hon. Gilbert Ng'etich: By standing alone, it was supposed to be automatically registered as an abstention.

Mr. Katwa Kigen: As far as you are concerned, the fact that you did not vote should have been marked as an abstention.

Hon. Gilbert Ng'etich: Yes.

Mr. Katwa Kigen: Is your vote of abstention captured in the total number of votes reflected?

Hon. Gilbert Ng'etich: It was not captured.

Mr. Katwa Kigen: Okay. You will be asked a couple of questions by my colleagues for the Assembly.

Hon. Gilbert Ng'etich: Okay.

Mr. Elisha Ongoya: Gilbert, again in 30 seconds, very few questions. Do you have an individual affidavit that you have sworn before the Senate?

Hon. Gilbert Ng'etich: I do not.

Mr. Elisha Ongoya: You do not. Did you log into the electronic voting system that was provided?

Hon. Gilbert Ng'etich: I did not.

Mr. Elisha Ongoya: You did not log into it. Do you know it, in fact, provided for an electronic button for abstain?

Hon. Gilbert Ng'etich: I was not---

Mr. Elisha Ongoya: Do you know that fact?

Hon. Gilbert Ng'etich: I did not know.

Mr. Elisha Ongoya: Did anyone stop you from logging in?

Hon. Gilbert Ng'etich: No one.

Mr. Elisha Ongoya: Did you seek assistance from the technical staff to log in and were denied the chance?

Hon. Gilbert Ng'etich: I was to be trained, not to be helped.

Mr. Elisha Ongoya: Did you seek assistance from the staff who were assigned?

Hon. Gilbert Ng'etich: I did not.

Mr. Elisha Ongoya: Thank you so much. That is all in cross-examination.

The Deputy Speaker (Sen. Kathuri): Counsel for the Governor.

Mr. Katwa Kigen: Just one question, *Mheshimiwa*. Did you need to ask for assistance?

Hon. Gilbert Ng'etich: No need.

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Mr. Katwa Kigen: What should have happened before that?

Hon. Gilbert Ng'etich: We were supposed to be trained before the use of the gadget.

Mr. Katwa Kigen: You needed to be trained, not to be helped, is that correct?

Hon. Gilbert Ng'etich: Yes.

Mr. Katwa Kigen: Okay. That is all for this witness. Thank you very much, *Mheshimiwa*.

The Deputy Speaker (Sen. Kathuri): Next witness.

(Hon. Francis Terer took the Stand)

Mr. Katwa Kigen: The next witness is Francis Terer. Tell the hon. Senators and the Speaker, your names, please.

Hon. Francis Terer: Thank you so much. My name is Francis Kiplangat Terer, Member of the County Assembly of Kericho, representing the great people of Chegol Ward.

Mr. Katwa Kigen: Okay. Were you in the County Assembly on the 15th of August?

Hon. Francis Terer: Yes, I was there.

Mr. Katwa Kigen: What was being discussed on that day?

Hon. Francis Terer: The tabling of the Motion of impeachment of the Governor of Kericho, Dr. Erick Mutai.

Mr. Katwa Kigen: It was a discussion of the impeachment of the Governor.

Hon. Francis Terer: Yes.

Mr. Katwa Kigen: The impeachment proceedings went on?

Hon. Francis Terer: It went on.

Mr. Katwa Kigen: It got to the point of voting, is that correct?

Hon. Francis Terer: Yes.

Mr. Katwa Kigen: When it got to the point of voting, what kind of voting was decided on by the Speaker?

Hon. Francis Terer: Electronic voting system.

Mr. Katwa Kigen: It was electronic voting. Were you agreeable to the electronic voting?

Hon. Francis Terer: No, I was not.

Mr. Katwa Kigen: Did you make known your wishes that you were opposed to it?

Hon. Francis Terer: Yes, we were opposed to it, especially the 18 Members who stood up.

Mr. Katwa Kigen: Were you opposed yourself?

Hon. Francis Terer: Yes.

Mr. Katwa Kigen: Were there people supporting your objection to that?

Hon. Francis Terer: Yes.

Mr. Katwa Kigen: How many were you?

Hon. Francis Terer: We were 18 in number.

Mr. Katwa Kigen: If you have an objection, what should happen to the electronic voting? What did you prefer?

Hon. Francis Terer: Repeat the question.

Mr. Katwa Kigen: You did not want the electronic voting?

Hon. Francis Terer: Yes. We did not want electronic voting.

Mr. Katwa Kigen: What voting did you want?

Hon. Francis Terer: We wanted the roll call voting system.

Mr. Katwa Kigen: Did you let the Speaker know that?

Hon. Francis Terer: Yes.

Mr. Katwa Kigen: How many people wanted roll call?

Hon. Francis Terer: We were 18 Members of the County Assembly.

Mr. Katwa Kigen: Did you vote?

Hon. Francis Terer: I did not vote.

Mr. Katwa Kigen: At all?

Hon. Francis Terer: At all.

Mr. Katwa Kigen: Why did you not vote?

Hon. Francis Terer: Because I had no hope in the electronic voting system.

Mr. Katwa Kigen: You had no faith in the electronic voting system?

Hon. Francis Terer: Yes.

Mr. Katwa Kigen: Okay. Do the Standing Orders provide for a situation where somebody has not voted?

Hon. Francis Terer: Yes.

Mr. Katwa Kigen: What is it supposed to be counted as?

Hon. Francis Terer: Abstain.

Mr. Katwa Kigen: It is supposed to be counted as an abstention.

Hon. Francis Terer: Yes.

Mr. Katwa Kigen: When the results were brought by the County Assembly, did they reflect your vote of abstention?

Hon. Francis Terer: No, it did not capture my vote as an abstention.

Mr. Katwa Kigen: Your abstention vote was not captured?

Hon. Francis Terer: Yes.

Mr. Katwa Kigen: Thank you very much, *Mheshimiwa*. You will be asked a few questions by my colleagues.

Hon. Francis Terer: Thank you.

The Deputy Speaker (Sen. Kathuri): Yes, counsel.

Mr. Elisha Ongoya: Francis Terer.

Hon. Francis Terer: Yes, Sir.

Mr. Elisha Ongoya: Have you sworn any individual affidavit before this House?

Hon. Francis Terer: No.

Mr. Elisha Ongoya: Do you know your Standing Orders provide for electronic voting?

Hon. Francis Terer: Yes.

Mr. Elisha Ongoya: You were in the Assembly that approved that system of voting?

Hon. Francis Terer: Yes.

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Mr. Elisha Ongoya: Was the method of voting as used by the Speaker known to your Standing Orders?

Hon. Francis Terer: It was known.

Mr. Elisha Ongoya: Thank you so much. That is all in cross-examination.

Mr. Katwa Kigen: No re-examination, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Next witness.

Mr. Katwa Kigen: I request to call Hon. Anita Cherono.

(Hon. Anita Cherono Mibey took the Stand)

Please, tell the hon. Senators and the Speaker your full name.

Hon. Anita Mibey: My name is Anita Cherono Mibey, elected Member representing the people of Chemosot Ward in Bureti Constituency, Kericho County.

Mr. Katwa Kigen: Thank you very much. Were you in the County Assembly on the 15th of August?

Hon. Anita Mibey: Yes, Senior Counsel.

Mr. Katwa Kigen: What was the issue being discussed on that day?

Hon. Anita Mibey: It was the day for us to table the Motion on the impeachment of Dr. Erick Mutai.

Mr. Katwa Kigen: So, it was a day to discuss the issue of the impeachment of the Governor?

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: Then the debate went on, is that correct?

Hon. Anita Mibey: Yes. The discussion started at around 10.00 a.m.

Mr. Katwa Kigen: It is okay. So, it was discussed and eventually it came to a point of voting, is that correct?

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: Was there any decision as to what form of voting was to be done?

Hon. Anita Mibey: The decision came in at the very end. The decision that came up was a new way of voting that as an Assembly, we had not used electronic voting before.

Mr. Katwa Kigen: So, it was said to be electronic voting?

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: Had you ever used that electronic voting system?

Hon. Anita Mibey: No.

Mr. Katwa Kigen: That was the first time?

Hon. Anita Mibey: That was the first time.

Mr. Katwa Kigen: Okay. Did you know that you were going to use electronic voting before you came on that day?

Hon. Anita Mibey: No. Apart from the rumours that were on social media, we had not received an official communication from the Speaker that we were going to use an electronic voting system. There was no official communication to us.

Mr. Katwa Kigen: So, there were comments circulating on social media that electronic voting would be used?

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Hon. Anita Mibey: Yes and also some staff were good enough to inform us. The IT staff were good enough to tell us, be prepared, there is a new system that we have been called tonight to work on that you might be using tomorrow.

Mr. Katwa Kigen: Sorry, that they had been called?

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: When were they called?

Hon. Anita Mibey: A night to the day of 15th.

Mr. Katwa Kigen: So, they had been told, please come and prepare the system?

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: Who called them and asked them to prepare for electronic voting?

Hon. Anita Mibey: The Speaker called them.

Mr. Katwa Kigen: The Speaker is the one who said, come and set up an electronic voting system?

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: Okay, so the voting started, is that correct?

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: Did you have any objection to the electronic voting?

Hon. Anita Mibey: Yes, we had an objection.

Mr. Katwa Kigen: What were your reasons?

Hon. Anita Mibey: Our reasons were, we are not aware of the system and we do not trust the electronic system. As a team that were against it, we stood for Division to request the Speaker to allow all of us to be counted under the roll call option instead of a new gadget that we were not aware of.

Mr. Katwa Kigen: So, let me just paraphrase what you are saying. You said you had an objection and the objection was based on the fact that it was new and you did not trust it.

Hon. Anita Mibey: Yes and we had not been taken through a pilot test of the system. Some of us are tech savvy. We are well with the system if only we knew what that system was. If only there was a pilot test a day to for us to be sure that our votes will be in the safe hands with the system. Yes, we would have agreed to it, but we said no since it was a new thing.

Mr. Katwa Kigen: So, it is your testimony to this Senate that you really have no objection to electronic voting; you only want the integrity of it to be properly---

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: Okay. You said it was being piloted in the impeachment Motion?

Hon. Anita Mibey: Yes, it was a pilot because I was reading through – allow me to add this – my messages with our IT staff a day to, that night. Even the same day, I was texting him and asking him, “We have heard of an electronic system. What are you guys going to do?” The message he gave me was, “Once you decide on the electronic voting system, then we will let you know how to work on it.” That was at around 1.00 p.m.

Mr. Katwa Kigen: Okay. Did you have an option other than electronic voting?

Hon. Anita Mibey: Yes. We had an option of roll calling.

Mr. Katwa Kigen: Roll call?

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: How would roll call work?

Hon. Anita Mibey: The way roll call works is, of course, we will have this side--

Mr. Katwa Kigen: Sorry, that is not what I am asking. So, the speaker said we use electronic voting?

Hon. Anita Mibey: He insisted after we requested for---

Mr. Katwa Kigen: Okay. Is there an option for you to ask the Speaker to change that position? Can the MCAs ask that you depart from the use of electronic voting to roll call?

Hon. Anita Mibey: Looking at our Standing Orders, yes, we have an option.

Mr. Katwa Kigen: What does it require for the Speaker to accept roll call?

Hon. Anita Mibey: So, if we go for Division and five of the members stood and request for that option, the Speaker would rule that we go for a roll call.

Mr. Katwa Kigen: So, if there are five people insisting on a roll call, then the roll call should be done by the Speaker?

Hon. Anita Mibey: Yes, as per the Standing Orders.

Mr. Katwa Kigen: As per the Standing Orders. Does the Speaker have a choice if there are five people supporting the Motion?

Hon. Anita Mibey: He had no choice, but he decided to rule anyway.

Mr. Katwa Kigen: No, I am saying, ordinarily as per the Standing Orders. Does it provide for the Speaker to choose whether or not to do roll call if there are five people supporting?

Hon. Anita Mibey: No. It says "shall". So, I do not think there is an option.

Mr. Katwa Kigen: Lastly, did you vote?

Hon. Anita Mibey: I did not vote.

Mr. Katwa Kigen: Do your Standing Orders provide for what happens when you do not vote?

Hon. Anita Mibey: Yes because I abstained, I expected the system to count those who abstained from not voting.

Mr. Katwa Kigen: That includes you?

Hon. Anita Mibey: That includes my vote.

Mr. Katwa Kigen: Is your vote reflected in the votes that are---

Hon. Anita Mibey: Looking at that system, it is only showing those who voted.

Mr. Katwa Kigen: Looking at the results that were brought to this Senate, is your abstained vote reflected?

Hon. Anita Mibey: No. It is saying zero.

Mr. Katwa Kigen: Okay. You will be asked a few questions.

The Deputy Speaker (Sen. Kathuri): Yes, counsel. Go through the cross-examination.

Mr. Elisha Ongoya: Thank you. Just in one minute. Anita, have you sworn an individual affidavit before the Senate?

Hon. Anita Mibey: No.

Mr. Elisha Ongoya: You have told the Senate that you expected the system to register your abstinence, your abstained vote. True?

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- Hon. Anita Mibey:** Yes.
- Mr. Elisha Ongoya:** Which system?
- Hon. Anita Mibey:** The electronic voting system.
- Mr. Elisha Ongoya:** Did you log into it?
- Hon. Anita Mibey:** We did not have---
- Mr. Elisha Ongoya:** Did you, Anita, log into it?
- Hon. Anita Mibey:** But log in where?
- Mr. Elisha Ongoya:** My apologies. Anita, did you log into the system?
- Hon. Anita Mibey:** We did not have a system to log in.
- Mr. Elisha Ongoya:** Did you log in to the link that was given to you?
- Hon. Anita Mibey:** I did not have an option of logging in.
- Mr. Elisha Ongoya:** Mr. Deputy Speaker, may I have my question answered? I have one minute to finish this.
- The Deputy Speaker** (Sen. Kathuri): Yes. Witness, just answer the question.
- Mr. Elisha Ongoya:** Did you log into the system?
- Hon. Anita Mibey:** I did not have a system to log in.
- Mr. Elisha Ongoya:** I am asking whether, in fact, you logged into it, whatever the circumstances.
- Hon. Anita Mibey:** But where?
- Mr. Elisha Ongoya:** Mr. Deputy Speaker, may I have my question answered? This is now becoming disturbing.
- The Deputy Speaker** (Sen. Kathuri): Witness, once again you are now bordering on becoming a hostile witness.
- Mr. Elisha Ongoya:** Take that as a warning.
- The Deputy Speaker** (Sen. Kathuri): Just answer questions the way you are asked; just “yes” or “no”? Do not ask the counsel questions.
- Mr. Elisha Ongoya:** Anita, did you, in fact, log into the system?
- Hon. Anita Mibey:** No.
- Mr. Elisha Ongoya:** Did you press the abstain button?
- Hon. Anita Mibey:** I did not have a button to press.
- Mr. Elisha Ongoya:** Did you press an abstain button?
- Hon. Anita Mibey:** No.
- Mr. Elisha Ongoya:** Nevertheless, you expected that system to register your abstained vote?
- Hon. Anita Mibey:** But which system?
- Mr. Elisha Ongoya:** Nevertheless, you expected that system to register your abstained vote?
- Hon. Anita Mibey:** But which system?
- Mr. Elisha Ongoya:** Mr. Deputy Speaker, Sir, may I once again have my question answered, whether that was the expectation?
- The Deputy Speaker** (Sen. Kathuri): Madam Witness, can you answer those questions looking at me? Maybe when you look at him, you are becoming a bit---

(Laughter)

Look at this side and answer the questions.

Mr. Elisha Ongoya: Thank you. Notwithstanding that you did not press the abstain button, you nevertheless expected the system to register your abstained vote. Is that a correct position?

Hon. Anita Mibey: Come up again?

Mr. Elisha Ongoya: Notwithstanding that you did not press the abstain option in the system, you expected to register your abstained vote?

Hon. Anita Mibey: I did not have a gadget to press the abstain button.

Mr. Elisha Ongoya: Did you have your phone in the Chamber?

Hon. Anita Mibey: I had my phone until 1.00 p.m. when my phone went off power.

Mr. Elisha Ongoya: Did you have your phone in the Chamber?

Hon. Anita Mibey: It was somewhere.

Mr. Elisha Ongoya: Did you have your phone in the Chamber?

Hon. Anita Mibey: I think so.

Mr. Elisha Ongoya: Did you, in fact, have your phone in the Chamber, Anita?

Hon. Anita Mibey: I had my phone until it went off and I took it off.

Mr. Elisha Ongoya: So, you had your phone in the Chamber?

Hon. Anita Mibey: For about three hours.

Mr. Elisha Ongoya: So, in fact, you had your phone in the Chamber, as a matter of fact?

Hon. Anita Mibey: For about three hours.

Mr. Elisha Ongoya: What is the answer to that question on whether, in fact, she had my phone, I cannot get the answer to that question. I think the witness is bordering on rudeness now, not just being hostile.

I have been very polite to all witnesses in this Assembly because it is my professional duty to be. They have no corresponding right to be rude to me. I am a professional discharging my professional duty. I deserve respect. She is disrespectful.

The Deputy Speaker (Sen. Kathuri): Counsel, you know, you have no mandate to judge. That is my work. Mine is only to request her to answer your questions. Do not make the judgment. That is the work of the Chair.

Mr. Elisha Ongoya: Yes.

The Deputy Speaker (Sen. Kathuri): You have been pleading with her to answer your questions directly.

Mr. Elisha Ongoya: Yes, I was making a submission, inviting you to make that judgment, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): You are provoking me to do that?

Mr. Elisha Ongoya: My apologies---

The Deputy Speaker (Sen. Kathuri): Or inciting me to say what you---

Mr. Elisha Ongoya: No, Mr. Deputy Speaker, Sir. I was making a submission so that you then---

The Deputy Speaker (Sen. Kathuri): Witness, Madam Anita, Hon. Member, just answer those questions as fast as possible. I can see the Counsel is constrained by time.

Hon. Anita Mibey: Mr. Deputy Speaker, Sir, am I allowed to just say no answer?

The Deputy Speaker (Sen. Kathuri): It is no or yes.

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Hon. Anita Mibey: Okay.

Mr. Elisha Ongoya: Did you, in fact, have your phone in the Chamber?

Hon. Anita Mibey: No answer.

(Loud consultations)

Mr. Elisha Ongoya: Mr. Deputy Speaker, Sir, I do not know what to do now, but I will beseech you to intervene now more coercively. May I request that my time be paused in the circumstances because I have no contribution to what she is doing.

The Deputy Speaker (Sen. Kathuri): Madam Witness, what is the problem? Counsel representing the Governor, can you stand down the witness if she is not ready to respond and call another witness?

Mr. Elisha Ongoya: May I proceed, Mr. Speaker?

The Deputy Speaker (Sen. Kathuri): Proceed.

Mr. Elisha Ongoya: Madam Anita, did you, in fact, have your phone in the Chamber?

Hon. Anita Mibey: Yes.

Mr. Elisha Ongoya: Do you remember you contributed to this impeachment Motion?

Hon. Anita Mibey: I said yes for three hours.

Mr. Elisha Ongoya: Do you remember you contributed to this impeachment Motion in the Chamber?

Hon. Anita Mibey: Yes, for three hours.

Mr. Elisha Ongoya: Do you remember you read your contribution from your phone and that became an issue in the course of the debate?

Hon. Anita Mibey: Yes, for three hours.

Mr. Elisha Ongoya: In your affidavit before this Senate, have you disclosed these conversations you had with the IT staff on the eve of the vote?

Hon. Anita Mibey: No.

Mr. Elisha Ongoya: The inclusion of electronic voting in your Standing Orders happened in October last year. True or not true?

Hon. Anita Mibey: Come up again?

Mr. Elisha Ongoya: The amendment to the Standing Orders to introduce electronic voting happened in October, 2024. True or not true?

Hon. Anita Mibey: True.

Mr. Elisha Ongoya: Have you had a Motion requiring a division in that Assembly since then, before this impeachment one?

Hon. Anita Mibey: We have not done anything that required us to vote since the time that the Standing Orders were changed.

Mr. Elisha Ongoya: Thank you. So, this is the first time a Motion requiring a division arose, since the amendment to the Standing Orders. True or not true?

Hon. Anita Mibey: Not true.

Mr. Elisha Ongoya: Which other Motion requiring a division has ever arisen since October last year when you made amendments?

Hon. Anita Mibey: There was a removal of our Deputy Speaker, Dr. Eric, at some point after the Standing Orders were changed. We expected the electronic voting system to be used then.

Mr. Elisha Ongoya: Give us the month when you removed the Deputy Speaker.

Hon. Anita Mibey: Around November, but we can check.

Mr. Elisha Ongoya: So, you are not sure of the month?

Hon. Anita Mibey: I am not sure of the dates, but it was after the Standing Orders had been changed.

Mr. Elisha Ongoya: Are you sure of the dates and the month?

Hon. Anita Mibey: I can consult.

Mr. Elisha Ongoya: I asked whether you are sure, so that we put on the record.

Hon. Anita Mibey: November.

Mr. Elisha Ongoya: You are sure of that month?

Hon. Anita Mibey: Yes.

Mr. Elisha Ongoya: Then that is all in my cross-examination of this witness.

The Deputy Speaker (Sen. Kathuri): Counsel, are you doing re-examination?

Mr. Katwa Kigen: Yes, just briefly. You said you have had an opportunity to go to Division for purposes of removal of the Deputy Speaker.

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: Did that happen after amendment of the---

Hon. Anita Mibey: It was after the amendments.

Mr. Katwa Kigen: That was in November, 2024?

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: Okay. Did you use electronic voting then?

Hon. Anita Mibey: No.

Mr. Katwa Kigen: Okay. You have been asked why you expected your vote to be captured as "Abstain" yet you had not voted. Do you remember being asked that question?

Hon. Anita Mibey: Yes.

Mr. Katwa Kigen: I want you to read Standing Order No.77(8).

Hon. Anita Mibey: It says-

"Any Member present in the Assembly but who shall not have voted at the expiry of five minutes or after the announcing of the results, whichever is earlier, shall forfeit the right to vote and shall be deemed to have abstained from voting."

Mr. Katwa Kigen: So, based on that Standing Order, were you entitled to have your vote counted as "Abstain"?

Hon. Anita Mibey: Yes, counsel.

Mr. Katwa Kigen: Thank you very much, *Mheshimiwa* Anita.

The Deputy Speaker (Sen. Kathuri): Next witness.

Mr. Katwa Kigen: I request for *Mheshimiwa* Gabriela.

(Hon. Gabriela Chepnego Langat took the Stand)

Could you tell the Senate your full name and who you represent?

Hon. Gabriela Chepngeno: I am Chepngeno Gabriela Langat, nominated Member of Kericho County Assembly.

Mr. Katwa Kigen: Were you in the County Assembly on 15th of August, 2025?

Hon. Gabriela Chepngeno: Yes, I was.

Mr. Katwa Kigen: What was being discussed then?

Hon. Gabriela Chepngeno: The Motion on Impeachment of Kericho County Governor, Dr. Erick Mutai.

Mr. Katwa Kigen: Could you confirm that the Motion was moved and the discussion was held?

Hon. Gabriela Chepngeno: Yes, it was moved and discussion held.

Mr. Katwa Kigen: Eventually it came to voting?

Hon. Gabriela Chepngeno: Yes, senior.

Mr. Katwa Kigen: What kind of voting was adopted?

Hon. Gabriela Chepngeno: Electronic voting system.

Mr. Katwa Kigen: Were you agreeable to the electronic voting system?

Hon. Gabriela Chepngeno: No, senior.

Mr. Katwa Kigen: What was your objection? Please address the Deputy Speaker.

Hon. Gabriela Chepngeno: Mr. Deputy Speaker, Sir, we wanted the normal roll call voting or headcount.

Mr. Katwa Kigen: You wanted either headcount or roll call voting.

Hon. Gabriela Chepngeno: Yes, senior counsel.

Mr. Katwa Kigen: How many were you?

Hon. Gabriela Chepngeno: We were 18 in number.

Mr. Katwa Kigen: You 18 people preferred roll call?

Hon. Gabriela Chepngeno: Yes.

Mr. Katwa Kigen: Okay. Did the Speaker grant your wishes?

Hon. Gabriela Chepngeno: No, he denied us the wishes.

Mr. Katwa Kigen: Now that he refused roll call and the only system to be used was electronic voting, did you vote?

Hon. Gabriela Chepngeno: No, I did not.

Mr. Katwa Kigen: You did not vote at all?

Hon. Gabriela Chepngeno: No, I did not vote.

Mr. Katwa Kigen: Could you tell the hon. Senators the reason you did not vote?

Hon. Gabriela Chepngeno: Yes. Mr. Deputy Speaker, Sir, I refused to vote because I did not trust the integrity of the system. Prior to the voting, the television screens were installed in the Kericho County Assembly at night, a rare activity.

I informed the Speaker that we had never been trained on the system. That was the main reason. I never trusted the credibility of the results and also the voting system.

Mr. Katwa Kigen: So, your issues were, one, it had been rushed.

Hon. Gabriela Chepngeno: Yes.

Mr. Katwa Kigen: Two, you did not trust it.

Hon. Gabriela Chepngeno: Yes.

Mr. Katwa Kigen: That you had not been trained.

Hon. Gabriela Chepngeno: Yes.

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Mr. Katwa Kigen: It remains your position even in this honourable Senate that it should not have been used in the face of all those three issues?

Hon. Gabriela Chepngeno: Yes, senior counsel.

Mr. Katwa Kigen: Okay. I have requested you to address your answers to the Deputy Speaker, please.

Hon. Gabriela Chepngeno: Sorry.

Mr. Katwa Kigen: You have talked about the rush and issues of integrity. Before that, did you have any concerns about the incoming Impeachment Motion?

Hon. Gabriela Chepngeno: Yes, I had concerns.

Mr. Katwa Kigen: What were the concerns?

Hon. Gabriela Chepngeno: Mr. Deputy Speaker, Sir, my first concern is this. Two minutes to the tabling of the Notice of Motion of Impeachment, the Speaker declared that six of us, that is four women, one elected MCA of Kericho County Assembly and also a nominated male Member. He said that our seats were going to be declared vacant.

According to me, that was by design or a sinister move by the Speaker to either intimidate us because if he declared that our offices were going to be vacant, the number would have reduced to 41. Therefore, the two-thirds threshold would have been low and maybe they would have gotten that.

Another reason is that all through, before the impeachment Motion, after that communication was made, the Chief Whip of Kericho County Assembly, one Hon. Aaron Rotich, called and asked whether I heard the communication by the Speaker and I said yes.

He asked what I thought and I told him that I have never missed eight consecutive sittings that is being alleged. When he asked whether I had proof, I said yes. I told him that I have always attended the sittings of Kericho County Assembly because it is my duty and responsibility.

Mr. Deputy Speaker, Sir, we can get the call logs from Safaricom and I am ready to provide the evidence. He told me that they can delete my biometrics for logging in and I was surprised. That is the system we are using. If that Member alleged that my biometrics for logging in can be deleted, then that system is not safe.

I am here today as the Kericho MCA---

The Deputy Speaker (Sen. Kathuri): Sorry, witness. The question you were asked was not that long.

Hon. Gabriela Chepngeno: Sorry, Mr. Deputy Speaker, Sir. I was explaining.

Mr. Katwa Kigen: In the long explanation that you have given, you have said---

Hon. Gabriela Chepngeno: One thing senior, I would like to say that my suspicion began there because if you can delete my biometrics, that means that the system is not credible.

Mr. Katwa Kigen: So, you were told directly by, you said Chief Whip?

Hon. Gabriela Chepngeno: Yes, the Chief Whip called Aaron Rotich.

Mr. Katwa Kigen: The conversation with the Chief Whip was that you had missed eight sessions and, therefore, you would be removed?

Hon. Gabriela Chepngeno: Yes.

Mr. Katwa Kigen: But you say you have not missed them?

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Hon. Gabriela Chepngeo: I have not missed at any point.

Mr. Katwa Kigen: What did he say?

Hon. Gabriela Chepngeo: He said that they will delete, so that there are eight consecutive sittings. According to him, the following week the Speaker was going to communicate to me that my office is vacant. Therefore, I am here courtesy of a court order.

Mr. Katwa Kigen: The Deputy Speaker said that you should not answer for too long.

So, as a result of the fact that the Chief Whip told you that they can adjust the data of the County Assembly the way they wanted, you became suspicious?

Hon. Gabriela Chepngeo: Yes, I began suspecting something.

Mr. Katwa Kigen: So, what did you do?

Hon. Gabriela Chepngeo: On that day, we stood up for Division---

Mr. Katwa Kigen: So that you do not lose your speed, what did you do?

Hon. Gabriela Chepngeo: I went to the court and reported the matter. We were granted a court order.

Mr. Katwa Kigen: To do what?

Hon. Gabriela Chepngeo: To stay in the Kericho County Assembly and not to appear before the Powers and Privileges Committee.

Mr. Katwa Kigen: To stop you from being removed as an MCA?

Hon. Gabriela Chepngeo: Yes.

Mr. Katwa Kigen: If you can, I would like you to read the case number.

Hon. Gabriela Chepngeo: The Case Number is HCHRPET/E009 of 2025.

Mr. Katwa Kigen: Mr. Deputy Speaker, Sir, and hon. Senators, that is in volume 4A of the County Assembly's documents. That is page 45. The Case Number is Kericho Law Courts, E009 of 2025.

You say you were one of the six MCAs who went to court?

Hon. Gabriela Chepngeo: Yes.

Mr. Katwa Kigen: You got orders to remain as MCAs?

Hon. Gabriela Chepngeo: Yes.

Mr. Katwa Kigen: As we speak, you are still in office.

Hon. Gabriela Chepngeo: Yes, I am still in office, courtesy of a court order.

Mr. Katwa Kigen: Lastly, when you did not vote, is it supposed to be reflected in the tally?

Hon. Gabriela Chepngeo: Yes.

Mr. Katwa Kigen: How is it supposed to be reflected?

Hon. Gabriela Chepngeo: If any Member does not cast his or her vote, they are deemed to have abstained, but that is not captured.

Mr. Katwa Kigen: So, your position is that your Standing Orders provide that if you do not cast your vote, it should be treated as an abstention?

Hon. Gabriela Chepngeo: Yes.

Mr. Katwa Kigen: Do the votes brought to this honourable Senate by the County Assembly reflect your abstained vote?

Hon. Gabriela Chepngeo: It does not reflect.

Mr. Katwa Kigen: Was there a crisis as to why it should use electronic voting rather than a roll call?

Hon. Gabriela Chepngeno : There was no crisis.

Mr. Katwa Kigen: Thank you very much Mr. Deputy Speaker. Sir, the witness can be cross-examined.

Hon. Chepngeno, you will hold on for cross-examination.

The Deputy Speaker (Sen. Kathuri): Counsel for the County Assembly, you may proceed.

Mr. Elisha Ongoya: Hon. Gabriela, I have a few questions for you because my time is restricted.

You refer to a conversation you had with one of the County Assembly Chief Whips regarding the notice for you to showcase why you should not be referred to the powers and privileges committee. Is that the conversation you refer to?

Hon. Gabriela Chepngeno : Pardon?

Mr. Elisha Ongoya: You refer to a conversation you had with a particular whip on the question of your failure to attend eight consecutive sittings of the Assembly. Is that the one you are referring to?

Hon. Gabriela Chepngeno: Yes.

Mr. Elisha Ongoya: You consider that conversation to be crucial to this impeachment Motion? Is that conversation important?

Hon. Gabriela Chepngeno: Yes.

Mr. Elisha Ongoya: You swore an affidavit in this impeachment Motion.

Hon. Gabriela Chepngeno: Yes, I did.

Mr. Elisha Ongoya: Do you refer to that conversation in your affidavit?

Hon. Gabriela Chepngeno: No.

Mr. Elisha Ongoya: So that conversation was so important not to be included in your affidavit?

Hon. Gabriela Chepngeno: I included the---

Mr. Elisha Ongoya: I am asking whether that conversation with Hon. Rotich was in your affidavit.

Hon. Gabriela Chepngeno: It contributes to the incredibility---

Mr. Elisha Ongoya: I am asking whether that conversation is in your affidavit or in any paragraph in your affidavit?

Hon. Gabriela Chepngeno: It is not.

Mr. Elisha Ongoya: Thank you. The Members of the County Assembly are subject to the disciplinary measures under the Powers and Privileges Act. True or not true?

Hon. Gabriela Chepngeno: True.

Mr. Elisha Ongoya: The speaker's communication to you was to show cause to the powers and privileges committee. True or not true?

Hon. Gabriela Chepngeno: True.

Mr. Elisha Ongoya: Did the Speaker tell you he was going to arbitrarily remove you from the Assembly?

Hon. Gabriela Chepngeno: When you miss eight consecutive sittings, that is done, but I never missed. It was a lie.

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Mr. Elisha Ongoya: But the question whether you had missed or not was the subject to be determined by the Powers and Privileges Committee. True or not true?

Hon. Gabriela Chepngeno: The Powers and Privileges Committee is biased in the Kericho County Assembly.

Mr. Elisha Ongoya: Let me get the answer to my question, kindly Hon. Gabriela. I am a fairly patient person, but with limits. Please confirm that the question of whether or not you had missed was going to be a subject of consideration by the Powers and Privileges Committee.

Hon. Gabriela Chepngeno: It was political, senior counsel.

Mr. Elisha Ongoya: Hon. Gabriela, please answer my question. The question of whether or not you had missed the eight sittings was a subject of consideration by the Powers and Privileges Committee.

Hon. Gabriela Chepngeno: I do not know.

Mr. Elisha Ongoya: Did the notice and communication from the chair specify that issue?

Hon. Gabriela Chepngeno: No.

Mr. Elisha Ongoya: You are saying the communication from the chair did not specify that issue?

Hon. Gabriela Chepngeno: We were to appear.

Mr. Elisha Ongoya: Did the communication from the Chair specify that you show cause to the Powers and Privileges Committee?

Hon. Gabriela Chepngeno: Yes, it did.

Mr. Elisha Ongoya: That is what you are saying, it did not?

Hon. Gabriela Chepngeno: It did.

Mr. Elisha Ongoya: Let me deal with a small question about the screens being installed in the Assembly on the eve of the impeachment Motion. Those screens are like the ones we are seeing in this Senate. True or not true?

Hon. Gabriela Langat: True.

Mr. Elisha Ongoya: You are aware that the trial, the evidence by the parties in the impeachment Motion at the Assembly, entailed the playing of video evidence. Did you see that being played?

Hon. Gabriela Chepngeno: Yes, I saw it.

Mr. Elisha Ongoya: Was it possible to play video evidence without screens?

Hon. Gabriela Chepngeno: But why should you install them in the night?

Hon. Gabriela Chepngeno: Was it possible to play video evidence without screens?

Hon. Gabriela Chepngeno: Pardon?

Mr. Elisha Ongoya: Was it possible to play video evidence in the County Assembly without the screens?

Hon. Gabriela Chepngeno: No.

Mr. Elisha Ongoya: Was the County Assembly administration under an obligation to facilitate the parties to present their evidence fully?

Hon. Gabriela Chepngeno: Not in such a hurry and at night.

Mr. Elisha Ongoya: I did not ask you the manner. Did the County Assembly administration have a duty to facilitate the parties to present their evidence fully?

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Hon. Gabriela Chepngeno: There is no evidence.

Mr. Elisha Ongoya: I do not understand your answer at all.

Hon. Gabriela Chepngeno: Maybe you can repeat your question once again.

Mr. Elisha Ongoya: I am suggesting to you, and you may confirm if I am wrong, that the County Assembly leadership had a duty to enable the parties to present their evidence fully. True or not true?

Hon. Gabriela Chepngeno: Yes, they had.

Mr. Elisha Ongoya: Part of facilitating them would entail giving them facilities to play video evidence. True or not true?

Hon. Gabriela Chepngeno: True.

Mr. Elisha Ongoya: The facility is the screen. True or not true?

Hon. Gabriela Chepngeno: True.

Mr. Elisha Ongoya: That is what you are complaining about, Hon. Gabriela, in good conscience.

Hon. Gabriela Chepngeno: Senior, I am complaining about the timing, the timing of the installation of the machines. Who does that in the night?

Mr. Elisha Ongoya: So, let me ask the right question. What is the prescribed time for installing screens in the Kericho County Assembly?

Hon. Gabriela Chepngeno: I am not sure of the prescribed time.

Mr. Elisha Ongoya: And yet you are complaining about the time, Hon. Gabriela. Are you being an honest citizen?

Hon. Gabriela Chepngeno: No, Mr. Deputy Speaker, sir.

Mr. Elisha Ongoya: Thank you so much, Mr. Deputy Speaker. The witness has confirmed to being a dishonest witness.

I rest.

(Laughter)

Mr. Katwa Kigen: Hon. Gabriela, *Mheshimwa*, are you an honest or dishonest person?

Hon. Gabriela Chepngeno Chepngeno: I am an honest person.

Mr. Katwa Kigen: So, why were you saying you are dishonest?

Hon. Gabriela Chepngeno: The senior is putting me in a corner.

(Laughter)

Mr. Katwa Kigen: Okay. Now, I want to ask you two serious questions in re-examination. The first one is the issue of appearing before the Powers and Privileges Committee. It is true that a notice was sent to you to show cause why you should not be retired as an MCA for missing eight consecutive sessions, is it not?

Hon. Gabriela Chepngeno Langat: Yes.

Mr. Katwa Kigen: Who moved that Motion?

Hon. Gabriela Chepngeno: The Speaker made a communication.

Mr. Katwa Kigen: It is the Speaker who said you, Hon. Gabriela, and six others will be removed, and so, you appear for purposes of showing cause, is it not?

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Hon. Gabriela Chepngeno: Yes.

Mr. Katwa Kigen: If you were to appear before that committee, who was going to chair it?

Hon. Gabriela Chepngeno: The Speaker.

Mr. Katwa Kigen: He is the same person who was going to chair it?

Hon. Gabriela Chepngeno: Yes.

Mr. Katwa Kigen: Who was going to determine your fate?

Hon. Gabriela Chepngeno: My fellow MCAs.

Mr. Katwa Kigen: Okay. Now the screens, did they play a role in the impeachment at all?

Hon. Gabriela Chepngeno : Yes.

Mr. Katwa Kigen: The screens that were put up at night?

Hon. Gabriela Chepngeno : Yes.

Mr. Katwa Kigen: What role did they play?

Hon. Gabriela Chepngeno : Playing of the video evidences.

Mr. Katwa Kigen: Playing of the video evidences, but did it play another role other than playing the video evidence?

Hon. Gabriela Chepngeno: Yes. It was the same screens that were used to air the votes?

Hon. Gabriela Chepngeno: It is the same screens that were used to air the six votes. Okay.

Mr. Katwa Kigen: That is all from me, Mr. Deputy Speaker, Sir, and that is the end of this set of 14.

The Deputy Speaker (Sen. Kathuri): Okay. Thank you, witness, for your confidence.

Next witness, please.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir---

The Deputy Speaker (Sen. Kathuri): Yes, Sen. Boni Khalwale, proceed.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, of those many witnesses he was having, my attention is drawn, and that is why I seek that you guide us---

The Deputy Speaker (Sen. Kathuri): Did he say that? Counsel, are you through?

Mr. Katwa Kigen: No, I have one more witness, although not in the set of MCAs.

Sen. (Dr.) Khalwale: No, Mr. Deputy Speaker, Sir, I am saying in the set of these MCAs.

The Deputy Speaker (Sen. Kathuri): Yes, proceed.

Sen. (Dr.) Khalwale: My attention, Mr. Speaker, is drawn to volume two of the County Assembly's documents and volume one of the Governor's documents. In both incidents, there is a witness by the name of Ms. Edinah Chepkirui Tunoi, who has sworn to support the County Assembly's case. She has also sworn to support the Governor's case. I want to request, Mr. Deputy Speaker, Sir, that hear this witness on how she is supporting both sides in the same case.

Why am I inquiring? It looks like the counsel for the Governor wants to deny us the opportunity to find out why this particular witness swore an affidavit that she did not

vote as an MCA, went on and swore an affidavit in support of the Governor at the same time.

The Deputy Speaker (Sen. Kathuri): Counsel, you may respond.

Mr. Katwa Kigen: Mr. Deputy Speaker, Sir, the last time we heard the MCA earlier, we subsequently encountered an affidavit from the County Assembly saying she is their witness now. Now, we just do not have her. The last person with her was the County Assembly. They probably can explain where she is.

The Deputy Speaker (Sen. Kathuri): That is okay. If the counsel does not want to have the witness, we cannot force that.

Proceed, Sen. Cherarkey.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, this matter has generated public interest. Article 159 of the Constitution and our Standing Orders on Procedure of Impeachment against the Governor under Standing Order No.1, it will be very important--

Yesterday, we directed an independent audit on the ICT voting system. As a House, we instructed the ICT Authority to prepare that report, which will be presented.

It is in the interest of the Senators, the public and the great people of Kericho who are following this matter and also in the interest of the County Assembly and the Governor for this witness to appear. She must tell us why she swore an affidavit to support both the County Assembly case and the Governor's case, so we can make a determination. We are the judges' pick.

Can you invoke Article 159 of the Constitution and the right to a fair hearing under Article 50, so we can listen to what Edinah Tonui knows that some of us do not, so that we can make an independent judgement?

Mr. Deputy Speaker, Sir, I request, as per your ruling yesterday, that you directed the ICT Authority to do an audit on the logins of the credential of voting, let Edinah appear as an interest of the process of the Senate, with your indulgence, of course.

The Deputy Speaker (Sen. Kathuri): Let me hear a few more Senators, then I will make that ruling.

Proceed, Sen. Eddy Oketch.

(Sen. (Dr.) Khalwale spoke off record)

Sen. Boni, you prosecuted your issue and I am okay with what you said. I am not opening a debate. We will hear from Sen. Omtatah, then we close that session.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, the issue that Sen. Boni has raised is a pertinent issue. In the event you guide, and I am not pre-empting this, that the witness might not appear before us, the documents are duly before us. Our determination is not only based on the narrative that is being told there, but also in the strength of this evidence that we have been given in writing here.

Perhaps, it would be important to also rule that if the witness does not appear before us, we then expunge the evidence in both cases. This is because it is appearing on the County Assembly's and Governor's side. We need to be absolute in terms of looking at all those documents. In the event that she is not appearing, please, guide us on how we treat the evidence in both documents.

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The Deputy Speaker (Sen. Kathuri): Sen. Okiya Omtatah.

Sen. Okiya Omtatah: Mr. Deputy Speaker, Sir, I do not think we are sitting here to conduct inquiries. We are here to listen to the parties and render a verdict. Let the parties appear before us the way they choose otherwise, we shall be overstepping our mandate.

The Deputy Speaker (Sen. Kathuri): That is the reason why I wanted you to speak last because I know you have a lot of experience in the corridors. You have said exactly what we should do as Senators. We cannot call witnesses as the Senate. If any of the parties is not interested with that witness, then it is their business. You have some time to make such decisions when you will be making your decision later. We cannot force witnesses to appear before us.

Sometimes witnesses are provided and the team can decide to drop three of them. It has happened before. This is not the first time that a witnesses is not called in the Senate. I have followed three consecutive impeachments, so I have authority. I am almost an authority in this process.

Let us make progress, Hon. Senators. I know you have not spoken for two or three days, but this is not the time to open debate on a simple matter that I have made a ruling.

Now, Senators, I know you really feel like talking so at this juncture. I want to give you time, maybe 20 minutes or so, if you have clarifications on the witnesses that we have processed.

(Sen. (Dr.) Khalwale spoke off record)

I made a ruling on your matter, Sen. Boni Khalwale. It is the same thing.

Senators, who is interested to---

Yes, Sen. Agnes Kavindu.

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

How do you provide those witnesses, Serjeant-at-Arms? Members want to seek clarifications from them.

Sen. Kavindu Muthama: Thank you, Mr. Deputy Speaker, Sir. I want to know if this system has ever been used again after the impeachment of the Governor.

The Deputy Speaker (Sen. Kathuri): Do you know the name of the witness that you want to direct a question to?

Sen. Kavindu Muthama: It can come from the MCAs or the lawyers.

The Deputy Speaker (Sen. Kathuri): You can only seek clarification from the MCAs; the witnesses who were here a few minutes ago.

Sen. Kavindu Muthama: Yes, those are the ones I want to seek clarifications from. Has this system ever been used again after it was used for the impeachment of the Governor?

(An Hon. Member spoke off record)

Si waitwe. Tutauliza aje?

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The Deputy Speaker (Sen. Kathuri): Yes, Sen. Chesang Allan. I do not know whether the witnesses are hearing us. Where are they?

(Loud consultations)

It is also necessary to know the name of the witness that you want to clarification from. Usher them in, they have few clarifications.

(The witnesses of the Governor were ushered into the Chamber)

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

Let us have the next witness as we leave the others to get ready. Let us get the next witness, Counsel for the Governor.

Mr. Katwa Kigen: They are here, Mr. Deputy Speaker, Sir. I do not know whether I should call the next one or we deal with these ones first.

The Deputy Speaker (Sen. Kathuri): I want to get this from you Senators; I have been approached by several Senators that they have no clarifications to seek from the MCAs, the witnesses. Is that the mood of the House?

Hon. Senators: Yes.

The Deputy Speaker (Sen. Kathuri): Okay, fine. It is okay. If there is anything that we need from them, we shall be able to ask later, not now.

Mr. Katwa Kigen: Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Okay, next witness, please.

[Mr. Job Okuon Oguya was ushered into the Chamber]

Mr. Katwa Kigen: Well, these ones here. I was wondering where you were.

Mr. Job Okuon Oguya: I am here.

The Deputy Speaker (Sen. Kathuri): Okay, proceed, clerk, and administer the oath to the witness.

(Mr. Job Okuon Oguya took the Oath)

Mr. Peter Wanyama: Mr. Deputy Speaker, Sir, I will lay the basis for the witness testimony. With your permission, I will proceed.

Can you tell the Hon. Senate your full name?

Mr. Job Okuon Oguya: My full name is Job Okuon Oguya. I am a project consultant at Cyber Hub Systems.

Mr. Peter Wanyama: For the record of the Senate, the witness affidavit is at volume five of the Governor's Bundle. He is an IT expert. It is in volume five of the Governor's Bundle.

What are your professional qualifications?

Mr. Job Okuon Oguya: I am a computer scientist. I also hold a quality management audit certificate on ISO 9001-2015 for quality management system.

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Mr. Peter Wanyama: What level of qualifications do you have? Masters, Bachelors or PhD?

Mr. Job Okuon Oguya: Bachelor's.

Mr. Peter Wanyama: Okay. How many years of experience do you have in the sector?

Mr. Job Okuon Oguya: Over 10 years.

Mr. Peter Wanyama: Now, in relation to the proceedings before the Senate, you swore an affidavit. Is that correct?

Mr. Job Okuon Oguya: That is very correct.

Mr. Peter Wanyama: Do you have the affidavit before you?

Mr. Job Okuon Oguya: Yes, I have the affidavit.

Mr. Peter Wanyama: You saw it, when is this affidavit dated?

Mr. Job Okuon Oguya: This affidavit was dated on 27th of August on the year 2025.

Mr. Peter Wanyama: Now, in the affidavit, you have said at paragraph seven that you did analyse extracts from a system audit logs which are contained in volume 4A of the County Assembly documents. For the record of the Senate, do you have these extracts that you said you analysed for purpose of preparing your report?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: What pages of the documents are these logs that you say you analysed?

Mr. Job Okuon Oguya: These start from the pages 38. Pardon me. It starts from page 37.

Mr. Peter Wanyama: From page 30?

Mr. Job Okuon Oguya: Page 37 going on until the page 44.

Mr. Peter Wanyama: Okay. What other documents did you use to analyse the report that you say you have prepared?

Mr. Job Okuon Oguya: We used the ICT logs which are provided in the document in terms of the users who are able to log in and the IP addresses which are available.

Mr. Peter Wanyama: Okay, so quickly, how did you do this audit, very quickly?

Mr. Job Okuon Oguya: We did a cyber security audit in terms of looking at the system security level. We looked at it on high level in terms of the protocols and the security procedures which they have put. We found out that there is a lot of breaches and loopholes which are available in that system.

Mr. Peter Wanyama: Okay, with respect to the security audit, what specific loophole did you find out?

Mr. Job Okuon Oguya: As per our report?

Mr. Peter Wanyama: Yes.

Mr. Job Okuon Oguya: We found out various security issues starting from which is---

Mr. Peter Wanyama: Are you looking at your report? Which page so that the Senators can follow you? Which page of your report are you talking about this security audit that you say you did?

Mr. Job Okuon Oguya: Okay. If you look at your volume five booklet, this is from page 29 where it is a comprehensive high level cyber security audit report of the Kericho County Assembly System. So, the items which we identified during the audit, mind you, this was just a routine pass by audit. There was an absence of multi-factor authentication.

Mr. Peter Wanyama: What is a multi-factor authentication? What is it in relation to the security of a system?

Mr. Job Okuon Oguya: The multi-factor authentication is a security mechanism that gives you a second layer of security. In case somebody has your password, he is not able to log in. He needs to have another device, maybe a personal phone for him to now log into the system.

Mr. Peter Wanyama: So, you are saying this is a password protection system or something like that?

Mr. Job Okuon Oguya: Yes, it is.

Mr. Peter Wanyama: What other issue did you find out?

Mr. Job Okuon Oguya: We found out also that where the servers are hosted, they are exposed in terms of we know we can trace and we can find.

Mr. Peter Wanyama: Okay, let us go methodically. This security audit summary is contained at which page of your report, so that we are methodical?

Mr. Job Okuon Oguya: We can move to page, from page two.

Mr. Peter Wanyama: No, up there, I think the document is page 32.

Mr. Job Okuon Oguya: My apologies. Okay. Page 32.

Mr. Peter Wanyama: Page 32?

Mr. Job Okuon Oguya: Yes. So, from page 32, I think I have already highlighted the multi-factor authentication.

Mr. Peter Wanyama: Yes, and the second issue?

Mr. Job Okuon Oguya: The second issue as we proceed is on page 33 which is the lack of a dynamic naming system or proxy to protect your system from people knowing where it is located or where it is hosted. This is just to divert any threat attackers.

Mr. Peter Wanyama: Okay. Why is this important?

Mr. Job Okuon Oguya: This is important because without this, people will be able to attack your system and maybe remove some data from it.

Mr. Peter Wanyama: Okay. What other issue? Very quickly, so that we summarise your reports.

Mr. Job Okuon Oguya: There was a critical issue which was exposure of the passwords in the browser when a user inputs their username and password, which, definitely, the username and password was already shared without the requirement of security.

Mr. Peter Wanyama: Yes.

Mr. Job Okuon Oguya: So, if a user inputs their username and password, as a security personnel, we are able to get the password from the back end.

Mr. Peter Wanyama: Okay. In this case, you looked at the logs, right? What was the username and the password that you said is insecure?

Mr. Job Okuon Oguya: The username and password that was insecure – give me 10 seconds.

Mr. Peter Wanyama: Considering time and because that is an issue which is not contested, let us go to the next issue, the security challenge you said you experienced in this audit in order to save on time. What was the next vulnerability that you said you saw in the system from a security perspective?

Mr. Job Okuon Oguya: This was more of an observation. We noticed that the system was hosted on a .co.ke domain. Out of curiosity, this is a county assembly system and most of the systems need to be hosted under a go.ke domain.

Mr. Peter Wanyama: The Senators would like to know. You are talking about .co.ke and .go.ke. What is the difference?

Mr. Job Okuon Oguya: The major difference is that .co.ke is a private commercial domain used by businesses, our companies or companies which are limited. The .go.ke is a reserved domain system which I believe is with the ICT Authority that authorizes you to use it. No one can come and apply.

Mr. Peter Wanyama: Okay. What other vulnerability did you notice as an expert?

Mr. Job Okuon Oguya: Another major vulnerability was also the password management policy.

Mr. Peter Wanyama: What do you mean by password management policy? Explain it briefly.

Mr. Job Okuon Oguya: I can say this is a requirement. I saw that the Kericho County Assembly IT team said they have an IT policy and with this, you need to have a policy that dictates that your password needs to be secret and also no one needs to know your password. You also need to be able to change it after a certain duration.

Mr. Peter Wanyama: You said that the domain hosting was done abroad. Where is this contained in your report?

Mr. Job Okuon Oguya: The domain hosting and server hosting was in Germany and the person who owns the domain is a company called Host Pinnacle Cloud Limited.

Mr. Peter Wanyama: Is it a public or private company?

Mr. Job Okuon Oguya: It is a private company.

Mr. Peter Wanyama: In your analysis of this system and in terms of risk, how did you rate the system?

Mr. Job Okuon Oguya: In terms of security, I believe the system is highly threatened.

Mr. Peter Wanyama: There is a question which Senators want to know, and you can look at volume 4A, page 13, 14, 15, up to 17. What is this, from an expert perspective and what is contained in those pages?

Mr. Job Okuon Oguya: This is a system log of the users who interacted with the system.

Mr. Peter Wanyama: Of the users who interacted with the system?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: What are the key features of these logs that you can see from there because we want to know whether it gives names?

Mr. Job Okuon Oguya: I believe the key features that I can see are numbers, which must be representing something, most likely the username of the users.

Mr. Peter Wanyama: Very quickly, what else do you see there?

Mr. Job Okuon Oguya: We can also see the motion number and the actual choice.

Mr. Peter Wanyama: So, the results of the vote can also be seen from this document?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Move quickly to page 29 because this is where we want to focus on. Explain to us what is there between page 29 to 32. What is this from an IT perspective?

Mr. Job Okuon Oguya: Scrutinizing the documents and the pages, from an IT perspective and on the network side because IT is also wide, there is an IP address on the far right, which corresponds to the MCA's username or number. I can also see some IP addresses are different and some are the same.

Mr. Peter Wanyama: Some IP addresses are different and others are the same?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: The question which the hon. Senators want to know from this document is why will the IP addresses be different for the same data? That is important.

Mr. Job Okuon Oguya: Please, come again.

Mr. Peter Wanyama: Some IP addresses on these pages are the same, while others are different, especially if you go to page 31. If you look at page 31, you have 41.139.237.129 appearing several times down there. From your expertise, why is this the case?

Mr. Job Okuon Oguya: If you observe this, you will see that with those IPs, it seems that the MCAs voted from the same network.

Mr. Peter Wanyama: They voted from the same network?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Now, let me be picturesque here. I have these gadgets. This is my phone, laptop or tablet and I want to use it to vote. A link has been sent to my phone to vote. Is that correct?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: I key in on that link, it goes into a system. Is that correct?

Mr. Job Okuon Oguya: Very correct.

Mr. Peter Wanyama: What the Senators want to know because four MCAs have said that some folks voted for them, if you have a gadget like this and you have accessed the system, what evidence does this gadget leave in that system such that anyone can verify and say; Peter Wanyama, on this date, you accessed the system using this machine?

Mr. Job Okuon Oguya: For the system, as I mentioned earlier, there is some security flaw. In order for you to---

Mr. Peter Wanyama: Ideally, in a typical system, if I am accessing a system, what will you find in the system to show that Peter Wanyama logged in this system? What fingerprint will you find in the system?

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Mr. Job Okuon Oguya: Usually, we use something called a Media Access Control (MAC) address which is unique to all devices.

Mr. Peter Wanyama: You say it is a MAC address? Again, for the benefit of all of us, what is a MAC address?

Mr. Job Okuon Oguya: It is Media Access Control. That is our terminology, but it is a unique identifier in a network system and all devices in the world have different MAC addresses. It is unique to each device, whether a laptop, a phone or anything that communicates with the internet.

Mr. Peter Wanyama: Anything that communicates with the internet has a unique address?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: If I am doing an audit of that system, what kind of an audit do I need to do of a system in order to find the MAC address of the devices that access that system? As an expert, what should I do to check that the following MCAs used these devices to vote?

Mr. Job Okuon Oguya: For that, as you have mentioned, you need to have the MAC address. Also, something that can support that would be maybe if they had implemented the Two-Multi-Factor Authentication (MFA) would hold float somewhere. As at now, that one does not hold float to ascertain that this is the device. So, without the MAC address, we cannot ascertain.

Mr. Peter Wanyama: Okay, maybe let me rephrase my question. For me to get the logs containing the MAC addresses, for all these 33 gadgets that accessed the Kericho voting system, what kind of audit will I do of that system for me to arrive at this conclusion; a document containing the MAC addresses for all these laptops or computers or phones?

Mr. Job Okuon Oguya: At local level, maybe because we can see the IPs, most of them voted from one place. So we would need also the access logs from the Kericho County IT administrator.

Mr. Peter Wanyama: The access logs, and then?

Mr. Job Okuon Oguya: So that we can ascertain that this computer is communicated at this time.

Mr. Peter Wanyama: Okay. Did you access this system yourself?

Mr. Job Okuon Oguya: Yes, we accessed with a shared username and password.

Mr. Peter Wanyama: You accessed this system with a shared username and password?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: When you accessed this system, did you see the evidence of the MAC addresses of the devices that accessed this system?

Mr. Job Okuon Oguya: No, we did not see anything, and we did not see much.

Mr. Peter Wanyama: I want to show you, in the documents before the County Assembly, those documents that you said you reviewed when doing the audit, the logs which are there. Do you see any MAC addresses of the phones and the computers that accessed this system to vote?

Mr. Job Okuon Oguya: This is the time. No, we did not see any log. We did not see any log of the MAC address.

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Mr. Peter Wanyama: I also want to show you a security report which has been done by an expert from the Senate. It is before the House. Do you have a copy of the security audit?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Have you had a look at it before you came to this plenary?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Okay. In this document that has been submitted by a security expert from the Senate, do you see any MAC address; the logs containing the MAC addresses for all these phones and computers which were used to access this system, and in this case, several times, up to 34 times on the minimum?

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Why are you interrupting the witness when giving evidence? Yes, what is it?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker Sir, you have heard the counsel refer to the document which the Chair circulated to Members. Our understanding at that time was that a witness, the owner of this expert opinion, will introduce the document, then give us an opportunity to interrogate it.

After he has done that, our understanding was that then it would put us in a position to be able to now pose questions to this other expert, either to corroborate or disagree.

Mr. Deputy Speaker Sir, I believe that you consider taking that as the procedure to approach this particular evidence. If we do not---

The Deputy Speaker (Sen. Kathuri): Sen. Boni, thank you very much for your point of order. I do not take a lot of time to understand some things. I caution him not to refer until it is officially in this House. The experts will be able to come and interrogate this report.

Sen. Osotsi: On a point of order, Mr. Deputy Speaker Sir.

The Deputy Speaker (Sen. Kathuri): Yes, Sen. Osotsi.

Sen. Osotsi: I think you need to give a thought to what Sen. (Dr.) Khalwale is requesting. The fortunate thing in this House is that we have IT experts. I am an IT expert of high standing in this country.

We have Sen. Kisang, we have Sen. Kajwang', Sen. Olekina and others.

We have a lot of issues to raise about the report by the expert. If we go the way we are going, we will end up in a situation where the lawyers are going to refer to that document in the report yet, we have questions around that report.

So I think from an expert point of view, it is important to start with the expert appointed by this House and then the others can now follow. That way, we will be making progress.

The Deputy Speaker (Sen. Kathuri): You remember, Senator, also yesterday, the directive was given that the counsel for the Governor was allowed to have this witness yesterday. It was again communicated by the Chair that we have an independent expert.

This morning also, there was a direction that was given by the Speaker that after all this has been done, the ICT Authority experts will come and share with us their report. So what we are cautioning is that the witness or the counsel should not refer to this report by this expert.

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Yes, Sen. Sifuna, for 30 seconds.

Sen. Sifuna: Mr. Deputy Speaker Sir, the problem I foresee is that the Counsel for the Governor has brought his expert. What opportunity will that expert get to comment on this report, if not when he is on the stand? This is because when your expert comes, they would prefer that their expert has a comment on a document that is already here. Unfortunately, I was not here in the morning when this document found itself on the Floor. But I am wondering how it found itself there because it is a document that is before us. You and I have seen it and the witnesses---

The Deputy Speaker (Sen. Kathuri): Fine, Sen. Sifuna. Just a minute. When the Chair gives a communication as I have, which was done this morning. Maybe fortunately or unfortunately, some of us were not around and that is why now we are reversing a directive given by the Chair or from the Chair, here I am.

Sen. Sifuna: So just one clarification. At what point will the expert for the Governor get opportunity to comment on the report that has been submitted by the experts appointed by the House?

The Deputy Speaker (Sen. Kathuri): There will be no problem having him around.

Sen. Sifuna: You know, Chair, today is Friday and I know how low, energies get on Friday. I am a Whip. Anyway, we will follow your guidance.

The Deputy Speaker (Sen. Kathuri): Yes, please. No more interruptions. Proceed, Counsel.

Mr. Peter Wanyama: Mr. Deputy Speaker, Sir, I will not ask a question on the Senate ICT report. We will examine that witness when he comes before us.

The Deputy Speaker (Sen. Kathuri): When the ICT experts will be around, there is no problem having him around also to listen to the presentation.

Mr. Peter Wanyama: I am well guided. I am concluding, Mr. Witness.

MAC addresses of a telephone, laptop or desktop computer are the only evidence that is needed to ascertain that a certain person bought it. How does a MAC address look like? The MAC address of any gadget, how does it look like? How does a MAC address look like?

When you answer that question, go to pages 29, 30, 31, and 32 of volume 4A. As you answer, also respond to this additional question: Are these the MAC addresses of the laptops of the MCAs that voted?

Mr. Job Okuong Oguya: Your first question: A MAC address looks like a serial number. It is composed of hexadecimal numbers containing letters and numbers, different from the IP address, which only contains numbers. From that, we cannot ascertain or see the MAC address of the devices from here.

Mr. Peter Wanyama: And the second question? The documents in volume 4A from pages 29 to 32, are these the MAC addresses of the gadgets?

Mr. Job Okuong Oguya: These are not MAC addresses of the gadgets. These are IP addresses.

Mr. Peter Wanyama: Maybe a corollary question. What is the difference between the MAC address and these IP addresses that are contained on pages 29, 31, 32, and 33 of this volume? What is the difference because they are both from the system? Tell us.

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Mr. Job Okuon Oguya: An IP address can be shared by multiple devices. A MAC address is unique to a certain device. That is the major difference.

Mr. Peter Wanyama: Now look at the conclusion of your report on page 39. What conclusion did you give about the platform, the system that you reviewed?

Mr. Job Okuon Oguya: If I read what is on the report, it says: "The identified vulnerabilities expose the hosting system web application to severe risks including credential compromise, denial of service attacks and unauthorised access."

Mr. Peter Wanyama: Thank you.

[The Deputy Speaker (Sen. Kathuri) left the Chair]

[The Temporary Speaker (Sen. Veronica Maina) took the Chair]

One last clarification, Madam Temporary Speaker, it was said yesterday in the Senate that some IT officers assisted MCAs to vote on the desk using one or several computers. If they used one computer to access the system, would there be a MAC address? If they access it twice, would the MAC address be the same?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: It would be the same?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Okay. That is all in examination-in-chief for the witness. Thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, counsel. Cross-examination?

Mr. Elisha Ongoya: Hon. Temporary Speaker, may I kindly see my remaining time because I need to manage it. The screen is not facing me.

The Temporary Speaker (Sen. Veronica Maina): Can you reverse it for him to see the remaining time? It is 18 minutes.

Mr. Elisha Ongoya: Thank you. Let me do the best I can within the time limit, then we will take further direction.

Okuon Job Oguya, that is your name, correct?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: Do you know a person called Weldon Kipyegon Langat? Either you do or you do not.

Mr. Job Okuon Oguya: I believe I know.

Mr. Elisha Ongoya: Knowledge of somebody is not belief. Either you know somebody or you do not. Do you know Weldon Kipyegon Langat?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: How well do you know him?

Mr. Job Okuon Oguya: Not very well. We just met, we met yesterday.

Mr. Elisha Ongoya: Mr. Oguya, we need to start on an honest note. How well do you know Weldon Kipyegon Langat?

Mr. Job Okuon Oguya: Not very well.

Mr. Elisha Ongoya: Just put your mouth on the microphone and address the Speaker directly. How well do you know Weldon Kipyegon Langat?

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- Mr. Job Okuon Oguya:** Not very well.
- Mr. Elisha Ongoya:** For how long have you known him?
- Mr. Job Okuon Oguya:** Just this week.
- Mr. Elisha Ongoya:** You knew him just this week?
- Mr. Job Okuon Oguya:** Yes.
- Mr. Elisha Ongoya:** When he was contracting you to sign this report?
- Mr. Job Okuon Oguya:** For purposes of---
- Mr. Elisha Ongoya:** No. You knew him when he was contracting you to sign this report. True or not true?
- Mr. Job Okuon Oguya:** I physically---
- The Temporary Speaker (Sen. Veronica Maina):** Witness, can you, please, answer the question?
- Mr. Job Okuon Oguya:** I physically knew him this week.
- Mr. Elisha Ongoya:** I am saying you knew him when he was contracting you to sign this report. That is a very critical question because we are dealing with a professional. You knew him when he was contracting you to sign this report. True or not true?
- Mr. Job Okuon Oguya:** True.
- Mr. Elisha Ongoya:** The truth is, Weldon Kipyegon Langat prepared this report and got you to sign it. True or not true?
- Mr. Job Okuon Oguya:** Not true.
- Mr. Elisha Ongoya:** I am saying the truth is that Weldon Kipyegon Langat prepared this report and procured you to put your signature on it. Please reflect on that question and answer.
- Mr. Job Okuon Oguya:** No.
- Mr. Elisha Ongoya:** What interaction did you have with Weldon Kipyegon Langat this week?
- Mr. Job Okuon Oguya:** There was no solid interaction with him.
- Mr. Elisha Ongoya:** Give us the liquid or gaseous one, then.

(Laughter)

- Mr. Job Okuon Oguya:** I believe it was just on the system check.
- Mr. Elisha Ongoya:** What about the system check because that is the critical question keeping these Senators here today? What about it?
- Mr. Job Okuon Oguya:** As a team of IT experts, it was just like hitting the wall and finding out somebody's observation of the system.
- Mr. Elisha Ongoya:** You observed this system with him?
- Mr. Job Okuon Oguya:** No. We observed---
- Mr. Elisha Ongoya:** So, what interaction did you have with Weldon Kipyegon Langat? That is my simple and straightforward question.
- Mr. Job Okuon Oguya:** As I have said, the interaction was just on maybe a name basis.
- Mr. Elisha Ongoya:** It cannot be "maybe." You knew Weldon Langat this week. You had a specific interaction with him. What interaction did you have with him?

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Mr. Job Okuon Oguya: As I have said, it was more of an observation of the system, but no more in-depth details.

Mr. Elisha Ongoya: Tell us exactly what that observation entailed. What did you do with him regarding the system?

Mr. Job Okuon Oguya: On our side, we just shared what we had observed, but we did not get information from him.

Mr. Elisha Ongoya: I told you earlier, Weldon Kipyegon Langat is the one who contracted you to sign this report, but you have denied.

Mr. Job Okuon Oguya: The report was made by us.

Mr. Elisha Ongoya: I have said he is the one who contracted you to sign this report, you have denied. What interaction did you have with Weldon Kipyegon Langat? And remember, always, I only ask questions whose answers I know. So, proceed. What interaction did you have with Weldon Kipyegon Langat?

Mr. Job Okuon Oguya: And that is why I have said we did not have--- That is the only thing that we interacted.

Mr. Elisha Ongoya: I do not know what it is. So, now state it. What was it? I want to understand what it is.

Mr. Job Okuon Oguya: Observation of the system.

Mr. Elisha Ongoya: Tell us what observation of the system entails; the particulars of the observation of the system.

Mr. Job Okuon Oguya: That is, if it is secure---

Mr. Elisha Ongoya: You interacted with Weldon Kipyegon Langat regarding if the system was secure. What were his observations?

Mr. Job Okuon Oguya: On his side, I do not believe---

Mr. Elisha Ongoya: What were his observations on that issue?

Mr. Job Okuon Oguya: I cannot recall.

Mr. Elisha Ongoya: Sorry, Mr. Job Oguya, you are an adult. Yes?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: Let us admit what we can, deny what we can. but within parameters of truth. You interacted with Weldon Kipyegon Lang'at this week. The first aspect of interaction was observation, if this system is secure. Is that what you told these Senators?

Mr. Job Okuon Oguya: Yes, that is after our report.

Mr. Elisha Ongoya: What were his observations regarding the security of the system?

Mr. Job Okuon Oguya: I cannot recall. I cannot recall what---

Mr. Elisha Ongoya: You discussed with Weldon Kipyegon Lang'at regarding this system that keeps these Senators here and you cannot remember anything about his observations? Yes?

Mr. Job Okuon Oguya: Yes because we did---

Mr. Elisha Ongoya: Not because. You interacted with Weldon this week regarding this system that is at the centre of this Motion; and you cannot remember anything he said about it? Is that your statement?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: The only business that brought you and Weldon Kipyegon Lang'at this week was this system. Did you have any other business?

Mr. Job Okuon Oguya: No.

Mr. Elisha Ongoya: This is the only agenda that brought you together with Weldon; this system. Correct?

Mr. Job Okuon Oguya: Correct.

Mr. Elisha Ongoya: You have forgotten everything that Weldon Kipyegon Lang'at told you regarding this singular agenda, is it not?

Mr. Job Okuon Oguya: Maybe you can get together because of a certain---

Mr. Elisha Ongoya: I am not seeking hypothesis. I am seeking facts. You interacted with Weldon Kipyegon Lang'at for a single agenda, being this system, this week and you have forgotten everything he told you about that agenda. True or not true?

Mr. Job Okuon Oguya: That is true.

Mr. Elisha Ongoya: The truth being you have forgotten everything?

Mr. Job Okuon Oguya: Not that I have forgotten---

Mr. Elisha Ongoya: The truth being?

Mr. Job Okuon Oguya: The truth being that we did not--- We just observed and we did not go---

Mr. Elisha Ongoya: That is a different question. I have asked you, what were the observations of Weldon Kipyegon Lang'at, regarding the security of this system? You have said---

Sen. Mungatana, MGH: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Danson?

Sen. Mungatana, MGH: Madam Temporary Speaker, I think we have observed that the question has been repeated several times. That is called badgering a witness. A witness can say, I know or I do not know or I do not remember; and you move to the next question.

Madam Temporary Speaker, we are not going to spend the afternoon here listening to the same question repeated several times. We must make progress.

Thank you.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Sen. Mungatana, let us allow the witness to answer the question and we proceed.

Hon. Senators: Yes.

The Temporary Speaker (Sen. Veronica Maina): Sen. Mungatana, you are overruled. Let the witness proceed to answer the question.

(Loud consultations)

Answer the question, witness.

Sen. Mungatana, MGH: That is badgering.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Do not interrupt, Hon. Senators. Let us proceed and save time.

Proceed, witness.

Mr. Elisha Ongoya: Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Counsel, please, advance your conversation or interrogation with the witness.

Mr. Elisha Ongoya: My apologies, Madam Temporary Speaker, if I appear to have badgered the witness, it is not in my nature to do that. However, let me point out, Job Oguya, I have sought to know what aspects of this system you discussed with Weldon Kipyegon Lang'at. You have told me you discussed the security of this system. Is that the correct position?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: I have sought to know what the views, the observations of Weldon Kipyegon Lang'at were, regarding the security of this system this week.

Mr. Job Okuon Oguya: Maybe ask again. I have not got your question.

The Temporary Speaker (Sen. Veronica Maina): Counsel, please, advance your questions? There are certain answers given by this witness.

Mr. Elisha Ongoya: Thank you.

The Temporary Speaker (Sen. Veronica Maina): Advance your question. I know he is an expert witness.

Mr. Elisha Ongoya: Thank you. Let me now move to the clincher. You know that Weldon Kipyegon Lang'at is the ICT advisor at the Governor's Office in Kericho County. Do you know that?

Mr. Job Okuon Oguya: No, I do not.

Mr. Elisha Ongoya: When you met Weldon Kipyegon Lang'at, he told you where does he work? What does he do for a living?

Mr. Job Okuon Oguya: We did not exchange those pleasantries.

Mr. Elisha Ongoya: So, you are interacting with him regarding this system as who? What was his capacity as you interacted with him?

Mr. Job Okuon Oguya: This system, we were interacting with various people within the team.

Mr. Elisha Ongoya: No, just answer my question regarding Weldon Kipyegon Lang'at. You interacted with him in his capacity as who?

Mr. Job Okuon Oguya: Frankly, we do not know his capacity.

Mr. Elisha Ongoya: You met a stranger whose capacity you do not know and began discussing with him this system. Is that the correct position?

Mr. Job Okuon Oguya: Yes, but he was---

Mr. Elisha Ongoya: Thank you. Let me make progress. Let us now go to the substance of your report. Your report is at volume 5e of the Governor's document from pages 29 to 37. Is that correct?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: Let me just pose some question first. Who contracted you as a professional to do this report? Who was your client in preparing this report?

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Mr. Job Okuon Oguya: We were brought in by the lawyers.

Mr. Elisha Ongoya: Who was your client? A client is somebody who is known. Lawyers is a generic word. Who brought who? Who was your client? Who is paying your fees? Who? Who is your client?

Mr. Job Okuon Oguya: It is the Governor's team, which includes the lawyers and the consultants.

Mr. Elisha Ongoya: Did you talk to a particular person to do this work; a particular human being by name? Did a particular person contract you or was the letter signed by a particular person?

Mr. Job Okuon Oguya: Please, repeat.

The Temporary Speaker (Sen. Veronica Maina): Counsel, you know that question is answered. He has given you the team that contracted him. Please, move on to the next question.

Advance.

(Loud consultations)

Mr. Elisha Ongoya: Madam Temporary Speaker, my apologies. The question of the lawyers has been answered and now I want to know which lawyer by name. It is a different question.

The Temporary Speaker (Sen. Veronica Maina): Proceed.

Mr. Elisha Ongoya: Thank you. Give us the name of the lawyer who contracted you.

Mr. Job Okuon Oguya: This was the--- I believe we were--- You know it is a--- We--- I believe it was Peter.

Mr. Elisha Ongoya: Give us the full name of the lawyer, kindly. I do not know a lawyer by the generic name Peter. What is the full name of the lawyer?

Mr. Job Okuon Oguya: Peter Wanyama.

Mr. Elisha Ongoya: Peter Wanyama is the one who contracted you?

Mr. Job Okuon Oguya: Who contacted us, yes.

Mr. Elisha Ongoya: Let me go to that report now, in the interest of time. In your presentation before this Senate, you have made comments on the IP addresses from pages 29 to 33 of volume 4A. Do you remember making those observations?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: Mr. Katwa, your witness may need his bundle. Apologies. Volume 4A.

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: You have made observations on the IP addresses at pages 29 to 33. You remember that?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: Yes. Let us go to your report. Which part of your report addresses those IP addresses? Give us a page number in your volume 5.

The Temporary Speaker (Sen. Veronica Maina): Counsel, can you assist your witness to open the pages, so that we save on time?

Mr. Elisha Ongoya: The report is in volume five, from page 29 all the way to page 39. I want him to point us to the part of that report that addresses the issue of these IP addresses.

Madam Temporary Speaker, I wish to make an observation. The witness is taking so much time to answer my questions and my time is running out.

Mr. Job Okuon Oguya: It is not captured.

Mr. Elisha Ongoya: These things you have been telling us here about IP addresses are nowhere in your report?

Mr. Job Okuon Oguya: They are not captured directly in the report.

Mr. Elisha Ongoya: Which part of the report indirectly captures them?

The Temporary Speaker (Sen. Veronica Maina): Witness, can you answer the question?

Mr. Job Okuon Oguya: It is not there.

Mr. Elisha Ongoya: Sorry?

Mr. Job Okuon Oguya: It is not captured.

Mr. Elisha Ongoya: Oh! It is not even indirectly captured? Let me move. You have also talked about---

The Temporary Speaker (Sen. Veronica Maina): Counsel, you have a balance of two minutes to finish your cross-examination.

Mr. Elisha Ongoya: Thank you, Madam Temporary Speaker. Let me deal with the time remaining. I will deal with that issue when the time runs out because you have seen how the witness behaves with me.

You have also talked about the issue of Media Access Control (MAC) addresses in the course of your evidence-in-chief. You remember that?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: Which part of your report addresses the issue of MAC addresses? Give us the page number.

Mr. Job Okuon Oguya: There is no report on that.

Mr. Elisha Ongoya: So that I close that issue, in summary, you have testified on matters outside your report this afternoon, true or not true?

Mr. Job Okuon Oguya: For some of the matters, that is true.

Mr. Elisha Ongoya: Sorry, I did not get the answer.

Mr. Job Okuon Oguya: For some of the matters, that is true.

Mr. Elisha Ongoya: Thank you. Let make progress. You know I am really strained for time, but allow me to do the best I can with that.

Let us go to the recommendations at page 39 of the report. What is your first bullet recommendation on security best practices?

Mr. Job Okuon Oguya: Use https tls everywhere.

Mr. Elisha Ongoya: Use https tls everywhere. That is your recommendation?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: One of the resource materials you used to make this report was the affidavit of Alfred, the ICT expert from the Assembly, true or not true?

Mr. Job Okuon Oguya: Please, repeat.

Mr. Elisha Ongoya: You told this Senate that one of the materials you were given was the affidavit of Alfred the ICT expert from the Assembly. You remember that?

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Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: I want to show you, in the interest of time, my own copy of the affidavit.

Madam Temporary Speaker, for the record, I am showing the witness the Assembly's volume two at page 84, in particular, paragraph 28. Please confirm that the address is https, then the other particulars follow.

Mr. Job Okuon Oguya: Yes, I can confirm.

Mr. Elisha Ongoya: So, you recommended to them to do that which they are already doing at that bullet point?

The Temporary Speaker (Sen. Veronica Maina): Counsel, your time is up. I will allow the witness to answer that question, then we proceed.

Mr. Job Okuon Oguya: Let me answer. This is a general recommendation. When I said security best practices, they should look at security best practices.

Mr. Elisha Ongoya: My question is different. That recommendation is already in place.

Mr. Job Okuon Oguya: That recommendation is already in place, but that is a general security best practice that we need to put in place.

Mr. Elisha Ongoya: Madam Temporary Speaker, may I now formally request for some additional time? We request for 20 more minutes because of the time that I have taken with this witness. We have not had a habit of wasting any time. We have been victims of the time itself and the witnesses.

The Temporary Speaker (Sen. Veronica Maina): Counsel, we are constrained on time. So, I will give you five minutes.

Mr. Elisha Ongoya: Thank you, Madam Temporary Speaker. Let me see what I can do with five minutes.

I want you to look at your recommendation at page 33 of volume five. I am looking at bullet point three which is; application firewall rules blocking sqlxss. Are you seeing that?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: What firewall is applicable to this system you reviewed?

Mr. Job Okuon Oguya: For this, we usually have---

Mr. Elisha Ongoya: Not you usually. The one you reviewed. You examined the County Assembly's system. What firewall is it using?

Mr. Job Okuon Oguya: We did not find any firewall.

Mr. Elisha Ongoya: Are you saying the system was completely without firewalls?

Mr. Job Okuon Oguya: We are not privy to that information.

Mr. Elisha Ongoya: I need to get a direct answer. Are you saying you did not find any firewall because you never accessed it, or you accessed it and found it had no firewalls?

Mr. Job Okuon Oguya: Please, repeat.

Mr. Elisha Ongoya: Are you saying the system had completely no firewalls because you never accessed it, or you accessed it and found it had no firewalls?

Mr. Job Okuon Oguya: We accessed it and found that it did not have comprehensive firewalls.

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Mr. Elisha Ongoya: You know the words “comprehensive firewalls” and “no firewalls” in my lay language would be different. Is it the same thing?

Mr. Job Okuon Oguya: No.

Mr. Elisha Ongoya: So, I am asking; what firewall did you find in the system?

Mr. Job Okuon Oguya: I believe the basic firewall system.

Mr. Elisha Ongoya: You know you have given us here names of firewalls such as sqlixs. Do you know that? Which one did you find? It also has a name.

Mr. Job Okuon Oguya: Maybe you misunderstood. These are firewall rules. This is not a type of firewall.

Mr. Elisha Ongoya: Yes, which firewall rules are applicable to this system? It has a name. Which firewall rules in fact apply to this system that is used in Kericho County Assembly? It has a name.

Mr. Job Okuon Oguya: There are many firewall rules which could be implemented.

Mr. Elisha Ongoya: You were investigating a particular system, Mr. Witness. Which firewall rules did you find in this one?

Mr. Job Okuon Oguya: For this one were basic rules that you could not access the backend. There is something called the backend.

Mr. Elisha Ongoya: There is a type of firewall called basic firewall rules?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: Its name is basic firewall rules?

Mr. Job Okuon Oguya: It is a basic firewall and not basic firewall rules.

Mr. Elisha Ongoya: Do you know of a firewall called failed to ban firewall rules?

Mr. Job Okuon Oguya: I am not aware of that firewall.

Mr. Elisha Ongoya: Let me ask, Mr. Job. As a matter of fact, are you an ICT expert?

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: Thank you. Did you breach this system yourself?

Mr. Job Okuon Oguya: We did not breach because we were not given the authority to do the same. However, we managed to find vulnerabilities in the system.

Mr. Elisha Ongoya: Did you penetrate this system yourself?

Mr. Job Okuon Oguya: We did not penetrate fully.

Mr. Elisha Ongoya: When did you access this system, Mr. Oguya? When did you access the system itself?

Mr. Job Okuon Oguya: We officially audited it on 27th August, 2025.

Mr. Elisha Ongoya: So that when we get an independent expert report, it will show the logs of your access to the system.

Mr. Job Okuon Oguya: That is why I have said we did not access it. We did not penetrate it---

Mr. Elisha Ongoya: I thought you just told me you accessed this system on the 27th. So, you audited a system you did not access?

Mr. Job Okuon Oguya: Allow me to rephrase that. We accessed the system with the credentials provided on the 27th, with the user credentials that we found on that 27th.

Mr. Elisha Ongoya: Which credentials did you use? Give us the particulars.

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Mr. Job Okuon Oguya: The particular credential was---
Give me just one minute.

The Temporary Speaker (Sen. Veronica Maina): Counsel, time is up. He is only going to give you the credentials they used.

Mr. Job Okuon Oguya: Maybe I can read it out. Should I read it out?

The Temporary Speaker (Sen. Veronica Maina): Proceed.

Mr. Elisha Ongoya: Just read it out.

Mr. Job Okuon Oguya: 20170083351, and the password was 24878352.

Mr. Elisha Ongoya: When you accessed, what were you able to do in the system?

Mr. Job Okuon Oguya: Nothing much. We just observed and tried to change the password or set a password that did not have those options.

Mr. Elisha Ongoya: Sorry?

Mr. Job Okuon Oguya: We tried to see if it could change a password or set a password.

Mr. Elisha Ongoya: That inability shows a security system: Your inability to change a password shows a security system in place.

Mr. Job Okuon Oguya: Yes.

Mr. Elisha Ongoya: Thank you so much, Madam Temporary Speaker. I will leave the rest of the issue of credibility to your own observations. My time is spent. I thank you for the opportunity.

The Temporary Speaker (Sen. Veronica Maina): Thank you.

Counsel, you can proceed with re-examination.

Mr. Peter Wanyama: Just a few questions, Madam Temporary Speaker.

Mr. Oguya, you were asked a question about Mr. Weldon Kipyegon Lagat. Do you know Weldon Kipyegon Lagat?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: And when did you meet him?

Mr. Job Okuon Oguya: We met this week.

Mr. Peter Wanyama: You met this week?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Where?

Mr. Job Okuon Oguya: Here.

Mr. Peter Wanyama: You met here?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Okay. You met him in the presence of who? Who else did you meet?

Mr. Job Okuon Oguya: The Governor's team.

Mr. Peter Wanyama: The Governor's team. When meeting him and the Governor's team, did you find out where everyone from the Governor's team worked? Their credentials, titles?

Mr. Job Okuon Oguya: No.

Mr. Peter Wanyama: Okay. Did Mr. Weldon Kipyegon assist you in preparing this report?

Mr. Job Okuon Oguya: No.

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Mr. Peter Wanyama: Who assisted you in preparing the report?

Mr. Job Okuon Oguya: My colleague.

Mr. Peter Wanyama: Maybe for the sake of the record, what is the name of the colleague?

Mr. Job Okuon Oguya: Mr. Bruce Onyango.

Mr. Peter Wanyama: Mr. Bruce Onyango.

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Okay. There is a fundamental question you were asked about the logs, which are in volume 4A. You were asked whether you had mentioned these logs, which appear on page 29 of volume 4A. You were asked a specific question, whether you mentioned these logs in your report. Look at Paragraph seven of your affidavit. Can you read Paragraph seven of your affidavit to the Senate, please?

Mr. Job Okuon Oguya: “I was requested to analyse the extracts of the system audit logs, which are contained in volume 4A of the County Assembly documents.”

Mr. Peter Wanyama: Are those the logs that you said you analysed, the logs in volume 4A?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Okay. Look at page 35 of your report. Can you read paragraph 261, the first bullet?

Mr. Job Okuon Oguya: “Data privacy and protection frameworks require strict separation of vote identity from ballot choice. From the logs provided, we can know who voted.”

Mr. Peter Wanyama: Okay. Have you mentioned the word logs? Are these the logs that you say you referred to?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Okay. Now, in preparing your entire report, what was the primary document that you used to make all these conclusions that are contained in your report? What was the primary document?

Mr. Job Okuon Oguya: The primary document was the system architecture.

Mr. Peter Wanyama: The system architecture?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Okay. By the way, for the avoidance of doubt, when you logged in using those credentials that you said, did you see the logs in the system as an expert?

Mr. Job Okuon Oguya: No.

Mr. Peter Wanyama: Why?

Mr. Job Okuon Oguya: Because the user did not have those rights.

Mr. Peter Wanyama: Okay, the user rights cannot access the logs?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: So, you relied on the logs, which were already supplied to you?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Okay. There is this issue of the MAC addresses. Again, you were asked a question about whether you mentioned the MAC addresses in your report. To your own knowledge, do you know what MAC addresses are? If you ask me,

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as a lawyer, what the Constitution is, I will simply pick it out and show it to you and there will be no doubt about it. So, to your own knowledge as an IT expert, do you know what MAC addresses are?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: From the documentations that you analysed, the logs that are in front of you, do you see any item that looks like a MAC address of a computer, a phone or a laptop?

Mr. Job Okuon Oguya: No.

Mr. Peter Wanyama: Was that the basis of your conclusion about MAC references to MAC addresses?

Mr. Job Okuon Oguya: Yes.

Mr. Peter Wanyama: Who contracted you? You were asked a question that someone contracted you.

Mr. Job Okuon Oguya: Yes, as I mentioned, it was the Governor's team led by--

Mr. Peter Wanyama: How many lawyers were in the Governor's team that you were working with?

Mr. Job Okuon Oguya: I did not count how many lawyers were there, but I believe the ones I know, around seven or eight.

Mr. Peter Wanyama: You did not count how many lawyers were there?

Mr. Job Okuon Oguya: Around seven, Okay.

Mr. Peter Wanyama: Have they paid your fees?

Madam Temporary Speaker, that is the last question.

The Temporary Speaker (Sen. Veronica Maiana): Are you sure you want to discuss the fees in the course of those questions?

I think we can now proceed with the Senators who want to interrogate this witness. I want to start with Sen. Samson Cherarkey.

Please ask a direct question and do not take more than one minute, so that we can finalise with this witness.

Sen. Cherarkey: Thank you, Madam Temporary Speaker.

Mr. Witness, I have seen in your affidavit that you did not check the system itself, or did you only analyse the logs. Secondly, in your assessment, were you able to visit the Kericho County Assembly? Finally, I have seen in your report, you have not indicated whether the system was compromised or not. Can you clarify your recommendations and conclusion?

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): We will take a few questions and then you will respond to them together.

Sen. (Prof.) Tom Ojienda, you may proceed.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Mr. Witness, you have referred to the system created and I want you to clarify a few things. Number one, was the system tamper-proof?

Number two, is it possible to know whether a third party voted for a Member from the analysis of the system?

The Temporary Speaker (Sen. Veronica Maina): Sen. Danson Mungatana.

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Sen. Mungatana, MGH: Thank you, Madam Temporary Speaker. From what I have listened to, the witness only pointed out to the absence of multi-factor authentication, lack of cloud fare, exposure of passwords, use of the .co.ke instead of a.go.ke. Those are the general risks, but he has not told us whether there was a specific breach.

If I tell you to do a risk assessment of my office or house, you should tell me that on this particular day, it was seen from the system that this person did this. So, I want the witness to tell us, did he observe whether actually somebody voted for another person? That is what we are looking for. The report is so general.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. Wakoli, proceed. Then you will respond to those questions and we proceed to the next segment.

Sen. Wafula: Madam Temporary Speaker, I drop.

The Temporary Speaker (Sen. Veronica Maina): Sen. Wakoli has dropped.

Sen. Okenyuri Essy, proceed.

Sen. Okenyuri: Thank you, Madam Temporary Speaker. I would wish to know from the IT expert whether he has the capacity on geo-referencing. We need to know if each individual who was voting virtually matches with the places they were in, so that we do not have a case of a voter who voted virtually but was in Bomet.

Secondly, how do you prove that the four votes that were emanating from the same IP address are not from different devices or same device?

Finally, are you able to check on the authenticity of the static Internet Protocol (IP) address?

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Witness, can you proceed to respond to those queries?

Mr. Job Okuong'ua: Thank you, Madam Temporary Speaker. I will respond to the questions raised. I will start with the last on the check of authenticity of the public IP address. The authenticity of a public IP address is owned by the Internet Service Provider (ISP). So, the authenticity of the public IP address is correct. You can get the authenticity of the public IP address from the logs because you cannot have your own public IP address. It has to be registered via the internet provider.

Then the other question you had raised is if the same IP address could be used for four votes. That is possible if you are in the same network. Say, if you connect to the same Parliament wireless network, all of you will have the same IP address. So, that is correct. Four votes can have the same IP address.

Concerning the risks that were raised where somebody can vote for another, this one was captured in the report. As I shared, the username and passwords were shared in what we call clear text in IT terms. They were not encrypted when they were shared to the users and everyone knew that to access this system, you either you need your IPPD number as the username and the ID number to access it.

Everyone had the protocol that is needed to access, so anyone could access somebody else's account. If I know my fellow MCA's ID number or can get his information from maybe a database, which is provided somewhere, we saw that as a major risk, which we highlighted it on the report.

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(An. hon. Senator spoke off record)

For that, because of the lack of the MAC address, which we have been talking about, we cannot know which individual device or who accessed it.

That would also answer the question on whether a third party voted for the system, which is very much possible because this system is not hosted at the Kericho County Assembly ICT department. It is hosted outside. As per the report, it is hosted in Germany. So, anyone with a link and credentials of an MCA would be able to access it.

That one also answers the question on if the system was tamper proof. It was compromised because of the sharing of the same usernames and passwords or a certain criteria is being used, which everyone knows.

Sen. Cherarkey, I did not visit the County Assembly because in this digital world, everything is online. The networks have been connected and we did not see the need of going there because the system is not hosted in their premises.

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina Ledema.

Sen. Olekina: Thank you, Madam Temporary Speaker. I have a few questions for the IT expert. First, let me congratulate you for selling yourself in 30 pages of giving your credentials in the key audit in your report. I was trying to find exactly what you are auditing, but I could not. I will go specifically to my questions, which are as follows-

(1) Are you a certified white hacker or ethical hacker? A white hacker is the same as ethical hacker.

(2) The Counsel for the Governor asked you a question, which was also asked by the County Assembly Attorney: What is a MAC address? I wish you could explain to us what is a MAC address clearly.

(3) I want to hear from you giving us a clear answer on this. The title of your report on 29 or 30 says, "Cyber Security Audit Kericho County Assembly Voting System." I would like to know from you which cryptographic keys you used to be able to audit the system?

I have gone through what you have presented here and these are basic things that anyone who understands the internet can get, such as who owns the domain. If you are to audit, you are either a certified ethical hacker or one who can use cryptographic keys to give us--- However, I have not seen any of those. These are quite basic things.

Finally, is--- My time is over.

The Temporary Speaker (Sen. Veronica Maina): Sen. Oketch Gicheru.

Sen. Oketch Gicheru: Thank you, Madam Temporary Speaker. You have indicated your primary objectives of this audit exercise here. I am drawn to the biggest one here, which is to ensure the integrity and confidentiality of voter data. This Senate might not have as many experts as you are, what I was expecting from you is a proper audit trail of what is the event log of what actually happened. I am looking at your entire affidavit here. I do not have any single element of event logs of really what happened. I want you to tell me in simple terms - because whatever you have here is a prescription of any system that you can do on a secondary level.

You can do this work on a secondary level. I can look at a system and say this system has got, lacks these features or this system does not have these security features. You can say that, but what we are looking for here is an element of accountability and

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transparency that can show us that in the event log of what transpired in the voting time of 11 minutes, this is my audit trail. So, my question to you is where can we find your audit trail of this system that can show us event logs of exactly what transpired?

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi to close the number of questions then we go for three on this side.

Sen. Osotsi: Thank you, Madam Speaker. I just want to clarify a matter. When the expert was confronted with a question to distinguish between a MAC address and IP address; I think there was some confusion there because a MAC address is supposed to be that unique identifier that identifies---

(An hon senator spoke off record)

Let me process my question. That identifies a device on a network.

The Temporary Speaker (Sen. Veronica Maina): Can you avoid answering for the witness? You just pose the question or seek the clarification, so that you give them the benefit of answering that question.

Sen. Osotsi: Very well, but let me go now to the point. An IP address in my own understanding, my 25 years of practise is that unique identification that identifies a device on the internet. For example, when you have your phone and you want to transact on the internet, that unique number that identifies you on the internet is the IP address.

I want to pose a question based on the contents of county assembly documents, volume 4A on page 30. There is a particular IP address; IP address 41.139.237.2.129. It has been used nine times and I want to believe maybe it is because we got one particular computer that the MCAs were using to vote. That could be the explanation.

The Temporary Speaker (Sen. Veronica Maina): Do not speculate. Can you pose the question to the witness?

Sen. Osotsi: Okay, Madam Temporary Speaker, you know in this House, we have a diversity of professions and in this particular one I have a responsibility to guide this House. I would like to know whether the ICT expert did an IP lookup. We have something called an IP lookup where you can determine the physical location of a device on the internet. It will tell you the geographical location.

The Temporary Speaker (Sen. Veronica Maina): Very well, I think your question is posed. I will give the witness time to respond to those questions.

Proceed, witness. Proceed, we are coming to three questions on the majority side.

Mr. Job Okuon Oguya: Okay, I start with the last thing. So, you talked about the MAC address. Yes, the MAC address is a unique number which each device, whether a phone or laptop has. You had mentioned something called the IP address, this one subject matter 41.139.237.129. We did a search on it and found it was it is registered under Safaricom Limited. Yes, and as you said, this IP address can be used by multiple devices. As I mentioned earlier, if all of us connect to the same Wi-Fi here at Parliament, all of us will have the same IP address going out. So, all the devices within this, within the House will have, within the Senate will have the same IP addresses. I think that one can answer that. Then---

The Temporary Speaker (Sen. Veronica Maina): Speak into the microphone, so that your voice does not fade away.

Mr. Job Okuon Oguya: Okay, sorry. Then the issue on the logs which were not captured, the audit trail had a transparency. Our mandate for this exercise was to test the high-level security of the system.

As I mentioned, we did not enter the administrator account and we did not have access to it. So, the audit trails which were to be provided, we did not have access to it.

For the method or the methodology that we used to audit the system, we relied on the basics. As you have mentioned, the report is basic. You know, if something is basic and you understand, it means the person did a very good work. This is because if you used technical terminologies, most of you would have said this thing is very hard to understand. That is why we made it this way. The best teachers are the ones who simplify things. That is the reason you find it very basic. About being a certified white hacker, no, I do not possess that certification, but I possess the experience.

The Temporary Speaker (Sen. Veronica Maina): Are you done with the responses?

Mr. Job Okuon Oguya: Yes.

The Temporary Speaker (Sen. Veronica Maina): He has answered--- He did not respond to your question, Sen. Osotsi?

Sen. Osotsi: My question was whether the expert did an IP lookup on those IP addresses.

The Temporary Speaker (Sen. Veronica Maina): Answer that question.

Sen. Osotsi: This is because the IP lookup will give you the physical location of the device.

The Temporary Speaker (Sen. Veronica Maina): Witness, that is a crucial question. Can you answer that question?

Mr. Job Okuon Oguya: Yes, I had answered it. I believe maybe you are communicating with your fellow Senators. This, the IP mentioned the 421.139.237.129, is registered under Safaricom Limited.

The Temporary Speaker (Sen. Veronica Maina): Where was the physical location? That is what the Senator asked you. Where was the physical location of that device?

Mr. Job Okuon Oguya: Maybe I can just give the physical location just now, because this is publicly available information. Yes, but it is registered under Safaricom Limited.

The Temporary Speaker (Sen. Veronica Maina): We will proceed on to the next set of questions.

Sen. Kisang and Sen. Joyce, in that order.

Sen. Kisang: Thank you, Madam Temporary Speaker. I had wanted to find out from the witness if he was an ethical hacker, and he said he is not, but because he has the knowledge, and you are contracted to check the security of this particular system, you said you tried to penetrate, but you were unable to do so. Are you telling this House that the system is very secure?

Secondly, is what my colleague has said. You know when you are given a job, even if you do a basic report in basic English, there are things that you are supposed to

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have delivered. Where are the terms of reference? This is because this is what would have assisted the Senate to make a decision. However, the witness has not helped us, because he would have listed at least a few of those IP addresses, especially the one that was used by nine members to say this particular IP address was the laptop that was in the county assembly, but he has not done it, because some of us we have basically checked a few of them, they are far away from Kericho. So, we expected him to highlight, so that at least it will aid us in making a decision.

The Temporary Speaker (Sen. Veronica Maina): Sen. Joyce.

Sen. Korir: Thank you, Madam Speaker. Mine is just to ask the expert to tell this House if the SMS sent to the MCAs could be transferred to any other person to vote on their behalf.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. Mr. Okuon, do you know why you came here? It is because we want an expert like you to differentiate between the Governor's side and the County Assembly's side on who is telling us the truth.

The County Assembly is telling us 33 people voted on that system you have audited. The Governor is telling us, no, they could not have been 33 because 18 of them were supporting us. Can you now tell us, during your audit, how many MCAs voted? Answer that.

The Temporary Speaker (Sen. Veronica Maina): Witness, can you respond to those questions?

Mr. Job Okuon Oguya: I will start with the first one. Our legal mandate was not to penetrate the system. Our mandate was to check for vulnerabilities on the public facing side, public facing meaning; anyone can access. We, therefore, did not penetrate. If we had penetrated, this would have been a different case altogether because that would be intrusion and it would become a legal issue. We only penetrate if we are given authority.

There is the issue on whether an SMS can be transferred to somebody else. As I mentioned earlier, the username and the password have specific criteria. It is either your ID and something else. Therefore, definitely, if someone knows your ID and IPPD Number, they can access the system. Not necessarily the SMS, but the SMS can be sent to another forwarded number.

For the audit trail in terms of how many MCAs voted, as I have mentioned, our mandate was to check the security on the public facing side. In terms of how many MCAs had voted, we could see from the printouts or the extracts that the MCAs who voted were 33 and for the others who did not vote, the numbers were nil. However, this does not constitute that it was in fact, a certain MCA who voted.

This is because, as I have mentioned, these usernames and passwords are known by everyone. Each and every MCA might have known or they know. Even the IT person because he is the person who created might have known. We, therefore, cannot ascertain that this MCA voted as per the system without the MAC address, which is a big contention there.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Sen. Wambua Enoch, followed by Sen. Beatrice Akinyi Ogola.

Sen. Wambua: Thank you, Madam Temporary Speaker, the expert was supposed to help us deal with the problem with the system. I am not sure if he is really helping us. What Sen. Osotsi is saying and I will repeat, the lookup is a very simple thing to do. It is as easy as a search. You also have IP addresses listed there.

The easiest thing for him to do and Madam Temporary Speaker, if you allow, we cannot do it here now, is to log in and find out when that device was used, where it was used and the exact location. Then it would have been easy for us to make that determination. The rest of the thing that the expert is telling us may be things that we will struggle to make a decision based on that information.

Why is it difficult to link every vote to a gadget? Just link every vote to a gadget; that this vote came from this gadget; this gadget was in Nairobi and this other one was in Bungoma. It is as simple as that, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Sen. Beatrice, you have taken out your name.

Sen. Okioti Omtatah.

Sen. Okiya Omtatah: Madam Temporary Speaker, sitting where I am sitting, I am unable to answer the question. There is a case before us and the case before us is a contention on whether the threshold for voting was met.

The Assembly produced logs showing that 33 people voted. I expected from the expert to not discuss the securities or whatever of the system that was set up. It is not the credibility of the system that is before me. Before me is the question, was the threshold met in the Assembly and how many people voted?

Therefore, I am not seeing that question being answered and I am not being helped to answer that question. Instead, we have entered into an academic exercise of discussing things my friend Ledama calls crypto currencies or something.

Madam Temporary Speaker, I request that we be helped to answer the question on how many people voted. I wanted an audit of the 33 logs to tell us that either they are valid or they are invalid. I have sat here from morning and that question is not being answered.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Okioti. We will give the witness a chance to respond to those questions. To be brief, we will have the final round of questions before we close with this witness.

Proceed to answer those queries and take the shortest time possible.

Mr. Job Okuong Oduo: Thank you Madam Temporary Speaker. I will start with the mention of the persons who voted. The system does not keep record of something called a MAC address, which we have discussed.

Without this, we are not able to know which device voted because as I have said, the username and password are already shared. They were predetermined; everyone knew. You will know somebody's ID and somebody's password and anyone can use your ID beforehand to vote, yes. That is what I am saying. Doing an audit, or an audit trail of that without the MAC address, we would not know which device voted.

In line with the IP address, which has been mentioned, it does not give the exact device because many devices share the same IP address, as I have been mentioning. If you are in one place and you are using the same network, the IP address will be the same.

Even if you look at the IP, which I have mentioned, the 41.139.237, there are eight instances it voted. It means these people were in the same place, or they were using the same network, but you would not know if it was actually him who voted with his device. That is the biggest downfall of the system. It needed to have audit trail in terms of MAC addresses in order to know, if it is you or is it your device that entered?

All this would have been sorted out if simple mechanisms or basic things that we had recommended or have been recommended, like two-factor authentication, which when you log in, sends that notification to your phone again for you to confirm. We would not be having this case now.

The Temporary Speaker (Sen. Veronica Maina): Sen. Chesang followed by Sen. Tabitha Keroche and Sen. Mariam. That is the last round of these questions.

Sen. Chesang: Thank you, Madam Temporary Speaker. My first question was asked by my colleagues. My first question is to ask the IT expert if he thinks this system was secure or not. If so, maybe he should tell us if he was able to detect whether any unauthorised persons may have accessed the device, maybe to vote, apart from the MCAs who were there.

Sen. Tabitha Keroche: Thank you Madam Temporary Speaker. I want to ask the witness, the ICT expert. I know Kenyans are following this and they are very keen to ensure that there is transparency in whatever we are doing.

There is a narrative, maybe for lack of a better word, that has been driven by my friend, Counsel Ongoya. I remember the Speaker said that we need an independent ICT expert from ICT Kenya, and the governor to bring his own expert to ask these questions.

The narrative is as if you drafted this document and your own document--- I think we need to know whether you drafted the two documents, because people will be asking if this report is objective.

Do you know Weldon? He is called Weldon. So, I think that is what the Kenyans are now asking, me being one.

The Temporary Speaker (Sen. Veronica Maina): I think the question has been stated.

Proceed, Sen. Mariam.

Sen. Mariam Omar: Thank you, Madam Temporary Speaker. My question is to Mr. Expert. The audit report you have given out is very narrow; not detailed as such.

We have heard from MCAs that they are undermining the systems. As an expert, and you did an audit of the system, do you recommend that system to be used in any way or in even the county executives and county assemblies?

Sen. Crystal Asige: Madam Temporary Speaker, we have spent over an hour listening to a painfully long examination-in-chief, cross-examination and re-examination, only to find out at the end by the witness that really he cannot prove nor disprove the question that is being put to this House.

It feels like we should not lay our frustrations onto the witness. Perhaps we should ask the Counsel and his team, why did you then bring this witness? Why did you put him through all that work if you cannot prove nor disprove your case?

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Witness, if you can do nothing else to help us, can you at least tell us where the locations of these IP addresses are? You have told us who it belongs to, Safaricom, which belongs to nine of those in your report, but where exactly, what is the location in the country which they are attached to, along with all the rest which are not the Safaricom locations?

The Temporary Speaker (Sen. Veronica Maina): So, witness, you will answer that, and then the Counsel who procured, you will answer the final question from Sen. Asige. Then, we will call it a day on this witness.

Mr. Job Okuong Oguya: Okay, thank you, Madam Temporary Speaker. Let me deal with the frustration, first, in terms of the IP addresses and if we can locate them. We are able to locate these IP addresses, and I have mentioned the IP address, and know who was given this IP address by Safaricom?

For some of the IP addresses on this list, maybe for the IT experts or the people with IT experience, there is something called the IP Version 4 addresses. The IP Version 4 addresses have been overused, and they are no longer available. So, there is something that ISP providers use, which is called a shared IP space, because we have exhausted all IP Version 4 addresses up to now.

That is why you can see on page 30, there is an IP address starting with 105.161. That can be used by multiple ISPs, in terms of Safaricom, Liquid Telecom, and Wananchi, because we have exhausted all these IP 4 addresses.

Traceability also of these addresses is not as simple for these ones which are starting with 105, because they are in a shared IP address range. The ones which are starting with 41, those ones we know, as we have checked, they are in Kericho County, from the pin which we have just stuck now.

Then about the recommendation of the system, the way it is built currently, and the mechanisms or the protocols or the framework it has, I would not recommend the system to be used by anyone until the upgrades or updates are aligned to best security practices. This is because if the system, I would not be here. If it was good, I would not be here.

On authorized persons accessing the system, that is true. To be frank, the system does not allow you to know if it is an unauthorized person, because, as I said, the credentials were already shared and everyone knew them

I can access that system from wherever, even in Kericho. We would not know if somebody used my credentials to access my portal, because there are no security protocols in terms of Two-MFA, which would send a notification to your message, so that you approve the access. Then also, the unauthorized personnel to access the system is very key, because I believe from the reports which was printed is in black and white.

On page 34, there is Figure 1.2 written or exposed password. This is more of the technical requirement which we did on security, apart from the basic recommendations. This one, if maybe it was printed in color, you would have seen that the passwords are exposed. Once somebody logs in, somebody who is using your computer can come back and see your passwords. So, that is also a technical and cyber security risk for that.

For the drafted, I am just trying to answer the question if the system was secure. I do not believe the system was secure, even from this expose on Figure 1.2, which mentions the exposed passwords. That is already a very major flaw on that system.

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Sen. Osotsi: Madam Temporary Speaker, I said earlier on that the benefit that we have in this House is that we have diverse professionals in this House.

I happen to be one of those professionals in ICT, and I cannot sit here listening to misleading information. I do not want to contradict him any further, but I would request this House to take one or two minutes to do a simple task called an IP look-up, just to determine the physical location of this IP address, 41 dot something, that was used nine times. That will really help this House.

The Temporary Speaker (Sen. Veronica Maina): Can I guide you, Sen. Osotsi? Ask the witness to do that because he is the only one who can respond to that question. Give a specific IP address, let him look it up and give you an answer himself because the House is not giving evidence, it is the witness.

Sen. Osotsi: Madam Temporary Speaker, I had asked this question---

The Temporary Speaker (Sen. Veronica Maina): Give him a specific one.

Sen. Osotsi: I had asked this question earlier, that IP address---

The Temporary Speaker (Sen. Veronica Maina): I am guiding you, so that you get what you are looking for because you cannot give evidence from the Senate. You have an intervention. Let us finish with Sen. Osotsi.

Sen. Osotsi: I am already on intervention. The IP address 41.139.2---

The Temporary Speaker (Sen. Veronica Maina): Witness, can you take it up and look it up and give an answer right away to the House on where that IP address leads you?

Sen. Osotsi: 41.139.237.129. We can do a one-minute look-up and I can guide this House further on how that can be done.

(Several hon. Senators spoke off the record)

Sen. Osotsi: I am already on an intervention.

The Temporary Speaker (Sen. Veronica Maina): Allow Sen. Osotsi to finalise with his intervention. Let us have some order.

Sen. Osotsi: I would like the IP---

The Temporary Speaker (Sen. Veronica Maina): Sen. Eddy, wait.

Sen. Osotsi: I would like the IT people to---

The Temporary Speaker (Sen. Veronica Maina): He is on a point of intervention.

Sen. Joyce, you wait until he finalises that exercise.

Sen. Osotsi: I would like the IT people to give us the screen, maybe to go to the internet, and then I will demonstrate that. I am on a point of order.

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, can you follow the guidance of the Chair? I have guided you correctly. Give that IP address to the witness who can give evidence before this House. You cannot give the evidence yourself. We want to hear his response. You can always cross-check before you vote, so that it guides your vote.

Sen. Osotsi: Very well, Madam Temporary Speaker. I was saying that because the expert will need the assistance of the IT people. They have to display that on the screen.

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The Temporary Speaker (Sen. Veronica Maina): No, let the witness--- We will be able to counter-check when we go for recess before the vote. Witness, can you respond to where that IP address takes you?

Mr. Job Okuon Oguya: The IP address in question is 41.139.237. Just a moment. This one is registered under Safaricom Limited. Its description is for convergence services, cost-limited. The owner is Safaricom Limited, Safaricom House. The person in question is John Mwita.

The Temporary Speaker (Sen. Veronica Maina): The location? That is what he asked you.

Mr. Job Okuon Oguya: From the publicly available information, there is no location for that. It just mentions Kenya, Nairobi as the domain admin.

The Temporary Speaker (Sen. Veronica Maina): Sen. Eddy?

Sen. Oketch Gicheru: Madam Temporary Speaker, with a lot of respect, I think we are sitting here as a *quasi-jury*. Even though we have got many ICT experts here, some of us know ICT, but what we are attempting to do, I urge you, perhaps you can guide that a Senator can do that in their submission because they will have submission time when they will make sense of this here. However, as a matter of procedure, you ruled yesterday from that chair that we are going to have an ICT expert who will then give us another report.

So, even if the ICT expert cannot give us another report, that is fine. Let us wait for the other ICT expert to give us. However, if the jury wants to give us a direction of ICT, let them do that during the submission. This is because we are going to rule on this and rule on substantive issues.

The Temporary Speaker (Sen. Veronica Maina): Sen. Eddy, that is why I guided Sen. Osotsi. That evidence could not be adduced from the Chamber. It can only be adduced by the witness and beyond that, maybe the experts.

Sen, Ledama, proceed.

Sen. Olekina: Madam Temporary Speaker, we have been sitting here for quite a number of hours. I am not sure whether the defence or the County Assembly understand the amount of time they have.

Could you, kindly, stop all these interventions? Allow the County Assembly and the Governor to finish their case. When time comes for us to submit, either to support or not or to oppose, we can then try to argue our matter.

The Temporary Speaker (Sen. Veronica Maina): Let me guide you, Sen. Ledama. The Chair is in charge. Right now, it is the Senators who are using their time. It is not the time for either the County Assembly or the Governor's time. So, it is the Senators who have raised the issues and the requests are coming from your end, not from their end.

Now, witness, you are stood down. We are done with question time. So, you may resume your seat or you could exit, but you are discharged from the stand.

Mr. Job Okuon Oguya: Thank you.

The Temporary Speaker (Sen. Veronica Maina): We are now moving on to the ICT expert who was requested by the Senate to bring a report. Clerk, you can make sure the expert is called in. Serjeant-at-Arms, can you get the ICT expert? The question directed to Counsel Katwa Kigen.

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Mr. Elisha Ongoya: Sorry, Madam Temporary Speaker, maybe I would address the issue of the next witness because I do not know whether the County Governor has then closed his case, before we go to the independent expert.

The Temporary Speaker (Sen. Veronica Maina): I believe they said that was their last witness, or have you changed that, Counsel?

Mr. Katwa Kigen: May I confirm, Madam Temporary Speaker, that, that is the close of our case; the Governor's case.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, just to let you know, some of the issues you are raising yourselves are raising those issues. So, the time that is being spent is based on your requests.

Mr. Elisha Ongoya: Sorry, Madam Temporary Speaker. May I just ask one last concern from you?

The Temporary Speaker (Sen. Veronica Maina): Proceed.

Mr. Elisha Ongoya: Madam Temporary Speaker, the person who has been brought here to answer these charges is the Governor. Do I understand that we are not going to hear the Governor's evidence and to test it?

The Temporary Speaker (Sen. Veronica Maina): Counsel Ongoya, I would hope you concentrate on how you manage your case because the Counsel for the Governor has said that is the close of their case. Once they declare that, I believe they are competent in their submission to that respect.

Mr. Elisha Ongoya: Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Thank you. So, we can proceed on to the ICT expert.

Hon. Senators, to ease the question time, we should avoid repetitive questions. If you repeat the questions, you will get repeated answers. Repetitive questions, repetitive answers.

(An hon. Senator spoke off record)

Exactly! Is the witness within the precincts of Parliament? Where is he or she?

*[The Deputy Director, Information Systems Security, ICT Authority, Kenya
(Mr. Philip Irode) was ushered into the Chamber]*

Clerk, could you, please, administer the oath to the ICT Authority (ICTA) experts? Clerk Assistant, are both the experts going to take to the stand?

(The Clerk-at-the-Table spoke off record)

*(The Deputy Director, Information Systems Security, ICT
Authority, Kenya (Mr. Philip Irode) took the stand)*

Just one? Okay. Proceed and administer the oath.

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(The Deputy Director, Information Systems Security, ICT Authority of Kenya (Mr. Philip Irode) took the Oath)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, the Senate had directed the ICT Authority experts to present a report to the Senate on the matters that are before the House, especially the question of the use of technology in the voting system in the Kericho County Assembly.

Are you conversant with that request?

Mr. Philip Irode: Yes, Madam Temporary Speaker, Sir.

The Temporary Speaker (Sen. Veronica Maina): I want you to proceed and present that report, but first of all, give your full name and the position you hold at the ICT Authority, and then present the contents of the report.

You have 10 minutes to do that.

Mr. Philip Irode: Thank you, Madam Temporary Speaker. My name is Philip Irode. I am the Deputy Director in charge of Information Systems Security at the ICT Authority.

We received a request from the Senate through our Principal Secretary (PS) at the State Department of ICT and Digital Economy that they require the assistance of the ICT Authority to look into issues of the Kericho County Assembly voter system. Our CEO sent a response to the Clerk of the Senate, and that was yesterday, appointing myself, Mr. Philip Irode and my colleague Ms. Joan Mokeira, to come and address this particular request.

We came in, had a brief, and given that we had not initially received a formal letter, we had to seek a letter to take it back to the office for purposes of the normal guidance as per Government protocols through the accounting officer. We later came up with the denominations of our two names and looked at the system. This was in the presence of both parties from the County Assembly, the Senate, and of course, the Governor's office.

The system that we are looking at is a web-based voting system. The system is hosted off-premises and out of the country; our initial URL search indicates that the system is published at IP Address 178.162.234.23.

From the interactions, which are basically the initial assessment that you do from the interaction with the system owners, it is an in-house developed system where the local staff have developed the system. It is managed and administered by the head of ICT, who is the super administrator.

We looked at the system based on the scope of the request that was articulated in the letter, and of course, being professionals within the industry, we were guided by processes, which are basically information security frameworks that guide our work. This includes ICT authorities information security standards, as well as other global information security practice standards.

We looked at it and, of course, we had five specific questions that we were meant to answer, which we have answered and the details, which are basically as articulated in the report that we have provided before this House.

Question one was, did an electronic voting process take place using the system? Of course, we have looked at the system based on the logs, which you were able to access

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in the presence of both parties, and we found out, yes, an electronic voting took place using the reference QRL as presented in the report and with the logs that were provided.

The second question; is the number of MCAs who voted on the impeachment of the governor verifiable? This was also based on the logs extracted from the voting module as well as the system events module and the answer is, “yes”, the extra number of MCAs who voted for the impeachment of the Governor is verifiable.

The third question is: Was possible for any MCA or any other person who had a link to vote on the Motion on behalf of an MCA or another MCA? The answer that we provided is “no”, you cannot vote for any other person or an MCA with the link provided alone. For any other person or an MCA with the link provided alone, you need to have both the username, which in this case was the IPPD and the password, which was the ID number.

Question number four was, how many MCAs voted in the affirmative on the Motion to impeach the Governor? The number of MCAs who voted on the Motion were 33, as was extracted from the voting module logs.

Question number five, which is the last question under our scope of review was, is there any evidence of multiple voting or other compromise of the voting system or any impropriety in the voting system or process? Our response to this question is, from the evidence provided and the access logs collected from the voting system logs and the admin and system events log module, there is no evidence of multiple voting, neither is there evidence of other compromise of the voting system and or any impropriety in the voting system and the process.

Madam Temporary Speaker, those were our findings.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): As an expert witness, you have taken the Oath to give evidence and present that report, so you will be subjected to some cross-examination on the report, both by the County Assembly and by the Governor's team. Then, we will proceed on to have questions and clarifications from the Senators.

I will now allow the County Assembly's team and then the Governor's team, each will have a maximum of 10 minutes.

Mr. Elisha Ongoya: Sir, I have very few questions for you. This exercise was conducted within the precincts of this Parliament, true or not true?

Mr. Philip Irode: It is true.

Mr. Elisha Ongoya: Were you notified of the people who were present at the time of undertaking this exercise?

Mr. Philip Irode: Yes, we were.

Mr. Elisha Ongoya: You did this exercise in the presence of the people representing the Governor's team, the people representing the County Assembly and the administrative staff of the Senate. Is that the correct representation?

Mr. Philip Irode: Yes, it is.

Mr. Elisha Ongoya: I have three substantive concerns regarding the report, then I sit down. Is there any single log that you came across, any credential that you encountered from the logs that voted more than once?

Mr. Philip Irode: The answer to the question is no.

Mr. Elisha Ongoya: Is there any credential that logged in and voted after the 15th August, 2025?

Mr. Philip Irode: No.

Mr. Elisha Ongoya: Let me confirm that. There is an officer of court, an advocate who told this Senate that he actually logged into this system and managed to vote after the 21st. Did you come across that log in the system?

Mr. Philip Irode: No, we did not come across such a log in the system because the voting had already been closed.

Mr. Elisha Ongoya: Did you see the logs used by the administrator of the system to log and undertake any activities in the system?

Mr. Philip Irode: Yes, the logs are clearly marked when an admin logs in and when a specific user created into the system logs in.

Mr. Elisha Ongoya: Did the admin logs themselves cast any vote?

Mr. Philip Irode: No.

Mr. Elisha Ongoya: That is all for this witness.

The Temporary Speaker (Sen. Veronica Maina): Proceed.

Mr. Evanson Kirui: Madam Temporary Speaker and the Hon. Senators, I will share the 10 minutes with the Senior Counsels Katwa and Wanyama. I will only ask two questions. Mr. Philip, from the logs that you extracted, did you extract any source IP addresses?

Mr. Philip Irode: Yes, we have IP addresses within our logs.

Mr. Evanson Kirui: Source IP addresses, the MAC addresses. Did you get any MAC addresses from the system?

Mr. Philip Irode: Which one are you referring to? You mentioned MAC address and IP address.

Mr. Evanson Kirui: Source IP addresses, which is the same as MAC addresses?

Mr. Philip Irode: Your honour, those are two different addresses.

Mr. Evanson Kirui: So, you can differentiate the two, kindly?

Mr. Philip Irode: Yes. So, MAC addresses are ideally in a layman's language, like your fingerprint. It is absolutely unique.

Mr. Evanson Kirui: Unique. Did you get those unique identifiers from the system?

Mr. Philip Irode: Allow me to answer the question.

Mr. Evanson Kirui: No, I am asking you a question. Did you get those unique identifiers from the system?

Mr. Philip Irode: The IP addresses, yes.

The Temporary Speaker (Sen. Veronica Maina): Counsel, allow him to answer.

Mr. Evanson Kirui: Okay. I need a specific answer, yes or no, on the issue of source IP address.

The Temporary Speaker (Sen. Veronica Maina): Counsel, let him answer, so that you can benefit from that answer.

Mr. Evanson Kirui: Okay.

Mr. Philip Irode: Yes, so we have IP addresses within our log systems.

Mr. Evanson Kirui: The source IP address, did you get them?

Mr. Philip Irode: Yes.

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Mr. Evanson Kirui: Did you identify the IP addresses to a certain gadget?

Mr. Philip Irode: Your honour, based on our system configuration, logs are part of our system development. Ideally, most system development prescribe the IP addresses. This is because ideally with an IP address, you have the ability to geo-locate where that particular device is. A MAC address will not give you a geo-location.

Mr. Evanson Kirui: Thank you for your answer. So, from your answer, it indicates that you could not tell which location this IP address was from.

Mr. Philip Irode: It is the opposite. From our answer, we could be able to say where the IP address is from.

Mr. Evanson Kirui: Have you indicated that in your report?

Mr. Philip Irode: Yes.

Mr. Evanson Kirui: That it came from where?

Mr. Philip Irode: We have indicated the IP addresses of the various voters who logged into the system.

Mr. Evanson Kirui: Can you identify those IP addresses to a certain gadget saying that this IP address, 41 something, was for Hon. Anita? Can you say that?

Mr. Philip Irode: Your Honour, that is not possible with the system configuration as it is.

Mr. Evanson Kirui: So, from the system that you are working on, you cannot tell who voted for who?

Mr. Philip Irode: You can tell based on the user ID, which is a unique user ID, and the IP address of the user.

Mr. Evanson Kirui: This is not a personal question. You will remember that we worked together yesterday as you worked on this report. This is not personal. You became my friend yesterday and you will confirm to this Senate that we began working on this report at 4.30 p.m., you disappeared until 4.30 p.m. Is that true?

So, from the committee, you will confirm that you left the committee room at 2.30 p.m. and came back at 4.30 p.m. Is that true?

Mr. Philip Irode: Your Honour, that could not be true. As I have indicated, we were called here urgently. We came without formal release letters. When we came, we were invited into the Chamber. We were briefed on what the assignment entailed.

Mr. Evanson Kirui: I am talking about when we sat.

The Temporary Speaker (Sen. Veronica Maina): Counsel, allow the witness to answer, please. You asked a question; he is responding to that question.

Proceed, witness.

Mr. Philip Irode: Thank you. So, after we were briefed by the Clerk's office, as protocol dictates, we have to seek concurrence from our accounting officer. I explained to the Clerk's office that we need to get an authority to embark on an exercise. This is when I was ushered into the Clerk's office. A letter was done while I waited, and I walked with that letter to our CEO's office, advising him that this is the sort of engagement that we have been called to conduct, and I, therefore, need to be officially released.

Mr. Evanson Kirui: Did you require two hours?

Mr. Philip Irode: Well, it was not two hours, your Honour.

Mr. Evanson Kirui: Thank you.

Mr. Peter Wanyama: Mr. expert witness, I am going to ask you a couple of questions in few minutes to follow up on the questions that my colleague has asked you. Who called you yesterday to go to that event and you left the Senate sanctioned audit for more than two hours, an activity that was time bound?

Mr. Philip Irode: My CEO.

Mr. Peter Wanyama: What did the CEO tell you when he asked you to leave a Senate sanctioned event?

Mr. Philip Irode: As I have explained, it is a practise as a public officer, you have to get approval or express permission.

Mr. Peter Wanyama: Did you require approval when the Speaker had already issued a directive and you are in the presence of the House of Senate? Did you require approval to leave the Senate and go back to your CEO?

Mr. Philip Irode: I was given a letter requesting us for the services, which I had to deliver to our office for approval and clearance.

Mr. Peter Wanyama: Did you become hostile to the team by the Governor when you came back?

Mr. Philip Irode: I am not a hostile person.

Mr. Peter Wanyama: You were asked a specific question yesterday and which I have asked you and you need to tell the Senate. This question is in the mouths and minds of all the Senators today. The MCAs accessed this system using a gadget. Is that correct?

Mr. Philip Irode: I would not know.

Mr. Peter Wanyama: From your observation, they accessed using this system using a gadget, whether a phone, laptop or a computer, is that so?

Mr. Philip Irode: Ideally, based on the nature of the system, yes, it is a web-based system.

Mr. Peter Wanyama: When you access the system, you leave a fingerprint in that system, so that anyone else can tell that indeed, you are the one who voted. That is the primary question before this Senate. The question is, did you find in the system, what is known as MAC addresses for the computers, mobile phones or laptops which were used to access this system?

Mr. Philip Irode: Allow me to answer that question in a layman's language for the benefit of the Senate. What happens when you are accessing a system, there is the public facing IP and the internal IP. I will give you an example.

If we have all access to our WiFi in this building, that WiFi will have firstly, external facing IP. That IP is the one that channels our traffic to the specific request that we make to the internet. By the nature of this system, it has been set up such that, it can pick the IP as the unique resource locator for the service and that is part of the logs that we were able to collect.

Mr. Peter Wanyama: Considering my time and I appreciate that. The IP addresses you have given to this House are already in the House. The Senators have looked at them and some have been recorded nine times. They have interrogated that issue. At this time, they are asking about the MAC address. They want to know if MCA A, B, C voted and which gadget they used.

The primary question is: Does your report contain the logs for the MAC addresses?

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Mr. Philip Irode: It is a right question---

Mr. Peter Wanyama: It is a 'yes' or 'no' answer. Is it there so that I can show the Senators that our case has collapsed because the MAC addresses are in your report and the unique identifiers for the phone numbers of the MCAs are now available, produced by the expert? Show me in your report where these MAC addresses are?

Mr. Philip Irode: I have clearly responded to that question. MAC addresses are not---

Mr. Peter Wanyama: It is a 'yes' or 'no' answer.

The Temporary Speaker (Sen. Veronica Maina): Counsel, allow the witness to answer.

Witness, do you have the IP addresses in your report?

Mr. Philip Irode: I have IP addresses in my report, Madam Temporary Speaker.

Mr. Peter Wanyama: Madam Temporary Speaker, the question is the MAC addresses.

Madam Temporary Speaker, I request for two more minutes. I am now on a delicate issue.

The Temporary Speaker (Sen. Veronica Maina): Granted, respond to the question on MAC addresses.

Mr. Philip Irode: MAC addresses are not part of external facing details that captured within this system. The system captures IP addresses which can still be linked to a MAC address. For example, you have your own safe in your house which is located in a certain place. We cannot expose your safe to the outside world, but we will expose your gate number. Ideally, a MAC address is unique to that house and the house number is public information.

Mr. Peter Wanyama: That begs two questions. On these MAC address what kind of audit did you do? Did you do a basic compliance audit, a network security audit or a device compliance audit because each one has different levels?

Maybe as you answer that question there was a Senator who asked whether you penetrated the system, so that you extract the required information to complete this report.

Mr. Philip Irode: You cannot do an entire audit within a day. Our letter was very clear that we target our exercise in answering the five questions. We targeted our efforts towards what activities that will give us the response to those Clerk's questions as directed to our CEO.

Mr. Peter Wanyama: Did you do a search on all these IP addresses to tell the Senators that they are not located, for example, in Nyahururu, Bomet, Nairobi or Embu?

Mr. Philip Irode: Madam Temporary Speaker, we did what the letter requested us to do, which was to conduct an assessment that would respond to the questions that has been asked.

Mr. Peter Wanyama: My last question. There is a live question which the Senators want an answer from you. The evidence was given that a computer was used at the County Assembly to vote for three MCAs.

Did you go to Kericho or was the computer given to you for you to ascertain the IP address or MAC address in that computer to give to these Senators to clear any doubt in their minds on the verifiability, authenticity and security of this system?

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Mr. Philip Irode: Based on the audit logs we collected as we have responded, the system has adequate logs providing verifiability, which is ideally the number of ---

Mr. Peter Wanyama: Did you visit Kericho or were you given the computer? It is a simple issue.

Mr. Philip Irode: The system is web-based where you do not need to physically visit a location. It is available on the Unique Resource Locator (URL) as we have provided in the report.

Mr. Peter Wanyama: What was the IP address for the lap which the MCAs say they used. Can you tell the Senators with a substantial measure of assurance that, "I as the expert, this is the IP address or MAC address of this computer," so that we clear doubt?

Mr. Philip Irode: I do not think that was part of the request in this letter.

Mr. Peter Wanyama: Madam Temporary Speaker, my time is up.

The Temporary Speaker (Sen. Veronica Maina): The question is now answered. Proceed, Sen. Sifuna.

Sen. Sifuna: Madam Temporary Speaker, I am a bit confused by the line of questioning that has been taken by Counsel for the Governor. This is because your directive was that all these parties be present during that exercise.

When I look at the report, there is a part for people who were present to indicate. Mr. Evanson Kirui, Counsel for Governor did not sign.

The question to you witness is: Was he there? This gentleman, called Weldon Kipyegon Langat, was he there? To the counsel for the Governor, these things you are asking, did you ask him to do them there when you were there and what did he do? Why would you refuse to sign that you were present? Those are the questions I want addressed.

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, before those questions are tackled, you could resume your seat. Let us take a direction on how the Senators will now engage with that report and the witness. Those questions will be tackled in that session because that is not an intervention on procedure. It is the actual content and questions for the witness.

Hon. Senators, we have about 15 Senators who would like to ask questions and we must limit the time within which this is done. We will have to agree that every Senator should just ask one question if we are to cover all. If we allow two questions, then we will have less Senators requesting for intervention. So, we do one question per Senator. Is that agreeable? We need consensus.

Hon. Senators: Yes.

The Temporary Speaker (Sen. Veronica Maina): Okay. So, one question.

(Sen. Sifuna spoke off the record)

You have already asked yours, so I will not give you another chance. He will respond. I am sure he has already got the gist of the questions.

We will take about five questions, then you respond and we will go to the next set of questions.

Proceed, Sen. Chute.

Sen. Chute: Thank you, Madam Temporary Speaker. A witness from the MCA---

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The Temporary Speaker (Sen. Veronica Maina): Your time is one minute and the Clerk will be strict with your timing.

Sen. Chute: My question goes to the expert. There was an MCA who gave evidence that nine persons or MCAs voted from a particular station. That station number is 41.139.237.129. Do you have that report showing that nine MCAs voted from one logging station?

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi.

Sen. Osotsi: Thank you, Madam Temporary Speaker. I have to declare that the witness is my student in my other life and he is competent enough, but I want to ask one question. Philip, look at me in the eye. Are you the one who did this report? I just want that answer, yes or no. From my teaching, this report would have been done better than this.

The Temporary Speaker (Sen. Veronica Maina): Sen. Danson Mungatana. Is he there? No.

Sen. Oketch Gicheru.

Sen. Oketch Gicheru: I know this question might have come from the counsel side, but I am going to ask it for my own consumption. Did everybody vote on the day of the voting, or otherwise, to your best knowledge? If that happened, were there people who abstained in the system, or people who voted otherwise, no? Did everybody vote yes in the system that you audited?

The Temporary Speaker (Sen. Veronica Maina): Sen. Joe Nyutu. That is the last one, then we will have answers.

Sen. Joe Nyutu: Thank you, Hon. Temporary Speaker. The matter before us and why the ICT expert had to come, is because the Governor's side has argued that there are some MCAs who voted for others. Therefore, it is very important for the ICT expert to tell us. This MAC address is very important because the IP address, as he has explained to us, was the ID number. If somebody here wants, for example, to know my ID number, they will know it so that they can vote for me, if the only leeway to get into the system is my ID number. If the only leeway to get into the system is my ID number, it is known. It is in the office. So, this MAC address was going to be very important.

Madam Temporary Speaker, the ICT expert should tell us about the address where the gadgets that voted were.

The Temporary Speaker (Sen. Veronica Maina): Time up. Witness, please, respond to those questions first before we take the next segment of questions.

Mr. Philip Irode: Yes, I will go by the order in which they were presented. The first question was if the opposing side had their team members present. That is in affirmative. Yes, they were present. The second question was, there is an MCA who alleges that nine persons voted repetitively using IP 41 something. I think---

The Temporary Speaker (Sen. Veronica Maina): You had more questions from Sen. Sifuna. They were about three.

Mr. Philip Irode: Well, I captured the aspect of the team's availability. Yes, they were available and they opted not to sign the report. When we were extracting the logs, we even had concurrence on this report at some point until they decided not to sign it. I hope that answers your question, *Mheshimiwa*.

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Number two was, if the specific IP that appears nine times, indicates that one person voted nine times. Ideally, as I have indicated, this is a gateway. From my basic understanding, most of these county governments have Wi-Fi. This could be the IP address that has been assigned to the Wi-Fi gateway. Therefore, if at all you are connected to the Wi-Fi, your device is actually assigned that specific IP as a public facing IP. Therefore, the system logs pick that specific IP as part of the logs.

To respond to my senior, Sen. Osotsi, yes, I am the one who authored the report based on the timeline constraints that we were given. This is the best we could do in responding to the specific questions that we had.

The other question is, did everybody vote on the day or otherwise? The response to that is yes. We have the specific user IDs and timestamps which are within the specific date that the voting was being done. We have logs of votes done and, of course, other people who did not vote as part of the logs that we presented.

The other question is, were other persons voting for any other person? That question has been answered in our report as question No.3, whereby it was being asked, was it possible for any MCA or any other person who had a link to vote on the Motion on behalf of an MCA or another person? Ideally, if you have the link alone, you cannot vote. However, you need to have the username, which is the IPPD and, of course a password which is unique to an individual.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. Wambua, proceed.

Sen. Wambua: Thank you, Madam Temporary Speaker. I want to ask a question where the expert has ended. When you were asked by the lawyer whether any system administrator would have voted in this system, you said a clear no. However, you are saying that if you have the username and the password, you could vote for anyone from any location. So, how would you have known that the administrators did not vote because this username and the password are not computer generated. They have been assigned physically by the administrators to the MCAs. How would you know that they have not voted?

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Seki.

Sen. Seki: Madam Temporary Speaker, I had the same question. I wanted to know if somebody has the username and password. We heard from one of the MCAs by the name Birir saying that his phone is not internet-enabled, but someone else works using another phone. Possibly, he forwarded the password and the username. Could someone else have logged in or voted using another phone? That is what I wanted to know.

The Temporary Speaker (Sen. Veronica Maina): Senate Majority Leader, what do you request?

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I beg your indulgence that you allow me slightly more than a minute because this is the only chance that the people whose county is contesting this matter have to speak in this House.

I have questions to this expert. My first question is this; did the expert really appreciate the assignment that is before them? If they did, because this is in the interest of

establishing the truth, I want him to account to the report that he has brought before this House, particularly Annex 3. That is page 17 of your report.

[The Temporary Speaker (Sen. Veronica Maina) left the Chair]

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

By the way, Mr. Speaker, Sir, when all is said and done, this case boils down to three votes. Forget about these issues of the nine and whatever---

The Speaker (Hon. Kingi): Senate Majority Leader, you know our Standing Orders are very clear.

(Sen. Cheruiyot spoke off record)

Okay, two more minutes.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I was explaining to assist the House. Eventually, this case boils down to three votes and how they can be accounted for.

If you read the affidavits of the County Assembly and those of the Governor's team, there is a contestation on only four votes. The rest are already accounted for. It is only that in one of the votes, that witness has sworn an affidavit for both camps. Therefore, we can choose to disregard.

I was pointing the expert to annex three on page 17 of his report. I would like him to explain to this House whether he is absolutely certain that the names for Members for Cheplanget, Kapkatet and Kapkugurwet wards are the fifth from the bottom, third and second last votes that came in. Can he state with certainty that what he saw out of his audit that, indeed, these messages emanated from the registered phones of these Members? If that is ascertained, I know how to do the rest of my work.

The Speaker (Hon. Kingi): Proceed, Sen. Onyonka.

Sen. Onyonka: Mr. Speaker, Sir, I want to take the witness back to the question that Sen. Wambua asked. Go back to page five and that is Question No.3.

The question you were asked is this: Was it possible for any MCA or any other person who had a link to vote on the Motion on behalf of any other MCA? You have said "no", then you qualified by saying that you need to have both the username, that is the IPPD, and the password which is the ID number.

What you may not know is that when presentations were being done yesterday, we were informed that these names and numbers were freely given to everybody in the Assembly. In other words, the private ID numbers and whatever that was being provided for had already been circulated.

The Speaker (Hon. Kingi): Proceed, Sen. Wakoli.

Sen. Wafula: Thank you, speaker. My questions are as follows---

The Speaker (Hon. Kingi): Only one question, hon. Senator.

Sen. Wafula: Did you ascertain? The link that the MCAs received on their phones was the same one that was used to vote, and you can justify the process.

The Speaker (Hon. Kingi): Sen. Kavindu Muthama, you may proceed.

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Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir. My question is about whether there was clarity about the MCAs, who are claiming that their identity was used for voting and they did not vote.

Yesterday I also asked a question. There was a Mr. Peter who tried to log in several times and it failed. I asked whether he managed to vote at long last and this question was not answered. So, you as a specialist of IT, did you manage to check whether Mr. Peter ever voted?

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Thang'wa, you have the Floor.

Sen. Thang'wa: Thank you very much, Mr. Speaker, Sir. My question is very simple. We were told yesterday and I tried to ask the same question that nine Members voted from the same computer.

Mr. Speaker Sir, can you request that we have the nine Members try to vote as we see, then we see how long it is going to take? From there, we will be able to know how much time nine Members can use one computer with different IDs and different IPPDs and they are going to vote.

So, if you can direct that it is demonstrated to us how nine Members can vote from one computer.

The Speaker (Hon. Kingi): Sen. Omogeni, you may proceed.

Sen. Omogeni: Thank you Mr. Speaker, Sir. There is a question that is troubling us and we want to be sure from your evidence, this evening, if somebody has a link and he has a username and a password, can that person vote for another person?

Did you get me? You have got the link, you have the username and you have the password. Can you vote for another person using any gadget?

The Speaker (Hon. Kingi): Okay. Proceed to respond to those, then I will have another set for you.

Please, proceed.

Mr. Philip Irode: Thank you, Mr. Speaker, Sir. The first question was asking whether as an admin, you could vote for an MCA. The answer to that is no. If you have logged in as admin, you need to log in to the system as a registered user who needs to cast their vote, because from the logs, each of the MCAs who voted had a unique number that enabled them to cast a vote.

The second question is whether any other person can vote for the MCA with the username and password. As I have clearly indicated, that is possible only if you have the MCA's IPPD number and the password, which is the ID number. The same answers the last question that was asked by the senator who just took his seat.

There was the issue of certainty based on page 17. Ideally, what we are trying to do here is to provide a correlation. The system has two modules. There is the system security events module and there is the voters module.

So, to address issues of source IP, as had been earlier questioned by the other counsel, we managed to actually map each of the votes cast with the IP, because this was an aspect of contestation that the logs that we have do not have IP addresses. However, from the annex that we have provided here on the voting module and the system events, you can be able to correlate this based on the unique user ID and the timestamp under

which that particular activity happened. This is basically to ascertain that a certain MCA cast his vote at this particular IP address and this particular timestamp.

The other question was an issue of clarity, where I was being told that it is common knowledge that within the county ID and passwords are already circulated. My response to that is that it is not within my knowledge because it is unique to the county. I would not have known because it is a culture issue within the county if that is their practise.

I was also asked to ascertain the link and the voting process. As a practitioner within this field, we are guided by principles. To make sure that we were doing a good job to this Assembly, we made sure that there is a checklist that assists the county to conform to standard global practises and standards as I had indicated within my opening remarks. They include, Information Security Standard, the ISO Standards and any other data protection as well as computer issues and protection act.

Therefore, we are guided and we provided that checklist to the Head of ICT for the County Assembly who responded in affirmative and we have received some of those documentations to validate our report. The question to ascertain the URL that was provided and the voting process, that is a documentation issue, which we have been guided by the documentation that was provided.

The other question was we identify the identity of users who are able to vote for each other. As I have said, you can only vote for each other if you have that particular MCA's IPPD number and the password. However, with the link alone, you cannot be able to do that.

On the issue of nine people voting, I think the Senator was asking whether that can be a proof of concept within the House. It is upon the Speaker to decide.

Then the last question was, with the link and password and username, can you vote? Yes, that is the answer. You can vote if you have the three parameters together.

Thank you.

The Speaker (Hon. Kingi): The question by Sen. Richard Onyonka.

Mr. Philip Irode: I responded, Sir.

The Speaker (Hon. Kingi): Okay.

Sen. Onyonka: Mr. Speaker, Sir, you understood where I was. You are not aware that we had been informed yesterday morning that all the MCAs and the other Members were given the IPPD and ID numbers of their colleagues. If that is the case, is it true or do you then think it is possible that somebody could have voted for somebody else?

Mr. Philip Irode: Mr. Speaker, Sir, with that information where you have user's ID and user's password, it is possible for you to vote on behalf of another person.

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

Sen. Cherarkey: Mr. Witness, I have looked at annex three on page 17 and your response. So, in this, you can confirm that the 33 MCAs voted in the affirmative of the Motion. Is it true? Was the system compromised as per your understanding in your expertise?

I thank you.

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

(Sen. Boy spoke off record)

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Then log out, Hon. Senator, please.

Yes, Sen. Faki, you may proceed.

Sen. Faki: Thank you, Mr. Speaker, Sir. You say that given the fact that the login credentials were shared amongst all the members of the Assembly and that somebody could have voted, for instance, I could have voted for Sen. Boy, and then was it possible for me to vote for Sen. Boy, for instance, and also vote for myself, given that I have the credentials of both Senators.

Thank you.

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

Sen. Mungatana, MGH: Thank you, Mr. Speaker, Sir. I want to refer the expert to page five, IV. There is a statement there where he says towards the end of IV, that there is no evidence of multiple voting, neither is there evidence of other compromise of the voting system and or any impropriety in the voting system and process.

That statement in view of even the questions you had now, and then the information we now got that there was a static IP address inside the Chamber. There was evidence of somebody saying that he was going to vote for somebody else. Do you not think this statement was a bit too much? Was it a bit too wide? This statement is saying this system is totally fine.

The Speaker (Hon. Kingi): Sen. (Prof.) Tom Ojienda.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Mr. Witness, to the point, at page 14 of that 22, you confirmed that there were no abstentions, 33 votes to the affirmative. Yet, if you look at the logins running from page 17 to the end, there are many failed logins. Would you verify whether the logins were by the MCAs who were voting?

Number two, was it a concern to you that all the votes were yes and there was no person voting in the negative? Lastly, is this an agreed report? This is because I can see the Governor's team did not sign. Only the Assembly team signed. All the others who signed are from Senate. Is this a report? Lastly, do you have superior qualifications to these other people?

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

Sen. Wamatinga: Thank you very much, Mr. Speaker, Sir, for giving me this opportunity. Mr. Witness, is it your evidence that indeed, and I want to refer you to page 16 of your document, and specifically bullet three, voting process integrity. Is it your evidence that despite the fact that we have been informed that credentials of logging were shared, that then the integrity and privacy of the voting was guaranteed? Then, in bullet number five or six, you said user training and awareness. Evidence provided in this testimony provided in this House states that there was no training. Is it then your testimony that that training was done?

Then the last question was, did you get to see the source code and see whether there was a limitation of the number of people who could vote in a certain string? Was the system in the source code, if you inspected it, geo-fenced or was it accessible from any part globally?

The Speaker (Hon. Kingi): Sen. Crystal Asige.

Sen. Crystal Asige: Thank you very much, Mr. Speaker, Sir. To the witness, you have clarified that there were about nine IP addresses that were identical. Can you also

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verify if there were any others that were identical of the 33 votes cast? Can you verify from that list of 33 votes where each IP address is attached in terms of location?

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

Sen. Kinyua: Thank you, Mr. Speaker, Sir. Philip, because we were here in the morning and we have heard that there were challenges with this system, with the MCAs, and I want to quote Hon. Trump, who was here in the morning, and he mentioned that they were being assisted, some of them were being assisted. In the course of assisting, was it possible that the person assisting would have voted for that Member without his knowledge, now that this person does not know this system?

The Speaker (Hon. Kingi): Sen. Eddy Oketch.

Sen. Oketch Gicheru: I already asked my question.

The Speaker (Hon. Kingi): Then log out, hon. Senator. Sen. Mo Fire.

Sen. Gataya Mo Fire: Thank you, Mr. Speaker, Sir. My question is to the expert. As an IT expert and based on your audit, do you have confidence in the credibility and the accuracy of the results related to the voting system? At the same time, what could be the reason why we have nine similar IP addresses and the others are different, assuming they were all using one WIFI?

The Speaker (Hon. Kingi): Proceed, hon. Senator.

Sen. Chesang: My question to the IT expert is, now that on page five No.(iii) of your report, you had mentioned that it is not possible for any MCA to vote for another Member, but again you are also saying that it is possible if they have their IPPD usernames and ID numbers.

Does it mean that you are not sure of the report that you made? Also, does that mean that you cannot assure us that this system is secure?

The Speaker (Hon. Kingi): Sen. Peris Tobiko?

Sen. Tobiko: Mr. Speaker, Sir, I thank you. Mr. witness, being the expert that you are, if you were the one setting up this system, are there other safeguards you would have put in place to secure the system and make it fool proof and would you have done it differently?

The Speaker (Hon. Kingi): Sen. Shakila Abdalla.

Sen. Shakila Abdalla: Thank you, Mr. Speaker, Sir. My question, since it has been established that it is possible to vote for others, is it possible then to establish the gadgets which were used because all phones are registered under certain names? If I use my phone to vote for Fatuma, it will show that it is my phone which was used. Is there a way to know that it is my phone used to vote for someone else?

The Speaker (Hon. Kingi): Sen. Okenyuri?

Sen. Okenyuri: Thank you, Mr. Speaker, Sir. I would also wish to know on how long the system was open to allow Members to vote. How do we know if the nine people who were voting was one person who voted nine times?

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

Sen. Olekina: Thank you, Mr. Speaker, Sir. I would like to refer the witness back to the report. I also note that on No.9, the following persons were in attendance-

Mr. Philip Irode, Mr. John Mukeire, the Office of the Governor, the Counsel, an ICT advisor from Mr. Weldon Langat, including the County Assembly, Alfred Korir

Kimutai, Mr. Hillary Kiplangat and the Senate Secretariat; Mr. Zakayo Mogere, Mr. Innocent Mbaya and Ms. Maryann Karanja.

The question I am asking is simple. You are the witness standing to submit and present this report, were you the only person who came up with it or this report was a joint exercise by all those people, who by the resolution of this House, ended up carrying out this exercise?

The Speaker (Hon. Kingi): Sen. Ledama, just look at the report. The owners of the report are two, and they signed it in the presence of others. If you look at page five of 2022. Nevertheless, the witness will respond to your question.

Proceed, Sen. Hezena Lemaletian.

Sen. Lemaletian: Thank you, Mr. Speaker, Sir. I rise to inquire from the witness on why there is an IP address appearing to have voted thrice contrary to the IP address that they had indicated was supposed to be the one to vote.

I take note of that because it has voted thrice. I am talking about the IP address 154-159-23785.

Sen. Kisang: Thank you, Hon. Speaker. My question is on the last terms of reference for Philip. You were asked if there was any evidence of multiple voting or compromise.

Did you make use of these particular terms of reference to check if the system can be penetrated by hackers from outside? Did you attempt to penetrate the system, so that for our comfort we know the system is secure?

Sen. Mbugua: Thank you, Mr. Speaker, Sir. Mr. Witness, as an IT expert, whichever way this matter goes, would you recommend the Kericho County Assembly or any County Assembly to continue using this system?

Sen. Tabitha Mutinda: Mr. Witness, you said that you received a letter from Senate in order for your Authority to be able to undertake this process. To who specifically was the letter addressed? I just need to understand the two hours that the Counsel talked about.

Secondly, did this report that you have tabled need any consensus for it to be valid?

Number three, do you think that this system for Kericho County is valid that from your own expertise you would recommend that they continue using it?

Sen. Munyi Mundigi: Asante Bw. Spika. Ningetaka bwana Mkurugenzi atuelezee kulinga na MCAs kuna mahali wanasema walitumia dakika tano wakaongezea dakika zingine mpaka zikawa dakika kumi na moja.

Hapa Seneti, wakati wa kupiga kura, Spika hutwambia tutoe kadi, tuingize na kupiga kura. Ikiwa hujaweza kupiga kura, huwa inapotea. Huu mtambo wa Kericho kwani una tofauti na ingine kama si kuwa umeingiliwa?

Sen. Kibwana: Mr. Speaker, Sir, I cannot see. Let me wear my glasses.

The Speaker (Hon. Kingi): Are you reading somewhere?

Sen. Kibwana: No.

The Speaker (Hon. Kingi): Then speak. We need your mouth; not your eyes.

Sen. Kibwana: Mr. Speaker, Sir, I was looking at the numbers in the report. Let me wear my glasses. *Glasi zangu zimeenda wapi?*

The Speaker (Hon. Kingi): I am told everyone on my dashboard has got an opportunity to speak. We will allow the witness to respond.

Witness, I have given you the go-ahead to respond.

Mr. Philip Irode: Thank you, Mr. Speaker, Sir. I will try and answer them in the order that they came through. I have quite a number of them. The first one was a clarification if at all 33 Members of the County Assembly (MCAs) voted. Our response to that question is yes, it is an affirmative.

The Speaker (Hon. Kingi): Power his microphone and put it closer to his mouth, please.

Mr. Philip Irode: The first question was if we can be able to clarify that the 33 MCAs were able to vote within the system. Of course, our response to that, based on the finding, is yes, 33 MCAs did vote.

We have provided evidence for that, as per the logs provided within the system. The other question, which has been repeated several times is whether, if you have the link, the password and the username, you can be able to vote. We have confirmed that yes, you can be able to vote for one another. However, the link was being sent to an individual user, MCA. Therefore, once you receive your link, you are able to vote, if you only have your username and your password.

The other question was if the system is okay, based on question five. The question which was directed to us, as the ICT Authority to respond was if there is any evidence of multiple or compromise of the voting system and or any impropriety in the voting system or process. I want us to underline the word evidence. Our field is based on evidence.

I have to be able to provide evidence. The evidence that I collected is based on the logs, that the system has no evidence of multiple voting. It has no evidence of compromise or any other impropriety of the voting system. That is what we responded to, based on evidence.

A Senator asked about failed logins. From the logins, you can tell that the system is secure because if you do not have your username and password, it does not let you get through. You need to have your appropriate username and password for you to log in. From the extracted logs that we have, we had been able to see a number of attempted multiple logins yesterday, which never went through.

The other question was on shared credentials. As I have said, from a practitioner's perspective, we are all taught that your username and password is personal information that you should not be able to share. As Senators, we are aware of the Data Protection Act, which specifically guides that username and password or perhaps an ID is personal identifiable information, therefore, data that is personal.

If it was a practice within the county to share username and password, it is a wrong practice. However, from the evidence - and I still insist from the evidence that we collected - we were not able to ascertain that level of practice.

There is a question on training, source code. I respond to this by saying that within the time limit provided, we were here at 2.00 p.m. and we were meant to provide a report at 6.00 p.m. I have said that we zeroed our response towards answering the five questions that were posed to the ICT Authority Chief Executive Officer (CEO). This meant that we looked into the system, the exposed interface of the system, the voters'

module and the hosting architecture of the system to be able to gather enough evidence to respond to those questions.

The issue of geo-fencing is an architectural issue that perhaps requires additional time for you to be able to ascertain whether the code has included aspects of geo-fencing.

There is also a repeated issue about the nine IP addresses. As I earlier responded, these IP addresses are ideally a gateway for the County Assembly's Local Area Network (LAN) or Wi-Fi, if that is what the MCAs use as an internet gateway.

There was an issue about Mr. Trump and the challenges associated with voting. As a good practice, ideally, as I had said from a practical, which is Information Technology General Controls (ITGC), users are meant to be trained. We received an affirmative Excel sheet that indicated that this had been done at the County.

The other question was whether we report the system IP address. I think we have clarified that in our report. That the system is hosted off-premise means that, not within the premises of the County. The system is hosted out of the country, which is a host pinnacle. We have provided the published Uniform Resource Locator (URL) in our report, which is on page four.

We were also asked to confirm whether the system is secure. I want to confirm that we did an internal scan within the system, basically, which is some sort of vulnerability pen test within the system. I can confirm within this setting that the system, as it is, is secure and that was actually demonstrated by the logs that we printed which indicated a quite considerable number of failed attempt logins.

The other question was, if you were to be the one setting up the system, what would you do? As a practitioner, there are guidelines and frameworks that we define that guide us on how best to set up the system. We are guided by, of course, governance practices, the system value, the proposition, the return to the users, as well as good practice around security, resilience and, of course, data privacy. I would make sure that all those aspects are built within the system, which is ideally what we were looking into when we reviewed the system.

The other question was in regards to the MCA's phone devices, IP addresses. As I had said earlier, if the MCAs were using the system with their devices and using the local gateway, which is the Wi-Fi, they would all resolve to one IP, which is the outward-facing IP, which is ideally what some of the Fenets have addressed. When we looked at these IPs, they are actually local ISP service providers, including our Safaricom, Airtel and the like.

There is the question that was asked about whether you can allow members to vote. I think I have indicated that you can only vote if you have the URL and once you vote, the URL deactivates. So you cannot cast your vote twice.

There was the question of whether this exercise was a joint exercise. I think I want to answer that this is our report, and my colleague, my senior information security analyst, Joanne. We sat here yesterday from around 4.00 p.m. to late in the night preparing this report. I think it is our responsibility to sign the report. Any other person had no obligation to sign it. They could sign if they so wished. Otherwise, it was our report, which we were presenting to the Clerk's office.

There is a question that has been asked whether IP 154.159.237.217 appears three times. It is the same scenario. The architecture of mobile devices is such that when you

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are moving within the base stations, each base station has an IP address. So, when you are within the precincts of a base station, you will definitely have one IP address if you are on the same ISP provider.

The other question was whether we can ascertain that the system has been secured. As I have said, yes. We have done a scan using our in-house tools provided by the ICT Authority and we can now verify that the system is secure, as has been demonstrated by the logs that are part of our annexes to this House.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Yes, Sen. Crystal Asige.

Sen. Crystal Asige: Thank you very much, Mr. Speaker, Sir. I only asked one question, which has not been answered. To the witness, I asked you one question. Let me restate it.

I asked: According to the report, you have 33 people who voted. You said that each of the votes cast is attached to a particular IP address. Some are in clusters, meaning they are identical to others. Can you tell us with certainty the geographical location of each of those IP addresses? If 33 people voted, where exactly did they vote from geographically, according to the IP address attached to their vote?

The Speaker (Hon. Kingi): I will also allow Sen. Omtatah, who has difficulty with his card. You may now proceed. Sen. Lemaletian, you had an opportunity.

Sen. Omtatah, proceed.

Sen. Okiya Omtatah: Thank you, Mr. Speaker, Sir. We are having the expert of experts before us. The ICT Authority of the Republic should be the expert of experts. Listening to him, it is as if he is walking away from this report.

If he did not have adequate resources, for example, in answer number four, you put the word “NO” in capitals, yet you qualified it by saying you did not have enough staff to give us a credible answer.

As you know, if you looked at what the County Assembly presented, there was no audit trail in those logs. I appreciate that you had a very short time, and you have presented your issues here. I am struggling with the evidential value of this report---

The Speaker (Hon. Kingi): Give the Senator half a minute.

Sen. Okiya Omtatah: Of what value is this report? And number two, for lawfulness, we are told about the “.go.ke” and the “.co.ke” as the regulators of the system. Can a county government be allowed to run a system on an open server or a private host, or must this be on a Government host? It came up during submissions.

The Speaker (Hon. Kingi): Thank you. Sen. Lemaletian, you are saying your question has not been addressed? Can you repeat it?

Sen. Lemaletian: Yes, Mr. Speaker, Sir. The question has not been answered because I asked how it was possible that three MCAs voted using the same IP address and he said that if one person is using their phone and moving around the vicinity into different locations, they would use the same IP address. But this is three different MCAs from the code of the MCA.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Okay, you have five minutes to conclude, witness.

Mr. Philip Irode: Thank you, Mr. Speaker, Sir. I will continue responding to the questions because I had not addressed all of them. There was a question asked about to whom the letter was addressed. Let me respond to that.

The response to that is that the letter was addressed to our Principal Secretary (PS), State Department for ICT and Digital Economy, requesting the ICT Authority CEO to nominate officers.

Then there was a follow up question regarding whether the report required consensus. Our response is no because it is based on evidence that we have collected within the environment that we were working on.

There was a follow up question whether the system is valid up to date. Yes, the system based on the scope and our surroundings that we were working on. Yes, the evidence collected within the system are valid.

There is a question that has been posed by Sen. Omtatah asking about the response to question--- I think you mentioned three. Was it possible for any MCA or any other person who had a link to vote on the Motion on behalf of an MCA or another MCA? I have indicated here that the answer is no. You cannot vote for any other person and I have qualified it. You can only vote if you have all the three parameters. That is, the link which was provided for by the County Assembly, unique username, which is the IPPD and, of course, a password, which is obviously meant to be private and privileged information.

To respond to the other question that has lastly been asked, what value is the report? I think based on the matters at hand, this report is meant to guide us. We are responding to the questions that were posed to the ICT Authority, in responding to the allegations of whether the system is a secure voting platform or not. Based on the evidence that we have provided before this House, in my field, we base our conclusion on evidence. That is what we have provided based on the logs and in the presence of both parties and to this House. We have clarified issues to do with IP addresses. IP is a unique-
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The Speaker (Hon. Kingi): Witness.

Mr. Philip Irode: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Just be very specific. Respond to the question by Sen. Crystal, so that we end it there.

Mr. Philip Irode: Yes. The question asked by hon. Senator is, are we able to ascertain with certainty, MAC addresses? I still echo my earlier sentiments that MAC addresses are unique to devices and MAC addresses are mapped to IP addresses. You need to have IP addresses for you to access an external facing application. Based on the configuration of the system, within the logs configuration, the logs have provided an IP address which correspond to a unique Mac address. However, within the logs within that voting system, Mac addresses are not configured as audit details to be collected.

The Speaker (Hon. Kingi): So, you are not able to geographically place them?

Mr. Philip Irode: You can, using your IP and ideally, this is where the confusion between an IP and a Mac address comes in. A MAC address does not give you an IP location, but an IP address gives you an IP location. That is why we have used the IP addresses to confirm that these IP addresses were within the geographical location of the County Assembly because these are base station IPs that---

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(Loud consultations)

The Speaker (Hon. Kingi): Order Senators! Let the witness respond.

Witness, please conclude.

Mr. Philip Irode: Mr. Speaker, Sir, like I said, IP addresses give you geo-location. However, MAC addresses do not give you geo-location. Based on the architecture of some of the systems we have, we only collect the outward-facing IP addresses. This basically means that the system is exposed to users from outside. So, you do not expose your internal, but your outside IPs.

The IPs that we have identified here are Internet Service Providers (ISPs) belong to local ISPs. As we have indicated, we have Safaricom, Airtel and any other ISP within that geolocation.

The Speaker (Hon. Kingi): Assuming Senators vote the way Kericho County Assembly did and they are all seated inside the Chamber here, they will still have different IP addresses? They are all seated here voting the Kericho way, will they have different IP addresses?

Mr. Philip Irode: Depending on if the system you are using is a web-based system that has to be accessed online and the way the network has been---

There is a principle called Network Address Translation (NAT). You assign a system an internal IP then you assign your gateway. For example, the gateway is this door. You configure the system such that any request from outside has to pass through this door and go to port so and so.

That basically means when you are coming in, you will have this door as the log, which indicates that you have actually accessed the system, then you will go and sit at a certain place. That is basically assigning an IP and a service to a system. Therefore, we will all have the same IP if it is an external-facing application that has to resolve using an external-facing IP address.

The Speaker (Hon. Kingi): Have a seat, Mr. Witness.

(Mr. Philip Irode sat at his designated place)

Hon. Senators, having heard the expert, we will now proceed to the closing statements. We will start with the County Assembly. You have 60 minutes to do so. You may utilise all or part of it, but the maximum is 60 minutes. Likewise, the Counsel for Governor, you will have 60 to also make your closing statement.

You may proceed. Your time starts running from now.

CLOSING STATEMENT ON BEHALF OF
THE COUNTY ASSEMBLY OF KERICHO

Mr. Elvis Kipkorir: Thank you, Mr. Speaker, Sir. For record purposes, my name is Kipkorir Elvis. I will make closing submissions on behalf of the County Assembly. I will take the first 25 minutes, after which my learned counsel, Mr. Ongoya, will take the remainder of the time.

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Mr. Speaker, Sir, and hon. Senators, exactly 15 years ago, Kenya embarked on a transformative journey in its adoption of a devolved system of governance. This was an answer to an enduring desire by many a Kenyan who earnestly yearned for public services closer to them.

Indeed, devolution has been mooted as the genius of the 2010 Constitution as it marked a complete departure from the previous that had been characterized by marginalisation, mismanagement of resources, runaway corruption, amongst other challenges. The term of the present Governor, that is the Governor that is on trial today, has marked a silent retreat to that dark past.

County governments hold the key to effective service delivery. The expectation of the people is that county governance would enhance efficiency to their benefit, and not for the self-aggrandizement of the Governor.

As the County Assembly has demonstrated, the Governor's debut in office was marked by the invasion of a private citizen's property, the tearing down of a fence and its designation as a dump site illegally. You will recall that when video number KCV 11 was played, the video was taken barely two days after the Governor was sworn into office and that is the first thing that he did in announcing that there was a new sheriff in town.

The facts of the matter before you and the evidence that the County Assembly has led disclose a sorry tale of maladministration and a failure of moral courage. To paraphrase William Shakespeare, something is wrong in Kericho.

It is our submission that the County Assembly of Kericho has made an overwhelming case of bad behavior on the part of the Governor, a classic betrayal of the trust bestowed on the Governor by the residents of Kericho County.

The question we pose is whether bad behavior should attract any consequences and the answer to that is in the affirmative. Those who are sent to public office and elect to betray the trust that the people have placed in them, like the Governor on trial today, ought to be impeached.

Impeachment is a constitutional instrument rooted in the Constitution of Kenya Article 181, and is designed to protect the sanctity of public office and the interest of the people. The process before you today is therefore an affirmation of the supremacy of the rule of law and accountability of elected leaders.

Briefly, Article 181(4) sets out the grounds upon which a county governor may be impeached or removed from office. The first one is a gross violation of the Constitution or any other law.

Secondly, there are serious reasons to believe that the Governor has committed a crime under national or international law, abuse of office, physical or mental incapacity to perform the functions of the office. These requirements are mirrored under Section 33 of the County Governments Act, and there is jurisprudence that confirms that the impeachments must be based on evidence presented and not on minor procedural errors or political differences in the county governments.

This is a *Sui-juris* process, and it is not about the criminality or culpability, but the accountability, political governance, as well as political responsibility of the county Governor. The standard of proof in our humble submission is that it is neither beyond a reasonable doubt nor on a balance of probability; it is slightly above a balance of probability, but below that of reasonable doubt.

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At the core of the charges, the Governor on trial is facing is the theft of public funds, resources entrusted to the Governor for the benefit and development of Kericho County and the evidence presented before this House, paints a damning picture of misappropriation of public funds, which have been placed in the hands of the Governor to manage and oversee on behalf of the residents of Kericho County.

Mr. Speaker, Sir, you will recall that on 30th June, 2023, a grisly road accident occurred at the Londiani Junction involving a truck that lost control and rammed into small-scale traders and other road users, claiming the lives of at least 52 citizens. You may also recall that in response, the national Government and the other emergency response teams mobilised resources to help the families of people who had lost their lives and those who had been injured.

The County Assembly of Kericho has led evidence of how the funds meant for the victims of the grisly road accident were misappropriated with the blessings of the Governor, who is on trial today. The County Assembly's witness, Hon. Kiprotich Rogony, and the Mover of the Motion at the County Assembly confirmed this on the witness stand and also by the affidavit evidence that is contained in the County Assembly's bundle of documents.

Mr. Speaker, Sir, Hon. Senators, the evidence demonstrates that on the 15th August, 2023, the Governor of Kericho County compensated the victims of the Londiani accident from the County Emergency Fund to cover up for the funds raised by the public, which had been misappropriated by a committee he had formed to steer the funds drive and without a cogent explanation of how the funds publicly raised for the victims had been expended.

Similarly, the evidence led by the County Assembly is that on the various dates between the 4th July, 2023 and 9th July, 2023, the Governor engaged in acts which grossly violated the provisions of Articles 10, 73 and 75 of the Constitution and Sections 29 and 34 of the Leadership and Integrity Act by overseeing the misappropriation of funds raised for the victims of the accident at Londiani in which over Kshs9 million of publicly raised funds were lost.

Mr. Speaker, Sir, Hon. Senators, I invite all of us present in this Chamber this evening to pose in harsh memory of those who lost their lives in Londiani but whose dignity endures beyond their graves. For what injustice, for what deeper wound would be inflicted on the families of the victims, than to rob them of the meagre allocations from the funds that were raised by members of the public, including some of us present here today. The dead do not protest, but how insensitive would one have to be to trespass where sorrow has already claimed its toll?

Mr. Speaker, Sir, Hon. Senators, the Governor has reneged on his undertaking to implement the report of the County Assembly *Ad Hoc* Committee on the Londiani Accident and the misappropriation of funds that followed the accident.

There is evidence that the Governor expressly supported a Petition by those implicated in the County Assembly's *Ad Hoc* Committee and the cases that the County Assembly cited were Kericho ELRC Petition No.E006 of 2023, Dr. Wesley Bohr and five others *versus* the Governor, Kericho County Government and five others, and Kericho ELRC E014 of 2023, Victor Tum and others *versus* the Governor, Kericho County Government and others.

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Mr. Speaker, Sir, Hon. Senators, the Governor has allowed himself and the County Assembly has led evidence to this effect. The Governor has allowed himself to be a master of doublespeak in grave matters. This has been in violation of Article 73 of the Constitution, which demands that at all times he demonstrates respect to the people and conducts himself in a manner that brings dignity and honour to the office that he holds.

Mr. Speaker, Sir, Hon. Senators, the Governor's response to this allegation is that the lost funds were occasioned by the people other than him. He then tells you that he has no power to take disciplinary action recommended by the County Assembly's *Ad Hoc* Committee on the misappropriation of the funds meant for the victims of the Londiani accident. Surely, the Governor cannot have the grapes and the wine.

Mr. Speaker, Sir, Hon. Senators, the County Assembly has led evidence of how on 14th February, 2023, the Governor launched an initiative in Kericho called the *Kazi Mtaani* Initiative. In so doing, he drew public funds without a proper legislative anchor, public participation, prior approval by the County Assembly or the Controller of Budget or the Budget and Appropriations Committee.

Mr. Speaker, Sir, the Hon. Kiprotich Rogony, who testified on behalf of the County Assembly confirmed in his testimony that some contractors engaged by municipalities were not in the list of pre-qualified suppliers and that the companies were paid, yet they were not in the list of pre-qualified suppliers included Citron General Works, Iglaris Company Limited, Edkiche Investments Limited, among others.

Mr. Speaker, Sir, Hon. Senators, evidence has been led to demonstrate that between January, 2025 and July, 2025, the Governor aided, abetted or condoned the fictitious payments for goods or services which were neither delivered nor done. Resultantly, the County Government of Kericho lost approximately Kshs 85,704,522.90 from the payments allegedly made for one, proposed repairs, redecoration and re-roofing works done to council houses at Kipkelion West Sub-County next to the Sub-County Administrator's Office.

Mr. Speaker, Sir, Hon. Senators, you were shown photos of houses at Kipkelion, contained at volume 6A of the County Assembly's bundle of documents for whose repairs, redecoration and re-roofing a sum of Kshs 2,999,000 was paid to Dabral Ventures Limited. The report of the county assembly *Ad Hoc* Committee on Fictitious Payments and the testimony of Hon. Albert Kipkoech confirmed as much.

Mr. Speaker, Sir, Hon. Senators, the County Assembly of Kericho has tabled before the Senate, evidence of local supplies orders that were generated on 20th February, printed on 25th February, 2025 and signed on 21st February, 2025. It was demonstrated that the LSOs were prepared way after the payments had been made and it was shown that the interim payment certificate indicated a sum of Kshs 2,699,100 yet the payment vouchers indicated that the full sum of Kshs 2,999,000 was paid.

Mr. Speaker, Sir, no evidence to the contrary has been led by the Governor. Evidence has been led of an event at a place called Chelimo, which though initially scheduled to be a five-day event, ended up being a one-day event, yet requisitions were made for the five days. The County Assembly has demonstrated that contrary to the items listed in the payment voucher, no tea, snacks, buffet lunch or soft drinks were served as alleged in the payment vouchers that were presented. Similarly, there was no public address system with a backup generator or tent that was supplied during the event.

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Evidence was led of a local supply order in favour of Denbi Holdings Limited, which reveals that it was issued on 20th February, 2025, more than two months after the actual event and more than three months after the requisition. That evidence has not been controverted and the payments are confirmed by the extracts from the IFMIS which the county assembly has supplied to this honourable House in its bundle of documents.

Mr. Speaker, Sir, Hon. Senators, the County Assembly has led evidence of a company called Mengro Products Limited that was paid a retention sum of Kshs395,028.63 for a project called Whispers-Nyakinywa Road in Kedowa Ward. It has been demonstrated that the road was done in 2018/2019 Financial Year and as per the documentation provided by the county assembly, the Inspection and Acceptance Committee was appointed in September 2024, more than four years later.

Significantly, the County Assembly has produced a staff redeployment memo confirming that the person named as the Secretary to the Inspection and Acceptance Committee, one Lillian Chelagat, was at the time of the report dated 9th September, 2024, not working in the State Department. She had only moved to the Department on 10th January, 2025, way after the alleged inspection had been signed by her.

Mr. Speaker, Sir, Hon. Senators, the County Assembly has led evidence of double payments of retention fees for the same contract. Each of the reports of the Inspection and Acceptance Committee have the same month of September, 2024, and each of those reports have the same observations relating to the status of the project.

That is-

“bush clearing, grading and gravelling activities were done to the required specifications, and workmanship was substantially satisfactory.”

This observation has been made in several reports, notwithstanding the nature of the project and the defect liability period. The Assembly has demonstrated that payments for these projects were made on the basis of falsified documents.

It has been demonstrated that some of the goods and services and works were procured without following proper procurement processes. There were no tender opening committees, as required by the Public Procurement and Assets Disposal Act at Section 78, as read together with the Regulations on Public Procurement and Asset Disposal.

Similarly, the County Assembly has led evidence that there were no professional opinions done to the accounting officers, as required by Section 84 of the Public Procurement and Asset Disposal Act 2015.

Mr. Speaker, Sir, evidence has been led to the effect that in the Financial Year 2024/2025, the Department of Agriculture, Livestock and Cooperative Management budgeted a sum of Kshs14,980,640 for the purchase of soya, beans, sunflower seed cake and cotton seed cake to support cooperative societies within the county of Kericho.

Anomalies in the procurement process have been demonstrated, and the *Ad Hoc* Committee on Fictitious Payments noted that at the time the payments were made, no supplies had been done to the various cooperatives, despite full payments having been made to the suppliers.

Funds allocated for critical services, including healthcare, strategic intervention programmes and infrastructure, have been siphoned for personal enrichment and clandestine interest within the County Government of Kericho.

You have been treated to attempts to deflate the issues on misappropriation of funds, and you have been told that the mover of the Motion is hell-bent on getting the Governor out of office by whatever means. You have also been told, all in an attempt to deflect from the main issues, that the impeachment proceedings are motivated by other interests. Far from it, Mr. Speaker, Sir and Hon. Senators. It is not about who the Governor perceives to be his competitor. It is about accountability, and it is about protecting the resources of the people of Kericho County.

The County Assembly led evidence to demonstrate that the period between 2023 and 2025, the Governor presided over unfair, skewed and nepotistic distribution of projects under a programme called the FLLoCA funds. The funds have been utilised in an imprudent manner, and misappropriated.

It has been demonstrated by the County Assembly that the Governor's home ward, namely Chemosot, got projects worth Kshs21,701,590, while many other wards, not only in other sub-counties, but even within Bureti Sub-County, have not received a single project under the fund.

Mr. Speaker, Sir and hon. Senators, the affidavit and the evidence of Hon. Vincent Korir contained in volume three of the County Assembly's bundle of documents at pages 109 to 113 and the video marked as KCAV-5 confirms as much.

In other instances, the position taken by the Governor in his response contradicts the position that has been taken by his County Executive Committee members and one instance stands out.

There is a project that has been flagged called a Soliat Tree Nursery Establishment Project in which the Committee on Fictitious Payments noted that the water pumps, pipes and fittings had not been delivered or installed in the project while the Governor maintained that the project had been done as per the bill of quantities contained in volume two, page 133 of his bundle of documents.

Mr. Speaker, Sir and Hon. Senators, at volume 4A, pages 377 of the County Assembly's bundle of documents, you will note that the scope of work included installation of water pumps and fitting of pipes and yet that was not done. It is the County Assembly's case that this points to a Governor who is either out of touch or complicit in the misappropriation of funds. What more could constitute bad behaviour?

On 3rd September, 2024, the Governor engaged in acts of gross misconduct and grossly violated the provisions of Articles 10, 73, 75, 174 and 185 of the Constitution and abused his office by writing to the Speaker of the County Assembly, purporting to direct the Speaker on *inter alia* the timelines within which the Speaker should give the Chief Officers who are summoned by the Assembly for questioning in exercise of the County Assembly's mandate.

The County Assembly has tabled evidence of the Governor's engagement, connivance and complicity in the acts of subversion, discrediting and impeding of the overall oversight role of the County Assembly.

Mr. Speaker, Sir and Hon. Senators, in response to all these grave allegations that have been levelled against the Governor of Kericho on misappropriation of funds, he has elected to hinge his defence on technicalities and mere denials. The documentary evidence presented, the audit reports and the testimonies presented by the witnesses who testified before this hon. House paint a totally different picture. They paint a consistent

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picture of systemic misappropriation of funds. The gravity and volume of irregularities cannot be explained away by mere administrative lapses.

Mr. Speaker, Sir and Hon. Senators, the people of Kericho have entrusted you to be vigilant stewards of their resources and they are looking up to you tonight. None of the witnesses the Governor lined up to testify on his behalf testified on the substantive charges that this House is investigating.

We invite you to draw an adverse inference on that account. Misappropriation of public funds is not just an economic wrong. It is a moral up front and it inflicts lasting humiliation on the people who are forced to endure the consequences, some of which are dilapidated roads, hospitals and other attendant failures in governance. It breeds a culture of impunity where those in high office believe that they can act with wanton abandon and shielded by political connections or procedural technicalities.

Mr. Speaker, Sir and Hon. Senators, we beseech you not to allow impunity to take root in the County Government of Kericho. We urge you to let the vote today be a testament to the enduring values of our Constitution, accountability, transparency and justice. Justice for the people of Kericho, justice for the residents who have had to endure the consequences of the misappropriated funds and particularly justice for those who bestowed their trust on the Governor and in the hope that he would deliver on the promises that he made.

Mr. Speaker Sir, Hon. Senators, I respectfully urge you, on behalf of the County Assembly of Kericho, to find that the charges against the Governor have been substantiated.

I thank you and will yield the Floor to my senior, Mr. Ongoya.

Mr. Elisha Ongoya: Thank you, Mr. Speaker, Sir and thank you distinguished Senators. For the record, my name is Ongoya, representing the County Assembly of Kericho.

I wish to begin by making an overall observation that, after all the charges that were levelled and all the evidence particularised of impropriety against the Governor, the Governor chose not to take the witness stand and answer to any of those charges.

The question is this: when a charge is levelled and the evidence; the quantity and weight of which has been played before you by witness testimonies, documentary evidence, video evidence and the person called to account refuses to take the opportunity given to him to account, what inference will you draw from that? When you begin deliberating, I invite you to consider that aspect of this case.

Having said that, certain matters arose in the course of clarification by Senators that I wish to address myself to as part of these closing submissions.

Mr. Speaker, Sir, we stand here as lawyers, distinguished Senators, as people who have to offer guidance on the harmony or otherwise between the evidence on record and the law established. The conclusions to be drawn from that evidence on record and the law established are purely yours as judges and as participants in the justice process. We have no choice but to accept your verdict unless one pursues any other option known to the law.

Two questions arose; distinguished Sen. Onyonka presented to the expert witness a question in the form that both the passwords and the usernames to this system were

made accessible to all MCAs. Let the HANSARD record me as saying that there is no such claim made by any witness before this Assembly.

The evidence before this Senate has been and remains this: two links were sent to MCAs. Link number one communicated IPPD numbers, which were to be used as the usernames. A username, to my lay understanding is like my email address, which I put on my letterheads and put on my contact numbers, which is itself not a risk. The second link was the voting link. It went with the instruction that every individual MCA will use their own national identification card (ID) numbers to vote. So that the aspect of the passwords was never communicated to everybody at all.

I have been a participant in the processes of this House both as an academic and as an advocate, as I am doing and I know that there is a rule in this House of accuracy of facts. Whenever one makes a decision, the accurate fact is that no witness, either from the Governor's side or the Assembly side or the expert, stated anything to the effect that people's ID numbers were communicated to everybody.

It is important that the fact is captured by the record and the decision makers so that a decision is made on the correct set of facts.

A question arose from the clarifications as to whether there was a possibility of geo-location of these IP addresses. I can do no better, because I am no IT expert and cannot pretend to be one, than to look at this Senate's own appointed expert.

At page 13 of that expert's report is IP address lookup. Then it says geo-location data from, then there are some details there, but I am interested in the country Kenya, region Kericho. I do not know what conclusion you can draw from that, because I am no ICT expert, but the only evidence available to us shows some geolocation of this IP address to Kericho. I thought that is an important question for you to take into account.

Allow me to then address the question that has now emerged as the question of the voting process. Let me observe this. Number one, whereas this House is not strictly bound by rules of evidence, this House, in fact, applies rules of evidence, by which I mean it does not completely disregard rules of evidence.

That is why witnesses swear their affidavits as required by rules of evidence. Witnesses take the witness stand and are sworn as required by rules of evidence. Witnesses are examined in chief, cross-examined and re-examined as required by rules of evidence.

So, the point I am making is that whereas you are not strictly bound by rules of evidence, your rules do not disregard rules of evidence. There is a presumption in evidence law called presumption of regularity, that when you are presented with official documents, Kenya Gazette's official government reports, you presume them to be regular until credible evidence to the contrary is presented.

The County Assembly has presented you evidence of 33 MCAs voting for the impeachment of this Governor. The county assembly has also given you an expert witness, who has said as far as he is concerned, these 33 MCAs voted for the impeachment of this Governor.

The Governor has presented an expert here. That expert has not controverted that factual content of the official document, the HANSARD, that in fact 33 MCAs voted for this Governor.

This Senate, faced with those two witnesses, has called its own ICT expert. That ICT expert has returned a verdict that from the information available to him, in fact, 33 MCAs voted for the impeachment of this Governor. It demands therefore us to conclude that no evidence has been presented that challenges the HANSARD of the county assembly and the resolution of the county assembly that 33 MCAs voted for the Governor.

Let us look at the attempts to challenge that position. First, the records will show you that the Governor's claims before you were premeditated claims. He entertained these claims in advance of the voting process.

His advocate is captured in the HANSARD of the county assembly saying, we know that people have voted for or will vote for four Members of the County Assembly. This was said in advance of the voting.

Let us look at this carefully. An MCA comes and tells you that 18 MCAs left their phones in the car. The MCA who came here, Hon. Anita Mibey, confirms she had her phone inside the Chamber. It means the allegation that these MCAs left their phones inside the car is not worth of any credit. That is what it logically means. She introduces a new nuance of her phone going off, which was not contained anywhere in the affidavits she presented before this House.

All MCAs who came here confirmed that they were all in the House. All the 47 MCAs were present in the House. All the MCAs were given an opportunity to vote. The Speaker announced that all of you have an opportunity to vote and here is the voting method. If anyone of you has difficulties, go to the gadgets presented to you by this assembly and be assisted to cast your vote. No MCA says they attempted to cast their vote as guided and anyone frustrated them. No MCA says so.

The Governor makes a claim that four MCAs did not, in fact, vote. The system returns them to have voted. One of those four MCAs comes before you with another affidavit. She is called Edinah and says, in fact, the contents of that affidavit are wrong. In fact, I voted and, in fact, I never signed that affidavit.

What is the net effect of this development? The net effect of this development can only be one, distinguished Senators, and that is, the claim that these four MCAs did not vote is not believable. That is the only conclusion you can draw.

So, let us face this. The Governor's--- I will come to that in a short while when I begin analysing those witnesses one by one. However, let me address you on the lack of logic in the totality of the Governor's case theory. There were 47 MCAs entitled to vote in Kericho County Assembly on 15th August, 2025.

If you believe, as the Governor and his counsel believed, that someone voted for you with your credentials, the logical thing is to attempt to log in with those credentials and say: "I was unable to log in because somebody had already used them as passwords to log in." That is the logical thing.

The other logical thing, if you believe that the system was capable of double voting, is to log in and vote yourself. This is because once you log in and vote yourself, and somebody else has double-voted, the system will return more votes than the registered voters. That is the logical thing. So, I do not know, Mr. Speaker, Sir, and distinguished Senators, whether we have a case of imprudence or dishonesty on the part of these witnesses.

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I want you, when you consider this matter in your own debate, to tell me how somebody would fail to take advantage of these two possible and irrefutable evidence-creating acts and come and present another one to tell you I did not vote.

Let us face it. These are the very MCAs you saw by your own clip, the Governor's counsel at the Assembly telling them, stand up and demonstrate you will vote in support of the Governor. One of them says they had met the Governor earlier and they had agreed on that position.

First, that is legislative impropriety. Will you believe a representative of the people who confesses to have engaged in that conduct? I am inviting you to find the overall conduct of these people to be not worth of your credit.

Let me point out something else. Mr. Peter Wanyama, advocate for the Governor, says, in fact, he logged into this system twice and voted. The County Assembly's expert has not seen that login of his. The Governor's own expert today has confirmed he did not see that log in by Peter. The independent expert by this House has confirmed he did not see that log in by Peter Wanyama. It means the Governor's case theory is found on a shameless lie that an advocate of the High Court of Kenya---

Mr. Speaker, Sir, thankfully for me, you belong to this profession and some distinguished Senators, belong too. Our profession abhors an advocate vouching for his client. An advocate presents evidence as presented by witnesses and the law established. However, if the advocate himself can take the extreme stance taken by Mr. Peter Wanyama, learned Counsel, to present a factual role that he logged in this system and voted; a fact which his own witness says, "I did not see it in the logs." A fact which the independent witness of this House, the expert, says, "I did not see that in the logs." A fact which Mr. Peter Wanyama himself was unwilling or unable to take the witness stand and be cross-examined on. I invite you to draw a conclusion that there is enough evidence that the Governor was willing to go to any extent to deceive this House that this voting process was, in fact, compromised.

Let us face it, distinguished Senators. Every system, ICT or otherwise, can be made better. Any system can be made better. Banks work on ICT systems and many other systems. Now, operations work on ICT systems, be they medical systems, aviation industry systems and all other systems. Each one of them can be made better.

The fact that the system adopted by the County Assembly of Kericho can be made better is not a basis for invalidating that which it has done. The only basis for invalidating that which it has done is credible and irrefutable evidence that the system was, in fact, compromised. Not capable of being compromised, no single witness before you has brought that evidence that this system was, in fact, compromised.

Learned Senior Counsel, Mr. Katwa Kigen - I would reiterate, one of the most courteous, polite and a mentor to many young lawyers that I teach – came here and in his opening remarks, which are captured at page 25 of Wednesday this week morning, observes that this site was pulled down and in a response to the preliminary objection, it was brought up again. The logs by these witnesses would have shown that act of pulling down the site and re-uploading the site. Not the County Assembly's witness, the Governor's witness or the independent witness of this Senate, has captured that log of interference with this site by pulling it down and re-uploading it.

I am reiterating a simple and straightforward case, that this evidence shows that this Governor could go to any extent, including getting senior and reputable counsel to present factual inaccuracies before this Senate, just to achieve the termination of these proceedings on a technical objection.

As you vote on this issue, I beseech you to debate these questions. If you reach answers contrary to these submissions, I will leave with your verdict peacefully. If you reach a verdict that conforms to this verdict, once again, I will be able to live with it peacefully.

Look at how the County Governor's counsel stood before the County Assembly and the Governor himself and commandeered – assumed the Speaker's role – commandeered the MCAs, "Stand up." What had they done to those MCAs to assume that kind of control over them? I am not sure that if I stood before him and commanded these Senators to stand up one direction, they will take it seriously, however persuasive my case. What had they done to them?

Between this system that provided some form of privacy for the individual MCA and the so-called roll call system, in that context of this Governor and his advocate commandeering MCAs on record, which one would have guaranteed better integrity and independence of decision-making by this Assembly? It is expected that any MCA who took advantage of that semblance of independence and voted for this Motion, having been earlier intimidated and commandeered, may consider stating that they had not voted.

In the next few minutes, let me reflect on the question raised by the Majority Leader on the three MCAs. For starters, they were four who took that position as represented by the Governor. Along the way, my learned colleague, Mr. Katwa Kigen, confirmed one of them abandoned that position. This position that we did not vote, which witnesses are liberally taking and abandoning; can we take it as a definitively confirmed position that witnesses did not vote. It is because they are taking and abandoning. That is number one.

Number two, let us look at the residual three that are of concern to the question raised by the Majority Leader on behalf of the House. One of them is Martin Kiplangat Cheruiyot. First, you will notice that Martin Kiplangat Cheruiyot swore the same affidavit with Edinah Tonui. Same affidavit. They jointly signed it as "we". Edinah Tonui has now told us, "I never signed that affidavit", by her own affidavit. On what basis would we believe that affidavit where one of the owners has disowned?

Mr. Speaker, Sir, and distinguished Senators, it is said that if the alligator came from the sea---

(Technical hitch)

Systems do this. An expert told to audit this system can recommend some things that can make this not to happen. It does not mean that what we are doing here is invalid. What we are doing here remains valid regardless of this kind of systemic challenges.

So, I had said, if an alligator came from the sea and told you Mr. Crocodile is sick, you do not say, I am going to the sea to verify for myself. In regard of the affidavit jointly sworn by Edinah and Martin Kiplangat Cheruiyot, the alligator that has come from the sea – symbolically speaking and with due respect – is Edinah. She has told us that

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affidavit is fake, “That signature is not mine.” How much more evidence do we need to discredit that affidavit?

Then comes the other joint affidavit of the 18 MCAs, on which again Edinah's name is indicated. She has come from the sea and told us, “That affidavit is fake. I did not sign it.” Why would we believe anything from that affidavit? So, that would be the approach, Majority Leader and distinguished Senators, if I were confronted with that evidentiary question. However, that is not enough.

Consider the evidence of Amos Birir Trump, who is asked a simple question. This affidavit you claim to have signed jointly the 18 of you, what time did you sign it? Daytime or night time? He says he signed it after lunch. It turns out the Assembly proceedings went on until past 8.00 p.m. and that that affidavit contains proceedings of the Assembly. Meaning, it could only have been signed at night. Normal advocates would have closed their offices at that time and they would tell their clients to go back the following day.

Can we believe a witness who says those things? I say it because what is before you is whether you have credible evidence to disturb the presumption of regularity of the County Assembly's HANSARD and resolution as communicated to you.

Let us then look at this Amos Birir or “Trump”. He came here as an old man, stated his age and initially looked very credible, even to me. When confronted by my learned colleague, Mr. Mutuma, in cross-examination, I do not know what your assessment of him was. Let me just say; in my assessment, he struck me as an old man, but not very honest.

Simple facts as to whether he has an internet-enabled phone, whereas his affidavit gave us an impression that he had no internet-enabled phone, he was on WhatsApp. In fact, that number, which he said was in the phone he was carrying in this House, was on WhatsApp. I do not know how much more credibility you can give such a witness. He needs redemption in the area of credibility if you sought my opinion. The verdict belongs to you as to whether you would believe him.

A witness called Hillary Kibet Bosuben confirmed that he had a laptop supplied to him by the County Assembly and he confirmed that he used the integrated system. Remember voting is one of the components of the system which discharges other multiple functions.

He uses the same system to make requisitions for payments of allowances for committee sittings to register his attendance at committee sittings. It is the same people who use this system to register their attendance in committee sittings who are saying they have never been trained on the system. Fortunately for us, none of them claimed to be missing out on their sitting allowances because of the system. It is enabling them in their bread and butter matters. It is only when voting is concerned that they draw the line.

Distinguished Senators, I then pose the question: Are these the people who you will say that you believe that they did not vote? To disturb the verdict of this Assembly, you must reach a conclusion that, in fact, these people did not vote for the Motion. At that juncture, credibility becomes the most important question.

As you consider this Motion, distinguished Senators, remember Geoffrey Bett. Geoffrey Bett appeared before you as a Person with Disability (PwD) – a mobility-related disability. He poured his heart out to you. He told you; I have come before you as part of

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my healing process. He told you; this Governor confronted me in a joint sitting of CECMs and COs.

He told you that in that joint sitting of CECMs and COs, when I proposed to him that rather than procuring a financial management system at Kshs68 million, we can internally develop it at about Kshs1 million and prudently use taxpayers' money---

He told me: "thought you only had a physical disability of your limbs, *kumbe* you also have a mental disability." Those were the words of Geoffrey Bett here. Geoffrey Bett has told you; I have come to this Senate as part of my healing process.

I want you to consider Geoffrey Bett as you vote. Will your vote to rescue this Governor aid Geoffrey Bett in healing or will your vote to save this Governor add insult to injury to Geoffrey Bett? That issue is on trial before this Senate.

Given a chance to take the witness stand, defend himself and possibly address Geoffrey Bett wherever he is, saying; Geoffrey Bett, before this same forum you sit, I am sorry for what I did to you, the Governor has chosen not to take that stand.

Allegations of financial impropriety, particulars of which were laid before you by various witnesses and documents and which have been summarised by the learned counsel who came before me, are clear that Kericho County is hemorrhaging in loss of public funds.

The Governor had two opportunities. One, to get his concerned officers, that is CECMS, COs or procurement officers, to swear affidavits and shed light on these matters. I invite you to reach a conclusion that the failure of the Governor to call those witnesses to come before you and give account constituted his shielding of those witnesses.

A governor who shields witnesses who spent taxpayers' money, as we showed you on the Kipkelion Housing saga, and who shields his officers who spent money as we showed you in respect of the Londiani unfortunate accident victims cannot claim it is their act. He must take the ultimate responsibility at least for shielding those officers.

Secondly, given a chance to come and take the witness stand and explain himself, because the evidence we have shows irrefutable evidence of hemorrhaging of public funds, he has declined to take the witness stand. I invite you to conclude that the act of the Governor to refuse to take the witness stand when the time there showed that the Governor's side had slightly over 30 minutes of his defence, is an act of arrogance on his part not warranting any mercy from you.

If you take all these factors into consideration, my invitation would be; you can only do one thing, the right thing, impeachment of this Governor.

The County Assembly of Kericho has done its part. The HANSARD of this House, as a historical record, will document that. Fortunately for me, the cheque is still open for you to sign; the history book is still open for you to record your position in that history book; the HANSARD is still recording you; it will record your vote.

Distinguished Senators, how will history document you individually and collectively regarding the side of history that you belong to; the side that dignifies Geoffrey Bett or the side that undignifies him; the side that protects taxpayers' money or the side that does not?

I am done with my part; the ball is in your court. I rest my case.

The Speaker (Hon. Kingi): Counsel for the Governor, the Floor is yours. Your 60 minutes starts running from now.

CLOSING STATEMENT ON BEHALF OF
KERICHO COUNTY GOVERNOR

Ms. Rose Thiong'o: Thank you. Mr. Speaker, Sir and Hon. Senators, for the record, my name is Wanjiku Thiong'o. I will commence the closing arguments, then my two colleagues will come after.

Hon. Senators, our point of departure is the sequence of events as prescribed under Section 33 of the County Governments Act. Definitely, as we sit here, it is not in dispute that the County Assembly has jurisdiction in moving a Motion for Impeachment of the Governor. However, they must do so within the confines of the law and edicts of the Constitution. At the very least, they must adhere to Article 10 on principles and values of governance and they must do so within the provisions of the Article 181.

Therefore, before this House can admit this Motion, it must be satisfied, as we raised in our preliminary objection, that the threshold of the two-thirds majority of the Assembly was met.

In determining this question, serious issues have been raised about what transpired in the Assembly on that day. Several video clips have been played in this House on what transpired. What can be seen is that, from those videos and the picture which has been painted, is that for the first time, the Kericho County Assembly introduced an electronic voting system. The MCAs had never been trained on this system. It has not been controverted by our colleagues from the side of the County Assembly.

It is also in addition that it is on the Floor of that Motion that the Speaker of the Assembly informed the MCAs that the electronic voting system had been deployed.

When that question was put to Mr. Alfred Kimutai, the ICT Officer of the County Assembly, he admitted that the system was deployed two days before the voting day. The MCAs had not been given an opportunity to interact with the system and create their own passwords, so that the vote that they are going to cast is going to be linked to a particular MCA. This goes to the verifiability of that particular vote. It is not about the numbers at this point; it is about the process within which that election was undertaken. Because an election is not just an event, it is a process.

It can also be seen from those scripts which have been played in this House, that there was a division in the County Assembly. When there is a Division, Standing Orders require that a Roll Call vote is taken on that issue. The issue was raised by one Hon. Gabriela, who has been called as a witness before this House and was supported by 17 others, making a total of 18.

It is at that point that Standing Order No.79 that required the Speaker to direct a local vote to be undertaken on that issue. However, the Speaker of the County Assembly instead went on to declare that the voting was going to proceed electronically.

It is not clear why, at this point, for a matter of this magnitude, because as we sit here, the decision that was going to be undertaken, that was undertaken by the County

Assembly, is going to take away the political right of the Governor because he was declared as the duly elected Governor.

Under the same breath, it is going to take away the decision and the will of the people of Kericho County, so that a matter of this magnitude has not been explained by the County Assembly why it was the last to use the system, which was being piloted for the first time, to vote on this Motion.

Looking at that system and the various questions that have been listed by the Hon. Senators, it is clear that the system had serious doubts. There were serious issues of manipulation and the three ICT experts, as they came here, could not clarify or clear the doubts which were raised by the Senators.

There were issues which were raised about the geographical location of the particular vote. As we stand here, every vote could not have been linked to the geographical location, and the answer is, one, the configuration or the manner in which the system has been set does not secure the votes.

It is not disputed that on the material day, I heard the counsel for the Governor indicate that the username is like the email address and the password was unique, but in this case, it was an ID number. How many times do we sign with the ID numbers when called upon?

It is clear from the list of even the rapporteurs that were applied to them that they had to write their own ID numbers as they signed various registers; they had to indicate the ID numbers. So, what is unique about the ID numbers when we talk about a password?

It is clear from the three ICT experts that the two-factor authentication or the multi-factor authentication was not created for this system, so that every particular vote can be linked to the MCA.

At the same time, from the HANSARD on page 195 of the Governor's bundle, the Speaker of the County Assembly publicly announced that the ID number is the password. So, it was no longer a secret what the password was.

At the same time, issues have arisen about whether the MCAs had brought the tools of trade, particularly the gadgets which were required to conduct business, but, as it has been shown is for the first time we are going to use electronic voting. No prior notice had been given to the MCAs, and that was declared on the Floor, so that, when the MCAs have given evidence that they do not have their phones, they cannot then be faulted because, in the normal conducting of their business back in their Assembly, it is for the first time that they were required to use their phones.

Mr. Speaker, Sir, it has also been shown also about the user-name, which is not disputed, that the first link had all the usernames and every MCA had access to the link and could then access the username or the IPPD address for the MCAs. With that, the case for the County Assembly is that 33 MCAs voted, but the question the House should ask is the verifiability of these 33 votes. Can you link the vote that was cast or which is to have been cast to the particular MCA?

It has also been admitted that the MAC address for the devices used in casting these votes could not be submitted to this House by either of the ICT officers. With that, even as we narrow down on the Governor's side, is that 18 MCAs did not vote and narrowing it down is that there are four disputed votes in this case. That is the vote of

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Hon. Martin Kiplangat, who testified yesterday. We have the vote of Hon. Kibet Mosuben, we have the vote of Hon. Amos Birir and Hon. Edina Chepkirui.

Just to attempt to address the issue of Hon. Edinah, she has two conflicting affidavits and the County Assembly is faulting the Governor's side for not calling this witness, they have not called her to come and produce this affidavit. As such, we are left at a point as to whether indeed she did sign that affidavit with the County Assembly.

Also, we have the clip of Hon. Kibet Bosuben, which was played where he received a call from Mr. Rogony, who was the Mover of the Motion. The best defense that the Mover of the Motion would give was that, that is not my voice and I do not drink. He has not given introverting or evidence to counter that evidence. He has not given his call logs to say on this particular date, I did not call Hon. Kibet. He has not controverted that clip apart from just denying, which is so easy to say, "that is not my voice as it is even when the clip has been played.

Mr. Speaker, Sir, as I wind up, the system with this doubt being created, the ICT officer from the County Assembly could not supply the system security certificate for this system, nor the penetration certificate for this system.

He also admitted there was no personalized password, which was created for every MCA and what was available as the password was the ID number, which was available to other third parties, so that the question then the vulnerable Senator should ask is, how secure was the system and how verifiable was the vote, which was cast?

As you look at the affidavit of Mr. Alfred Kimutai, the ICT officer at paragraphs 23, 30, that 31, and 32, it is his admission that the system designed is very simple, accurate, verifiable, secure and user-friendly. However, with the doubts that have been created about the system, has it met those standards?

In the same breath, even after this House, they use it on a light note, ordered for the server to be opened, and the ICT experts had to testify, which has created more doubts than answers to these hon. Senators are concerned about the verification of the vote and the security of that system, and it is not even in any way converting.

If that doubt then is there and the verifiability of the fault cannot be proven, the integrity of the system cannot be proven, it cannot then be said that the two-thirds threshold was met. It is thus our submission that, the jurisdiction of this House has then been prematurely invoked in this case and the charges and the Motion by the County Assembly should not be admitted.

Thank you, Mr. Speaker, Sir. We can have, my senior pick it up from there.

Mr. Peter Wanyama: Mr. Speaker, Sir, allow me to pick up from where my colleague has left and complete our submissions on the questions of the ICT issues raised in these proceedings.

Simultaneously, when addressing that question, I will be principally making submissions on our Preliminary Objection (PO); the question of threshold. The most important thing is whether we have information before this House on whether 33 MCAs actually voted. That is of necessity to provide the basis for this House to make a decision.

Allow me to, first, say that as lawyers, we are not experts in IT. Throughout these proceedings, it has been a learning experience to me. Up to now, I can say without contradicting myself that I know where the problem is. I know then in terms of the

decision on what went wrong, the vulnerabilities of the system, the missing gaps, the information which is required for purposes of making submissions before this Senate.

It is important to just highlight as a way of reaction to what the learned, Mr. Ongoya, said with respect to lawyers providing evidence. That is not true. This is a House of record. It is a House of evidence.

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

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

Madam Temporary Speaker, what happened is that the County Assembly created a demo website two days ago. For us who are participating in this impeachment process, based on the information which was available by the County Assembly in volume 4A, that is where I am going to focus my submissions on. Based on the information publicly available, that is one of the issues which we have demonstrated here as a major vulnerability of this process on the aspect of verifiability, accuracy and authenticity of the system, confidentiality and data protection, which has a heavy constitutional implication.

If you look at page one of volume 4A, there is information which I accessed, which was accessible to anyone at the County Assembly and all the MCAs at that time. The information is the IPPD numbers of the MCAs. That was a username which was supposed to be used to access this site. That has been confirmed by the testimony of all the expert witnesses here; the three of them: from the County Assembly, County Executive - the Governor and the expert witness from the Senate.

How do you access this system? You access it using an ID number. Again, from the ICT policy and the best practices in software development, we have been told that it is not a proper security safeguard to access such a system with an ID number. So, what happened is that the County Assembly two days ago created a demo website. So, with this information, that is easily available, it was then possible for anyone to key in and access that system.

It begs then the question, because the ID numbers are contained in volume 4A on page one, the IPPD numbers are on page four, which keeps on recurring in this House even from the questions which have been asked by the Senators and the responses which were given by the ICT expert from the ICT Authority.

We request the Senate to take judicial notice of the information contained in an IPPD number. Who else can access that information within that County Assembly setup? Payroll staff in the County Assembly can definitely access the payroll number for the MCAs. The persons who created this system, the IT administrator, and the evidence has been laid here, clearly expressed and unequivocal that a link was sent to the administrator of this system. So, he also had access to this system. The other persons who had access to this system are any person then who had mischief would then have accessed this system because it is data that is easily available.

That concern is an important aspect which you need to consider when making your decision on the question of threshold which is a requirement of Section 33 of the County Governments Act, 2012. The meat of this matter, the substance of this matter, the question that is before the Senate for determination is whether 33 MCAs actually voted,

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whether the 33 MCAs met the constitutional threshold and whether the three MCAs' evidence, who claimed that they did not vote but someone voted for the is credible.

If that is accepted by the Senate, then it affects the threshold. It means then there is no proper Motion before the House based on the legal doctrine that the law matters and that County Assembly as a House is also governed by the law. We can do what we want, yes, but we must follow the law. We are all servants of the law. It is the law that drives everything that we do including proceedings that are conducted at the County Assembly.

In this case, the Senate has a duty and an obligation to verify the authenticity of the three votes because they will bring down the threshold. Then it means, based on the ruling which was issued by the Speaker yesterday, that when voting on that question, if you believe that the three MCAs including Hon. Triumph did not vote--- Remember, these MCAs have come to the House. They have come here and told you by their word of mouth, that, I, Hon. so-and-so, did not vote on this Motion. They are three of them and their testimony is consistent with what transpired in the House.

The question that you will be left with is: Do you believe these MCAs who say that they did not vote so that you can make a decision on the threshold or do you believe a computer-generated information which has so many doubts to the extent that the entire House is asking questions? The question which this House is asking and which all the Senators I have observed are asking is really fundamental. We cannot put this down there.

We are not downplaying the allegations against the Governor. We have responded to them. However, what we are asking is: Did these three MCAs vote? What does the evidence tell us? Let us look at the evidence. Where is the evidence? The evidence is contained in volume 4A. Evidence has been led here by all the experts. That when you vote using a gadget such as a laptop, a tablet or a desktop which is internet-enabled, there are unique codes that identifies that gadget in the system. This code is known as the MAC address. When you sign into the Wi-Fi using that gadget, it will leave a digital fingerprint or evidence on that system for purposes of anyone who then audits that system checking and ascertains that MCA A, B or C voted in that system.

That is a fundamental question that we must always ask ourselves when we are determining voting on the PO. Is there information before this House?

[The Temporary Speaker (Sen. Veronica Maina left the Chair)]

[The Speaker (Hon. Kingi) resumed Chair]

Mr. Speaker, Sir, when I asked the Government's ICT expert a deliberate question, it is because of that. Yesterday, we were with the ICT officer. He raised concerns about various things. One, whether the ICT officer from the ICT Authority can be able to comprehensively answer all the questions with the information they have.

We asked the question which was asked by a Senator here, whether they can be able to hack into the system, do a soft hack, it is called a soft intrusion, whether they can be able to hack into the system to verify the identity of the MAC addresses to get those logs. We asked that question and then the ICT officer walked out for two hours and then came back.

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So, we were appreciably apprehensive, what did this ICT officer go out to do for two hours between 2.30 p.m. and 4.30p.m? After the Speaker had issued directions that we need to be there and ensure that this audit is done and it is a time-bound activity, why would he do that? So, we were appreciably apprehensive.

When the ICT officer came back, and if you look at the report which he submitted, he did not want to explain. His approach was that yes or no, the Speaker has said, is it verifiable or not? Then he said, I will respond to the question the way I want, yes or no. That is what happened, yes or no. That is why if you look at the report of the ICT officer, it does not contain the information which we asked him to put on the report, which this Senate has been raising this afternoon, that evidence of the MAC addresses. We asked him, and he has confirmed here, why can you not simply say in your report that for you to verify that MCA A, B, C and D voted, you need their MAC addresses of the gadgets which they used, and these MAC addresses are in the system. Then he told us orally that these MAC addresses, yes, you need them, but I will not put them in the report.

Mr. Speaker, Sir, that is the context in which the Governor's side said, then we cannot sign this report even though they participated in the generation of the report, they were there when the logs were being extracted, the logs which are in the report, those logs, same logs are in the County Assembly document, and these logs will tell you only one side of the story. They will tell you only one side of the coin, only one side of the coin. It does not answer the question which is before the Senate, which is this side of the coin that MCAs, that three MCAs voted.

Mr. Speaker, Sir, let me say here, as part of our submissions, in a very, very clear and succinct manner, indeed, we have looked at the evidence submitted by the County Assembly, the data generated from the system, by the County Assembly and as extracted by the expert witness and the expert witness of the Governor, and there is information that the three MCAs actually voted for this Motion. There is information that the three MCAs voted for this Motion. It is there. It is there in page 4A, but the fundamental question, because the Governor's team is saying, so-and-so did not vote for this Motion and there are three of them.

So, the question then that begs the answer, which all the experts have not answered to now, which leaves doubts in the minds of everyone, including myself as a lawyer, where can you with certainty tell us that this MCA, that MCA for this particular vote used this gadget to vote. This is because then that will weed out and completely foreclose the oral evidence which has been made by these MCAs. These three MCAs are saying, I did not vote. I honourable so-and-so did not vote for this Motion. That statement is extremely weighty for purposes of the proceedings in this House. Therefore, we ought to have gotten from the system logs of all the MAC addresses of the gadgets which access this system from the County Assembly to leave that doubt or question clear to the minds of everyone.

Mr. Speaker, Sir, additionally, yesterday, there was evidence which was led that some MCAs could not vote using their gadgets, their mobile phones. So, what happened is that the Clerk, the Speaker asked them to be assisted to vote using a machine, laptop or desktop, but it was a computer. That evidence will be there to be analysed. The MAC addresses for that system, the ICT officer from the Government said that, that evidence

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ought to be in the system. We consistently asked him this question deliberately because we wanted that question to be fully answered. Where are these MAC addresses?

So, Hon. Senators, as you retire to consider the question of threshold, just know that there is now doubt more than ever. Experts have come to the Senate and there is doubt from all of them on the existence of these MAC addresses.

Instead, Mr. Speaker, Sir, this is really interesting, they say, especially the expert from the Government says, that what we have as evidence are the IP addresses. The experts who, including himself, say that for it to be complete, you need to have both the MAC addresses and the IP addresses. What did he say, when he was testifying here? He said that the IP addresses are the gateways, the gateway IP addresses. It tells you who accessed a particular Wi-Fi which was being used by the MCAs in that area. It does not tell you the MAC addresses of the specific telephones that were used. So that is very, very significant.

So, to complete that argument and to leave no doubt whatsoever, if you look at volume 4A, and here, Mr. Speaker, Sir, allow me to just address a couple of issues on volume 4A. That is at page, the IP addresses which were produced. The experts say that this is not conclusive. You will need additional information at pages 29, 31, 32, 33 of volume 4A. The Hon. Sen. Asige; I do not know whether she is here or probably listening where she is, asked an extremely important question which affects the aspect of verifiability. Even on these IP addresses, we have left the issue of the MAC addresses. Let us look at these IP addresses. I listened to Sen. Asige asking that question and I said, maybe that is the real issue that the Senate also needs to inquire about. What was the issue? How many Wi-Fis? They say that if you have a gadget and you access the system, you will use a Wi-Fi. That is what they said. Is that right? Yes.

They say that then nine MCAs can have the same IP addresses because they access the same Wi-Fi. Again, that is what they said. I am not picking this from there. These are statements from their word of mouth. So, the question is, if you look at these 33 IP addresses at page 29, page 32, sorry, pages 29, 30, 31, 32, Mr. Speaker, Sir, look at these IP addresses. Are these IP addresses the same? There are some which are the same. This was pointed out. There is an IP address which features really prominently. It appears nine times. This is 41.139.237.129. This IP address appears nine times.

The ICT experts who appeared here said that it is also possible to do a geographical search of these IP addresses, but there is no evidence in the Senate that a geographical search of these IP addresses was done on the aspect of verifiability; but this IP address appears nine times. So, what does it mean? That somebody accessed a particular Wi-Fi nine times?

Mr. Speaker, Sir, if you look at these logs, you will see that there are many other IP addresses. So the question is: Why are these IP addresses different if you are all within the County Assembly premises? You are accessing the same Wi-Fi, the same Wi-Fi network. They say that if you access the same Wi-Fi network, then you need to have the same IP address. So the question is, why are these IP addresses different. Is it possible that the County Assembly of Kericho has six Wi-Fi routers because when I counted, I saw? You can count for yourself the different IP addresses that appear in this document, and that is the query which was raised by Sen. Asige.

Mr. Speaker, Sir, we submit that we have a very big problem before this House. The problem is that there is no certainty whatsoever based on the testimony of the three expert witnesses on who voted. Votes are there, but who actually voted?

Instead, the possibility is that somebody may have accessed this publicly available data and voted for anyone else. That is the information which the evidence that is before the House.

Allow me to then conclude by saying that, based on the provisions of Article 10(2) of the Constitution, the system which was deployed by the County Assembly on this vote on an important matter concerning the removal of a governor from office, that system is not transparent and verifiable and, therefore, the results from that system are not verifiable.

On that basis, I urge that you allow our preliminary objection and throw this back where it came from because it does not meet the constitutional threshold as required by Section 33(2) of the County Governments Act.

I yield the Floor to my colleague.

Mr. Katwa Kigen: Mr. Speaker, Sir, the nature of my submissions will be more towards the aspects of facts.

We hold the position that the Governor has responded to the factual allegations of the claims made by the County Assembly. That is captured in his affidavit, volume one, page one to 31.

The allegations that have been raised by the County Assembly are nine, and all of them have been answered. It relates to management of a program called NAVCDP, FLLoCA, *Kazi Mtaani*, strategic intervention projects, Londiani accident, dismissals, subversion of County Assembly activities, and bullying. We have answered all those issues, and we pray that they be looked at as answers to the allegations.

Now, in more particular, I would like to say this. The allegations are in two categories. The first category is old complaints that were brought here before you in September, 2024. The second set are new claims raised by a report made on 5th August, 2025, and attendant to which an impeachment Motion was initiated on 6th August, 2025.

In respect to the old complaints, which is constituted of these particular three items, the first one is the issue of *Kazi Mtaani*. The second one is the issue of Londiani Accident. The third one is the issue of private land.

Our first attack on that is that the Standing Orders of the County Assembly of Kericho prohibited and prohibit the need to consider those allegations. Standing Order No.70 (a)(2) says this--- Despite paragraph 1, probably I should read from paragraph (1) for context, 70(a) says:

“A Motion by any Member for the removal of a county governor by impeachment may be introduced in the County Assembly on the expiry of 90 days from the date of a vote by the Senate.”

Subsection 2 states-

“Despite paragraph (1), a Motion for removal of a county governor by impeachment may be reintroduced in the County Assembly on other grounds other than the initial grounds that were highlighted in the previous impeachment proceedings.”

Mr. Speaker, Sir, I put a lot of premium and emphasis on the use of the word “grounds that were highlighted in the previous impeachment.”

It is our contention, contrary to what Hon. Rogony said when he was testifying, that to the extent to which those grounds were captured in the Motion, were moved in the County Assembly, were debated in the County Assembly, were voted for, and were brought here. To the extent that those things happened, they had fitted into that word of “highlighted in the previous proceedings”. For that reason, it is our submission that, indeed, it should not be here. However, I would like also to make supplementary comments about those allegations in our defense. My learned friends for the County Assembly said that Kazi Mtaani was rolled out without proper legislation and that some funds were lost.

Kazi Mtaani was a concept where the Kericho County Executive proposed that successful bidder contractors were obligated to engage local youths and women so that they would benefit from the contracts that were run in their neighborhoods. Payments for the youths and the women was to be paid from the remuneration or the payments due to those contractors.

It was not funds from the county. Absolutely not. It was funds that were payable as part of the contract money. In that situation then, there was no need for any policy or legislation to have been in place. That is our first answer to that allegation.

The second explanation that we have is that indeed in our response both in September 2024 and during this time round, we explained and provided lists of youths and women who are paid on those projects. We are aware that, similarly, the County Assembly through the Committee that purported to investigate came with a list of youths and women.

Our position is that there is nobody owed. If there is any amount that is owed, they should go to those contractors. Significantly related to that allegation that there are some people who have been deprived of their due payment, it is our contention that the Senate is not the forum for their claim for labor rights. If they had any complaint about their rights for work done, they should have gone to labor court or they should have reported to the police or even gone to civil court.

To that extent, we are contending that the issue of Kazi Mtaani as a ground for impeachment is a red herring.

On the issue of Londiani accident, we already explained. I would like to explain again that it was the Committee and the activities of that Committee were in the hands of national Government; not the county government.

The person who was chairing those proceedings was the County Commissioner. The signatories to the accounts was the County Commissioner and members of that committee.

Mr. Speaker, Sir, when I asked the question to the past witness who came to bring that issue, he admitted that indeed the Governor did not sit in that committee, he was not a signatory to those accounts, and there is nowhere where he is associated with those funds.

It is also significant to note that the witness says that much as these things happened in 2023, they have not deemed it necessary to complain either to the EACC or DCI or to another entity if they were aggrieved about these funds. So, it is our contention

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that this issue has been brought solely for purposes of injuring the good name of the Governor.

Two last issues I wish to mention about the *Kazi Mtaani* and Londiani issues is that they relate to the period of the Financial Year 2022/2023.

Mr. Speaker, Sir, as we pointed out when we asked the questions to the witness who came to testify on this issue, it is true that it is not captured in the Auditor General's reports. So that if it were to be the case that indeed any money was lost or there was any impropriety, our expectation is that it would have been captured. The fact that it is not captured is a vindication and an indication that indeed these allegations are completely baseless.

I would like then to come to the allegations that were brought to the County Assembly on 5th August, 2025. Before I discuss the particulars of our defense in respect to that, I would like again to invite the hon. Senators and Mr. Speaker to the point we made in regard to that issue.

The first one we made was that the Governor was not given an opportunity to react and act on those reports. The witness admitted that the reports were made on or around 5th August, 2025. Actually, let me correct myself. He said the reports were brought into the Assembly on 5th of August.

Those reports provided for a period on average of 28 days within which the Governor was to act. However, the next day, before the expiry of the 28 days and, in fact, before the expiry of even one day, on the 6th of August, the impeachment Motion was initiated. It is our contention that that is an indication of bad faith and political motivation in this impeachment initiative.

It is our contention also that if the Governor were to be looked at as having failed in his oversight role, he needed to have gotten time to act and to have failed to have acted.

Now, discussing the various items of those new allegations relating to NAVCDP, FLLoCA and strategic infrastructural projects, the allegations of dismissals, we would like to explain that particularly FLLoCA and NAVCDP are projects that are foreign-funded. They are donor-funded projects. Each of those projects have clear budget lines, clear work plans and cascaded means of ensuring that there is accountability, both even on issues of procurement and audits of works done.

To the extent, therefore, that the works are going on and that subsequent works cannot proceed until the previous one has been audited and accounts provided, to the extent, therefore, that those works are still going on, is an indicator that those projects are in good shape. However, the Governor takes the position that if it were to be the case that there is any impropriety, he needs time to look at it and to act on them.

Otherwise, he insists that there is no impropriety and that if there were any improprieties, the donors who are supporting these projects would have raised it. The complainants who have come to you would have even written to the EACC, which they have not done.

On the other projects, including the strategic intervention projects, the issues of contract, procurement, splitting contracts, public address, tents and the other house renovations, the Governor maintains that he needed time to look at it and to act. The fact that the report by the committee came on 5th and he was being impeached on 6th is such

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that it deprived him of an opportunity to countercheck the allegations contained in those reports and to have acted.

Collateral to that, the Governor, in his affidavit, has explained that indeed he has already instructed his people to hand over the documents related to those projects to the EACC for further investigations. May I say also related to the old cases, that is *Kazi Mtaani* and Londiani Accident, the issues are under investigation by the EACC.

Secondly, through the witnesses, we were able to show that most of the people who were involved in those projects have been either subjected to disciplinary proceedings and some have been required to retire. For those reasons, it is our contention that there is no nexus whatsoever between any improprieties related to funds, procurement and the other allegations raised between the Governor and those situations.

I would like to address this issue of the private property the same way we did when we raised it at the outset. The property that is being referred to is not private property, it is public property. The Governor insists that it is private property and is determined to recover it. There is the contention and purport that there is a court determination saying that that is a private property.

Consequent to our pointing out, the County Assembly has shied away from showing you the judgment. The decision that was made by the court was that the ground should not be used as a dumping ground until a NEMA certification is obtained. There is nowhere where it is said that it is private property.

Even if the County Assembly, in its totality, were to try to team up with this person who is trying to grab public property and use impeachment as a threat to the Governor to cede the quest to recover the land, the Governor is determined to recover the public land.

I would like then to answer a few questions that have been raised, especially in the course of the submissions today. The first one is the issue that my learned friend, Mr. Ongoya, has extensively referred to, the issues of the joint affidavits, one by both Martin and Edna and the other one by the 18 MCAs.

I had earlier on taken the position that it is proper to have signed a joint affidavit. However, even if it were to be the case that there is any impropriety or any compromise of the impact of those affidavits by reason of joint signing, it is our position that each of those witnesses came here, took an oath, and testified. That is good enough to supplement any shortcomings in those affidavits, and that their testimony is solid to the extent to which they took oath and testified here.

The allegations of negative comments made in reference to Geoffrey Bett are denied and in the course of the testimony of Mr. Geoffrey Bett, he agreed that he has not taken any action if he was aggrieved.

He has not complained to the County Public Service Board who are his employers. He has not reported to any police station, labour court or any civil court. He has not taken out any constitutional action and therefore it is our position that it is not true. If it were true, he would have taken action.

As Hon. Senators may have seen, he clearly was strongly willed and if indeed it was true that these allegations were true, then he would have already made a complaint.

The other argument that has been made by my learned colleagues for the County Assembly is that by reason of not calling these witnesses, the Governor is shielding them.

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As we have explained, in respect to the old cases, *kazi mtaani*, Londiani and the others, the Governor has taken action.

In respect to these complaints that arose on 5th of August attendant to which the process of impeachment started on 6th of August, he needs time to look at them and he could not rush into it. It cannot be said that he is shielding them because he needs time to have looked at it and determine if there are any issues and deal with them.

My learned friend, Mr. Ongoya, made a very funny comment saying that there is a certain impropriety in the Governor meeting the MCAs. It is our position that there is absolutely no impropriety in the possibility of leaders meeting. The contention, therefore, that the Governor met some MCAs is completely misplaced.

I would like to say a few more things before I go to the next step. The first one is to say, on our preliminary objection, that there is unanimity on all the three experts on the two most material issues. The first one is that they are all unanimous that they cannot confirm whether the three MCAs voted. They cannot confirm that.

Now, when you juxtapose that with the affidavit of the developer of the software, Mr. Alfred Korir, at paragraph 23, where he says it is simple, accurate, verifiable; particularly emphasis on the use of the words verifiable, secure and accurate to the extent, therefore, that he intended this system to be verifiable and accurate. To the extent that we cannot determine whether or not the three MCAs voted, we cannot do that. It is true, then, that this paragraph is bellied out. It is not true that that system was verifiable.

The other thing that the witness agreed on, is that, indeed, the records of the County Assembly contain details of the payroll and ID numbers for the various MCAs. If somebody was determined to get them, especially within the establishment of the County Assembly, they could get them.

In that context, therefore, it is our contention that, indeed, it was possible for somebody else to vote and that the three experts admit that if you got those credentials, you could vote. So, there are two admissions. Number one, is that with the credentials, anybody could have voted for those MCAs. Number two, that they are unable to trace back those three votes to the three MCAs.

Now, the last thing I wish to say as I spare a few minutes for my client, is that we would like that you take on board these as you consider the propriety of that system that was used to vote.

Number one, we pointed out in the course of testimony that indeed the answer has been edited. It has been edited so that it is not consistent with the audio recording of the events.

Number two, it is true that a few minutes before the movement of the Motion on 6th August by the Mover of the Motion, who, as we cross-examined him, we maintain is in collusion with the Speaker, there was an attempt to remove six MCAs with a view to reducing the numbers or otherwise to intimidate them to support the impeachment of the Governor.

Number three, is the question that, indeed, there was an option to do a roll call voting. Nobody, not even my learned colleagues for the County Assembly have explained why they could not just take a straight and simple process that could have resolved the issue. Then, the rush to set up this thing at night and to insist on using it even when the “Noes” were louder than the “Ayes”.

For all those reasons, Mr. Speaker, Sir, and hon. Senators, we pray as a first line of our prayers, that you do find that the system was not adequate to satisfy you, that any voting took place; and that the two-thirds threshold was met.

As a second line, we pray that you do find that, indeed, no evidence and grounds have been adduced adequate to place a requirement on you to impeach the Governor.

Mr. Speaker, Sir, with that said, I have four more minutes. I would like to request my client to just say a few things within that time limit.

The Governor of Kericho County (Hon. (Dr.) Erick Kipkoech Mutai): Mr. Speaker, Sir, and the Hon. Senators of this great House, the “Upper House”, I stand again before you this evening, even as we make our final submission. First of all, I am grateful for the time the Senators have sat for these three days under your leadership. As my lead counsel have indicated, we have made our submissions on the circumstances that have been laid on me.

Mr. Speaker, Sir, the reports, as I said in my earlier remarks, came to me on 5th. It was sent to my office and I received it on 6th, addressed to the County Secretary, marked to the Public Service Board (PSB) and another addressed to me. It is on that every day that the impeachment Motion was tabled. It was then very difficult for me to have started at that time to analyse the reports and be able to do implementation.

Mr. Speaker, Sir, I wish to state here, that as we ponder over this matter during this period of impeachment, right from the Assembly to where we are today, EACC and DCI wrote to the County Government of Kericho requesting documents for the same issues that have been mentioned. As a Governor, I instructed the officers responsible; the County Secretary, to submit the documents to the respective investigating agencies for action.

Mr. Speaker, Sir, I know how weighty the matters before us are. I wish to submit before you and the Senators, that given a chance again, I will implement the reports in totality and also implement whatever infrastructural challenges that the DCI and EACC will recommend us to act upon.

Mr. Speaker, Sir, where there are elements of culpabilities, not only for now, but even in the future on the said officers, it is my commitment that as we take the leadership of Kericho a notch higher, we will do whatever is possible to protect the resources of our people.

Lastly, as an individual, I know that I do not claim perfection. I have flaws just like any other human being. My two years journey in political leadership has been a learning of lessons. When I look around the political environment that we have been, I pray to this Senate, that should I get a chance from this great House, I will also set upon myself to reach out to the entire leadership of Kericho County, especially the MCAs and their Speaker, the Deputy Governor, the Senator and MPs from the County Government of Kericho strike a working relationship with them. It is because this is the second last financial year before the end of this five-year cycle. Striking a working relationship with them will allow us to be able to deliver for the people of Kericho County. We have had our triumphs and also challenges, just like any other leadership and any flaws.

As I conclude, I rise to speak to the counsel and the Senators here that have been listening to this case. As you have listened to the evidence adduced to you, the process has been tabled to you, showing how flawed it was. However, I offer myself that out of

this, we will be able to step up the leadership of Kericho County and be able to work together with great energy and strike a reconciliatory tone, so that we are able to deliver for the mandate of our people.

I wish to thank the Hon. Senators for the opportunity and the time you have taken to listen to us. I know it has been a challenging time. It has also been trying for me, psychologically torturing and it has been one of my lowest moments to be here in the Senate again for the second time.

Thank you, Mr. Speaker, Sir, and I pray that the Senators will find a place in their hearts to look into the matters that we have raised and give us a chance again to work for the great people of Kericho County. *Asanteni sana* and may God bless all of us.

The Speaker (Hon. Kingi): Hon. Senators, ladies and gentlemen, having concluded the closing statements by the parties, the Senate will proceed into a camera session for 15 minutes, pursuant to Rule 27 of the Rules of Procedure. That is for the hearing and determination on the proposed removal from office by impeachment of Hon. (Dr.) Eric Kipkoech Mutai, the Governor of Kericho County.

The objective of the in-camera session is to ensure that the process is concluded seamlessly, timeously and in line with the requirements set out under the Constitution, the County Governments Act and the Senate Standing Orders.

Hon. Senators, during this session, the parties, all members of the public and the media, will be expected to withdraw from the Chamber and the galleries and any form of broadcasting from the Chamber shall cease forthwith.

Consequently, I now direct the parties, all members of the public and media to withdraw from the Chamber and the Galleries and that any form of broadcast from the Chamber to cease forthwith.

It is now 9.35 p.m. We will resume open session at exactly 9.50 p.m.

I thank you.

*(All members of the public, the media and the parties
withdrew from the Galleries)*

(The House went into an in-camera session at 9.35 p.m.)

(End of in-camera session)

(The House resumed at 9.55 p.m.)

The Speaker (Hon. Kingi): Serjeant-at-Arms, where are the parties? If there are any members of the public and the media, take your position.

Serjeant-at-Arms, where are the parties?

*(Members of the public, the media and the parties were
ushered into the Chamber)*

(Several Senators stood up in their places)

The Speaker (Hon. Kingi): Order, hon. Senators. Senator for Homa Bay County, Sen. Chimera and company. Senate Minority Leader, kindly retreat your seat.

(Hon. Senators resumed their seats)

Now, hon. Senators, we have a Supplementary Order Paper. It has been circulated and it is going to be in use from now until the end of these proceedings.

Clerk, you may proceed to call the first Order.

Is the broadcast back?

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

Now, Hon. Senators---

(Sen. Munyi Mundigi walked into the Chamber)

Sen. Mundigi, freeze!

COMMUNICATION FROM THE CHAIR

DIRECTIONS ON ASCERTAINMENT OF THE THRESHOLD REQUIRED FOR THE IMPEACHMENT OF HON. (DR.) ERICK KIPKOECH MUTAI, THE GOVERNOR OF KERICHO COUNTY

Now, hon. Senators, as you may have noted, in the course of this hearing, an important question has arisen as to whether the threshold of 32 votes needed for the impeachment of a County Governor was made pursuant to Section 33 of the County Governments Act, 2012 and Standing Orders No.74 of the Kericho County Assembly Standing Orders.

Hon. Senators, recall that arising---

(Sen. Korir consulted loudly)

Sen. Joyce Korir, the Chair must be heard in silence.

Hon. Senators, recall that arising from an application by Counsel for the Governor to be allowed to call the expert evidence of Mr. Job Okuong'Ogya, whom they claim to be an Information Technology (IT) expert and ruling thereon, I further directed that the Office of the Clerk do engage the ICT Authority and secure an expert, who will provide independent advice on the Kericho County Assembly Electronic Voting System and submit a report that answers the following questions-

- (1) Did an electronic voting process take place?
- (2) Is the number of MCAs who voted on impeachment of the Governor verifiable?
- (3) Was it possible for an MCA or any other person who had a link to vote on the Motion on behalf of an MCA or another MCA?

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- (4) How many MCAs voted in the affirmative on the Motion to impeach the Governor?
- (5) Is there any evidence of multiple voting or other compromise of the voting system and/or any other impropriety in the voting system or process?

(Sen. (Dr.) Khalwale received a phone call)

This report was prepared---
Sen. Boni---

This report was prepared and submitted in the Office of the Clerk of the Senate on Thursday, 28th August, 2025 at 9.35 p.m. and circulated to all Hon. Senators and to the parties during this Morning's Sitting.

Now, Hon. Senators, as you may recall, in my Communication issued on Wednesday, 27th August, 2025, I ruled that the Preliminary Objection (PO) be subsumed in the main hearing of the impeachment proceedings as it was premature and could only properly be addressed once the Senate had heard and weighed the evidence before making any final decision on the impeachment charges.

I further ruled that at the conclusion of the impeachment proceedings, but before voting on the charges, the Senate would pronounce its finding on whether the constitutional threshold of two-thirds of Members of the County Assembly (MCAs) had been met.

Hon. Senators, having conceded the evidence produced before the Senate by the parties and the report of the County Assembly of Kericho Chamber Electronic Voting System submitted by the ICT Authority of Kenya, the Senate Majority Leader will give notice, and move a Motion on the ascertainment of the threshold required for the impeachment of Hon. (Dr.) Erick Kipkoech Mutai, the Governor of Kericho County.

In the event that the Senate finds that the two-thirds threshold of 32 MCAs was not met, then the impeachment proceedings shall immediately terminate and the Senate shall not proceed to determine the impeachment charges.

If, however, the Senate finds that the two-thirds threshold of 32 MCAs was met, then the Senate shall proceed to determine if the impeachment charges have been substantiated by voting thereon.

I thank you.
Next Order.

NOTICES OF MOTIONS

The Speaker (Hon. Kingi): The Senate Majority Leader.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I rise to give Notice of two Motions-

ASCERTAINMENT OF THE THRESHOLD REQUIRED FOR THE
IMPEACHMENT OF HON. (DR.) ERICK KIPKOECH MUTAI,
THE GOVERNOR OF KERICHO COUNTY

THAT, AWARE that pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Friday, 15th August, 2025, the County Assembly of Kericho approved a Motion for the removal from office, by impeachment, of the Hon. (Dr.) Erick Kipkoech Mutai, Governor of Kericho County;

NOTING THAT, by a letter Ref. No.KCA/SP/3 Vol.I (39), dated Friday, 15th August, 2025, and received in the Office of the Speaker of the Senate on Monday, 18th August, 2025, the Speaker of the County Assembly of Kericho informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly including the list of 33 out of 47 Members of the County Assembly that voted in favour of the removal from office, by impeachment, of Hon. (Dr.) Erick Kipkoech Mutai, the Governor of Kericho County;

FURTHER NOTING that in the course of the hearing, an important question arose on whether the threshold of 32 votes needed for impeachment of a Governor as contemplated in Section 33 of the County Governments Act and Standing Order 74 of the County Assembly of Kericho was met;

CONSIDERING the evidence adduced before the Senate by the parties on the issue and further considering the Report on the County Assembly of Kericho Chamber electronic voting system submitted by ICT experts on the invitation of the Senate;

NOW THEREFORE, the Senate resolves that the threshold required for removal of a Governor from office, by impeachment, contemplated in Section 33 of the County Governments Act and Standing Order No.74 of the County Assembly of Kericho was met.

That is the end of Motion one.

RESOLUTION TO REMOVE FROM OFFICE, BY IMPEACHMENT,
HON. (DR.) ERIC KIPKOECH MUTAI, THE GOVERNOR
OF KERICHO COUNTY

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Friday, 15th August, 2025, the County Assembly of Kericho approved a Motion for the removal from office by impeachment, of the Hon. (Dr.) Erick Kipkoech Mutai, Governor of Kericho County;

FURTHER WHEREAS, by letter Ref. No.KCA/SP/3 Vol.I (39), dated Friday, 15th August, 2025, and received in the Office of the Speaker on Monday, 18th August, 2025, the Speaker of the County Assembly of Kericho informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

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FURTHER WHEREAS, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80 of the Senate, the Senate heard the County Assembly on the grounds for the proposed removal from office, by impeachment, of Hon. (Dr.) Erick Kipkoech Mutai, Governor of Kericho County;

AND FURTHER, WHEREAS pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order No. 80 of the Senate, the Senate also heard the Honourable (Dr.) Erick Kipkoech Mutai, on the grounds for his proposed removal from office, by impeachment, as the Governor of Kericho County;

NOW THEREFORE, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80 of the Senate, the Senate resolves to remove from office, by impeachment, the Honourable (Dr.) Erick Kipkoech Mutai, Governor of Kericho County, on the following charges-

Charge 1: Gross violation of the Constitution and other Laws.

Charge 2: Abuse of Office.

Charge 3: Gross misconduct.

Thank you, Mr. Speaker.

The Speaker (Hon. Kingi): Next Order.

MOTION

ASCERTAINMENT OF THE THRESHOLD REQUIRED FOR THE IMPEACHMENT OF HON. (DR.) ERICK KIPKOECH MUTAI, THE GOVERNOR OF KERICHO COUNTY

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. The House will bear with me before I start. I must introduce the Motion. I rise to move the following Motion being the ascertainment of the threshold required for the impeachment of the Hon (Dr.) Erick Kipkoech Mutai, the Governor of Kericho County.

THAT, AWARE that pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Friday, 15th August, 2025, the County Assembly of Kericho approved a Motion for the removal from office, by impeachment, of the Hon. (Dr.) Erick Kipkoech Mutai, Governor of Kericho County;

NOTING THAT, by a letter Ref. No.KCA/SP/3 Vol.I (39), dated Friday, 15th August, 2025, and received in the Office of the Speaker of the Senate on Monday, 18th August, 2025, the Speaker of the County Assembly of Kericho informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly including the list of 33 out of 47 Members of the County Assembly that voted in favour of the removal from office, by impeachment, of Hon. (Dr.) Erick Kipkoech Mutai, the Governor of Kericho County;

FURTHER NOTING that in the course of the hearing, an important question arose on whether the threshold of 32 votes needed for impeachment of a

Governor as contemplated in Section 33 of the County Governments Act and Standing Order 74 of the County Assembly of Kericho was met;

CONSIDERING the evidence adduced before the Senate by the parties on the issue and further considering the Report on the County Assembly of Kericho Chamber electronic voting system submitted by ICT experts on the invitation of the Senate;

NOW THEREFORE, the Senate resolves that the threshold required for removal of a Governor from office, by impeachment, contemplated in Section 33 of the County Governments Act and Standing Order No.74 of the County Assembly of Kericho was met.

Mr. Speaker, this is a preliminary objection. As you pointed out earlier, should we find that the threshold required was met, that would be the end of business this evening.

An hon. Senator: Was not met.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, if the threshold of 32 was not met, if it was not met, then that would be the end of business this evening. Otherwise, we will proceed to the next Motion.

Mr. Speaker, Sir, it is very interesting that two days ago we celebrated 15 years after the promulgation of the Constitution of Kenya, 2010. Fortuitously, this debate is taking place at a time when in public domain there are people who think that men and women of this House do not have their own minds; do not have the capacity to make a decision on such a huge thing. So, to me, this is a God-given opportunity.

Let us do a good job, so that we bring to shame those people who have no respect for other people who sit in their offices, other than the offices they themselves sit in.

Mr. Speaker, Sir, just like you maybe, I will have been helpless from the beginning up to the end of the hearing of the evidence on the preliminary objection. We have been thrown from one position to the other by this witness or that other witness.

Members, you have seen witnesses from both parties flip and flop. You have even seen others contradicting themselves, those witnesses. What is more, you have heard for the first time in our history in this Parliament, you have seen a witness by the name of Edinah rescind her signed affidavit. In some cases, and there were many in excess of 16, we saw witnesses here who had no sworn affidavit. They were speaking to a collective so-called affidavit.

Mr. Speaker, Sir, because of the presence of the Senior Counsel Omogeni and many other eminent lawyers, including Justice Madzayo, we know that we were at pains to find out how we would cross-examine and how we would seek further clarity from these witnesses who swore on a collective affidavit. Mark you, the affidavit was being sworn in respect of electronic voting. If they were being sworn collectively in the case of voice vote, then maybe you would say, in voice vote, we vote as a group; but electronic voting is an individual responsibility. So, any witness coming here wanting to give us an affidavit on how they voted or did not vote electronically, it had to be in the single person. It could not have been collective. We have seen something unprecedented. A lawyer to this trial telling the House and on camera that he voted in Kericho. I have never seen it.

I am sure the legal fraternity and you, the learned friends, must be waiting on what this House will decide about a lawyer who purports to vote in a County Assembly

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process, something which was then controverted by the expert who said that there was no evidence whatsoever that this lawyer voted in Kericho.

What is more, you have seen impunity where not just a lawyer, but a senior counsel goes and assumes the role of a Speaker in the County Assembly of Kericho and calls for MCAs to abide by his request. They stand. What is more, the same counsel has tried to mislead this House by saying that there was interference with the voting logs. The expert who came confirmed that such interference was not there.

This is a good opportunity for us to speak to all respective professions, be it the legal profession, architectural, whatever, that people must live within the oath of office they take when you qualify from a particular discipline.

Mr. Speaker, Sir, I will keep it short by saying the following as my last request - We are lucky. I do not know whether it was the wisdom of the Speaker or the wisdom of the Leader of Majority with the Speaker, and the Leader of the Minority with the Speaker and others, when the House made a decision, as communicated by the Speaker to call from an independent IT expert. Can you imagine where we would have been? The first expert came from the County Assembly. He carried most of us along, but when the lawyers descended on him, we became confused. We did not know whether to believe him or not.

Subsequently, when the team of the Governor then brought its own version of an expert, it was a bigger disaster. In fact, it is the Senator of Narok who captured it. He said that his affidavit was more about a collection of his credentials.

When I looked at the credentials, ladies and gentlemen, distinguished Senators, it was nothing impressive. The only serious credential there was a Bachelors in Computer Science. Otherwise, the other things were diploma here and some course training there. There was nothing that was uum!

(An hon. Senator spoke off record)

You will have your time, my brother.

The Speaker (Hon. Kingi): Proceed and conclude.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. When I looked at those two experts read and understood what the IT expert from the Governor's side was telling us, he did not speak to the voting in Kericho. He started telling us the standard things that you can cut and paste when you want to increase your knowledge about these things where a majority of us are strangers.

I want, therefore, to thank you for bringing Mr. Luvuga, the expert who came from the ICT Authority. It is only Luvuga who clearly demonstrated to us, those of us who are lay, that voting took place electronically; that 33 MCAs voted in Kericho. He confirmed to us that although the system could be better, but as of the time of voting, it was credible and that no one MCA would be able to vote for the other one.

Hon. Members, let us give the people of Kericho an opportunity to hear your views on what you thought about the allegations against the Governor. They want to know because I know you are not biased. The only way you can give them that opportunity to hear what the Senator has to say about how Dr. Kipkoech has been working in office is by allowing this preliminary objection to fall because 33 elected

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leaders in Kericho found through voting electronically that the Governor had a case to answer before us.

I move and request that the distinguished Senator from Narok, Sen. Olekina, seconds.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to second this Motion that this House finds that the threshold required by the Constitution for impeaching a Governor has been met.

I will be brief to the point. I will try not to be sensational, but factual. There are times for being sensational and times for being factual.

With me here, I hold two audit reports of a system. One audit report is allegedly an expert who has been presented by the County Governor of Kericho, who, 30 pages out of 39 pages, is mere credentials of an IT expert, not really taking us to the issues of whether the threshold was met.

The Constitution of Kenya in Article 182 requires that two-thirds is met. In Kericho County, there are 47 Members of the County Assembly, which means this Senate has determined that the threshold is 32. It was an issue that we debated. Others think it is 31.

In this case, the ICT Authority of Kenya determined that, according to the evidence presented, 33 Members of the County Assembly voted to impeach the County Governor of Kericho.

All of us here are litigants, one way or the other. I have never, in my history of litigation, and going to court sworn an adjointed affidavit with my co-witness. In fact, when I first saw that affidavit, I said it was defective. An affidavit is deposed by one individual person under oath that what they are about to say is something that they can be able to stand with.

When I looked at the affidavit that was sworn by allegedly 18, I am told one bolted out and presented a different affidavit, it was very difficult for me to determine who is taking responsibility on what. It was so difficult, even for the two counsels, to be able to cross-examine those witnesses. This was because one of them said he signed the affidavit at 1.00 p.m. after lunch, yet we have been shown evidence clearly that the proceedings proceeded all the way past 9.00 p.m. I do not want to deliver the point. The issue is very clear.

When it comes to voting in this House, we have three choices of voting. You either vote to the affirmative and say, 'yes,' or you vote 'no,' or you abstain. There was a huge argument about those who alleged that they abstained. It is impractical when voting is being carried out electronically, for someone to stand in the middle of a hall and say, "I abstain." Unless you press a button selecting the option to abstain and your vote is indicated as an abstention, it will be difficult for the results to be printed out indicating your abstention.

I do not want to proceed further. I want to urge this Senate to recognise the ICT Authority audit, its findings and conclusions, and proceed accordingly with the impeachment hearing, so that we can delve into other matters that require this Senate to hold these governors to account for resources that we send to the county governments.

Mr. Speaker, Sir, I beg to second.

(Question proposed)

The Speaker (Hon. Kingi): Now, hon. Senators, the Floor is open for debate. In line with the agreement negotiated between the two sides, we will have four Members from the Minority side and four Members from the Majority side each speaking for not more than four minutes. You need not utilise the four minutes. I will start with Sen. Osotsi.

Sen. Osotsi: Thank you, Mr. Speaker, Sir. I will restrict myself to IT issues. You made a decision that this House should hire an IT expert, so that we could be guided on the issue of the IT system that was deployed for voting and that would give us a pointer on whether the threshold was met or not. I have gone through the report by the experts and allow me to point out the inconsistencies I have seen in the report.

This report is basically a production of extracts from volume 4A of the County Assembly bundles. The logs are the same and the list of users of the system is the same.

There are only two things that have been included. This is contained on page 13 where the experts attempted to do an IP lookup for that IP address that had been used nine times. The look-up is supposed to tell you the physical location of a device in this case, the internet.

The physical location of this device is Kericho, but there are inconsistencies. The inconsistency here indicates that the city is Litein Town. We all know that the County Assembly of Kericho is in Kericho Town, but when you use this look-up, it brings up Litein Town. I have a problem with that. I have taken the trouble to do an IP lookup for all the addresses that have been provided on page 29 of volume 4A of the County Assembly bundles.

If you see the results of the lookup you will be shocked. The lookup results indicate that these devices were in different towns in Kenya; Kiambu, Kijabe, Eldoret, Ahero, Narok, Yala, Baringo, Nyandarua and Kapsabet. I attempted to ask this House to give us an opportunity to demonstrate that on the screen, but I was denied that opportunity. I would like to ask this House that we can still do an IP lookup to determine the physical locations of these devices. These devices were phones that were used to vote.

An issue was raised about IP address 41.139.238.129, which had been used nine times and we were told it was a shared Wi-Fi. But there was another IP address which was used three times, 154.1---

The Speaker (Hon. Kingi): You have exhausted your time, Sen. Osotsi.

(Several Senators spoke off the record)

Two minutes, you conclude.

Sen. Osotsi: Philip Irode was my student, I trained him on ITIL, which is an international standard on IT security. The only other serious thing that I have seen is on page 16, where the expert brought a checklist that is used in international ICT audit. However, if you go through this checklist, there are no supporting documents to this report. In most cases, the report simply says "Yes" without evidence. Only two instances are marked "No." Even matters like system training are unsupported.

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I wish to remind this House that I was an expert in the presidential petition of Raila Odinga *versus* IEBC, together with Sen. M. Kajwang'. Our evidence on results transmission led to the annulment of the election.

Article 86 of the Constitution says that the voting method must be simple, accurate, verifiable, secure, accountable and transparent. This does not qualify, in any way, to meet the basic requirement under Article 86. This House's credibility has been questioned. We have an opportunity to decide whether we want to continue being condemned outside there or make the right decision. I urge this House that we need to send back this MCAs to do the right job and bring back the right voting numbers. Whether this has met the threshold or not, I want to---

Sen. Mungatana, MGH: Mr. Speaker, Sir, first of all, I agree with the Mover of the Motion on one issue; and that is the only issue I am going to agree with Sen. (Dr.) Khalwale on. That, this House must be respected by everybody and every office. This House has donated none other than the Deputy President and Cabinet Secretaries (CSs). So, it must be respected by everybody.

I come to my point and I totally disagree with the Mover of this Motion. There is doubt as to the numbers of the people who actually participated in the voting and you cannot escape that. We have been sitting here for the last three days and every person who has spoken to this matter, including the experts, have created doubt and continue to create doubt.

We are sitting here as a quasi-judicial unit. In fact, it is a criminal case that we are handling; almost like a criminal case. We must ask ourselves, what is the standard that must be met when we are proving things? If we can agree what the standard is, then we should not have a problem with rejecting this Motion.

Mr. Speaker, Sir, we borrow heavily from the American system. In USA, eight governors have been impeached and five of them have been sent home. Three have survived, one of them having resigned before the process was completed. In USA the test is very simple. They say it is legal evidence plus political test. Here in Kenya, we have a standard that is divided into two.

I want to propose that when the Motion is coming from the county assembly and we talk about the issues of threshold, the standard must be like the criminal level standard. It must be beyond reasonable doubt. It must be. On these other motions and other charges, then we can adopt the American standard of saying it is legal evidence and political test. However, on the question from the County Assembly, it must be beyond reasonable doubt.

Mr. Speaker, Sir, here, they have said that the expert report, the ICT Authority, is to be followed like it is from the Bible. However, I heard him say that if you have the credentials, which are the ID and IDDP, any person could actually vote. He said it himself here. Other Senators are not telling us that that report was not signed by the side of the Governor. They did not sign it because they did not agree with it. The ICT man disappeared for two hours and when he came, he was not speaking to anybody. Let us---

The Speaker (Hon. Kingi): Sen. (Prof.) Tom Odhiambo Ojienda, proceed.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Mr. Speaker, Sir. I will address myself to the threshold issue based on the evidence tendered before the Senate.

Witness statements were shown to us from page 113 and other individual witness statements thereafter. A total of 18 witnesses testified in a manner as to recant their signatures or their vote on the day that voting occurred. That raises doubt. Two, the report that was apparently brought to this House by the IT expert seemed not to have achieved concurrence. Therefore, it did not conform to the terms of reference that was set by the Senate for this report to pass the test of authenticity or concurrence of all those who sat to make this report.

Third, impeachments under Article 181 of the Constitution and Section 33 of the County Governments Act are set on a threshold that is cast in stone. That threshold, as cast in stone speaks to a minimum of 32 MCAs for Kericho County. The moment there is doubt as to a vote, then that doubt must be resolved in favour of the Governor.

I say this not because I want to be a Governor or that I hold a PhD like the Governor being impeached, but because I speak the truth and we must uphold and protect the office of Governor in the same manner, as we protect any other officers.

(Sen. Wambua spoke off the record)

Sen. Wambua, I know you want to be Governor. Keep quiet!

(Laughter)

Mr. Speaker, Sir, it is that shred of doubt that leads me to the conclusion - and I agree with the analysis of Sen. Osotsi - that we cannot sacrifice the Governor at the altar of an unverified system. It is unethical and we will not do that.

Thank you.

The Speaker (Hon. Kingi): Sen. Mandago, proceed.

Sen. Mandago: Thank you, Mr. Speaker, Sir. First, I disagree with the Mover of the Motion.

(Applause)

First, on the issue of credentials, you know, I heard Sen. (Dr.) Khalwale say the expert from the Governor's team, other than a degree, it was dotted with some Diploma here and there. I want to remind Sen. Khalwale that Diploma is a recognised qualification in the Kenya education system.

If he has forgotten, I also want to remind him that his house was built by a person with a Diploma in building.

(Applause)

Even as we say that the expert from the Governor provided a document that was littered with qualifications, the expert from ICT Authority, the only thing that we have in this report is his title, Deputy Director of ICT. We do not even know whether he is really an expert.

Having said that, I am also an ICT person and there are very basic things in ICT security that you must look at. All of us know that even when you are opening your own email and you create a password, the system alone will tell you that password is not strong. There are things such as ID card number that you are not allowed to use as a password. Even as we sit here, as Senators, our files are in the custody of the Clerk. All the staff members of the Senate handle our files. They know our ID numbers. The IPPD number is in the files.

How then do you say that the credentials were secure when we all know that ID numbers are in the files and other credentials that the staff walk around with?

Mr. Speaker, Sir, the Counsel for the County Assembly said, if an alligator tells you that the crocodile is sick, who are you to doubt? If MCAs are alleged to have voted, they have walked physically here and we can see them live. If they say they never voted, what reason do we have to doubt that they did not vote?

If you look at IP No.41139237129, that appears to have been in Laikipia, I highly suspect it is the one that was used to vote for the three hon. Members. Why do we have the same IP address?

This impeachment was premediated. You cannot rely on ICT to develop a system that was launched a day before and use it before doing what we call a test-run of the system. There is a difference between a voting system that tallies electronic data and a biometric system where you just put your fingerprint. Biometrics are part of an electronic system.

Mr. Speaker, Sir, the County Assembly must tell us this. How do you hire an officer who was fired by the County Executive to be a staff of the County Assembly? It is for only one mission, which is to make sure that they impeach the Governor in a manner that is---

The Speaker (Hon. Kingi): Senator, now you are done.

(Sen. Mandago spoke off record)

We cannot go that route.

(Loud consultations)

Sen. Omogeni, you have made your point. Sen. Omogeni, just take your seat.

(Sen. Omogeni sat at his place)

(Sen. Mandago spoke off record)

You have 30 seconds.

Sen. Mandago: In those 30 seconds, Mr. Speaker, Sir, MCAs said that the Governor was in gross violation of the law. I heard one MCA saying that the Governor should have fired the Chief Officers, while in the same testimony, the MCA acknowledged that is the work of the County Public Service Board (CPSB). How then do they say that the Governor has violated the law?

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Finally, Mr. Speaker, Sir---

The Speaker (Hon. Kingi): Proceed, Sen. Omogeni.

Sen. Omogeni: Mr. Speaker, Sir, it is a universally accepted principle that you rather acquit 10 suspects if in doubt than convict one unfairly.

Today is my Sabbath. I came here to understand this system that was developed in Migori; a Special Purpose Vehicle (SPV) that was meant to impeach the Governor of Kericho.

For the three days that we have sat here, on my part, I have not understood this system. I am unable to understand how that system was allocated to each person in terms of devices.

There is drama that has played out in this House in the eyes of the public. An MCA called Martin came to this House and swore by the name of the Almighty God that he did not cast his vote at the County Assembly of Kericho. Do you believe the system or the person who carried the Bible and swore before the Senate? What do you trust? Is it the Bible or the system?

Hon. Senators: It is the Bible.

Sen. Omogeni: Mr. Speaker, Sir, there was more drama. The same MCA called Martin played a video clip before this House that was watched by Kenyans, where the Mover of the Motion was recorded in a discussion saying that he voted on behalf of that MCA. Does that not create a doubt in the minds of Senators? Yes or no?

Mr. Speaker, Sir, if you are in doubt, acquit. If you have been placed in a situation where there is reasonable doubt as to whether the 33 MCAs voted, acquit.

I posed a question to the expert called Mr. Luvuga. I asked him; if an MCA had a link, username and password, could he vote on behalf of another MCA and he said 'yes.' In this House where I sit, if my neighbor, Sen. Wambua, has my PIN and he wanted to play mischief, he can cast a vote on my behalf.

Mr. Speaker, Sir, as I submit this evening, if you look at the entire system, reasonable doubt has been created as to whether the 33 MCAs who voted indeed cast their votes. There is what we call materiality principle. If you remove the four MCAs, the Motion must fail and we return it back to the MCAs. On the other hand, if you are convinced that the 33 MCAs voted, we can move to the next step.

My submission this afternoon is that reasonable doubt has been created as to whether the 33 MCAs voted. The only thing we can do, as Senators, is to return the Motion back to the MCAs of Kericho to conduct the impeachment in a proper manner and return to us.

Remember the case of O. J. Simpson. If the gloves cannot fit, acquit. In this case, if we are not convinced that 33 MCAs indeed voted, the Motion fails and we return it back to the County Assembly of Kericho.

The Speaker (Hon. Kingi): Proceed, Sen. Kisang.

Hon. Senators: Expert!

Sen. Kisang: Mr. Speaker, Sir, as Members have said, I am an expert. I want to report to the House that Sen. Mandago and Sen. Osotsi are my juniors in the profession.

(Applause)

Secondly, Mr. Speaker, Sir, what Members need to be reminded about is that when the expert from the ICT Authority was here, he said that for you to vote, you needed an IPPD number, ID number and the link sent to your phone, so that you can vote. I do not know why our memories are short that within two or three hours, we have forgotten what the expert from the ICTA said.

Thirdly, Sen Osotsi said that the logs that were produced by the expert from the ICTA are the same ones in volume 4A of the County Assembly documents. That confirms that what the expert brought is exactly what was done at the County Assembly.

Fourthly, if you listened to the expert from the ICT Authority, he explained in a layman's language to the Senators that an IP address is like this particular door that we use. He said that is what ISPs use. He mentioned Safaricom, Telkom and Airtel. The location my colleagues were talking about is where the ISPs were.

There is a question that I put to the two experts. I asked them whether they undertook penetration tests. The expert from the Governor did not answer that question. The expert from ICT authority said several penetrations failed. It is in the report and he said he attempted to do it, but it was not possible.

So, I want to ask my colleagues for the benefit of the people of Kericho County. I am requesting and asking you, hon. Members, let us support the Motion and move to the real issues, so that the people of Kericho County can get justice---

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Members. Order.

Sen. Kisang: Mr. Speaker, Sir, protect me from some Members. We do not know where they have come from this evening.

The Speaker (Hon. Kingi): Order, hon. Senators.
Order. Order, Senator for Nandi County.

(Sen. Cherarkey and Sen. Chimera consulted loudly)

Order, hon. Senators!

Sen. Chimera, I give you a first caution for the evening. Senator for Nandi County, I give you your first caution for the evening. Any other disorderly conduct, and I will throw you out of the chamber.

Conclude, Sen. Kisang.

Sen. Kisang: Mr. Speaker, Sir, as an expert who has practices and I have practiced from 2nd November, 1994, after working---

The Speaker (Hon. Kingi): One minute, you conclude.

Sen. Kisang: As an expert who has practiced for over 34 years, between the two experts, I believe the expert from ICT Authority and for your information, we did not seek the profile for the expert from ICT Authority. To reach that level of a Deputy Director, you must have a Masters in ICT.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Finally, the Senate Majority Leader.
Senate Majority Leader, will five minutes be okay?

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The Senate Majority Leader (Sen. Cheruiyot): No, no, no, Mr. Speaker, Sir, you know I tried not to speak during this entire process. Anyway, I will try.

The Speaker (Hon. Kingi): Try, because if you look at the clock, we are at 11.00 p.m., and you know exactly what that means.

The Senate Majority Leader (Sen. Cheruiyot): Okay, I understand, Mr. Speaker, Sir. So, keep it under five minutes.

Mr. Speaker, Sir, I must record that this has been a very difficult three days. I have sat here for many years transacting impeachments. I did not know the feeling when your own county is on trial. It is embarrassing, traumatising and heartbreaking.

I must register my appreciation to colleagues in this House. First, for agreeing to listen to our issues, you must receive in great measure, from the people of Kericho County.

Up to this point, I want to pass my appreciation to this House, because as of Wednesday morning, when this trial began, there were doubts in the minds of many people in Kericho that this impeachment hearing was going the way of the previous impeachment hearing, where the county assembly was sent back with a bundle of documents without listening to what are the issues that the people of Kericho were facing. For that, I must register my appreciation, colleagues.

Secondly, I have taken time to follow this exercise for the last three days. When Mr. Alfred Korir--- I will limit my conversation on this topic to purely the Motion that is before us, but if time allows, I will say something at the end of it.

I listened to the first gentleman who was brought here, Mr. Alfred Korir, the ICT gentleman from the County Assembly. He explained himself quite clearly on the exercise that took place on that particular day of voting up to the end. When the counsel for the Governor rose and poked holes into his presentations, they created some level of doubt in me, and I said, perhaps, there is something that is in there.

As a son of Kericho County, I know many people who work in the County Assembly of Kericho. Therefore, out of an abundance of caution, I made specific phone calls to the people who sat in the chamber as the Members of the County Assembly were voting. I asked them specific questions, because this case has finally boiled down to the three votes of the MCA for Kapkatet, the MCA for Kapkurgerwet and the MCA for Cheplanget.

I asked them specifically, please, tell me, as your Senator, what I need to tell my colleagues when I eventually rise to speak. That gentleman assured me and told me those three gentlemen voted in support of this Motion. Later on, because these are people I know, came in here, and took the Bible, took the oath and said that they had not voted. Therefore, I said, let me listen further to be convinced.

As fate would have it, in your usual wise way, you guided this House that perhaps we needed the opinion of an independent expert, somebody who is neutral to the conflict, somebody who has no interest to protect, somebody who just wants to serve their country and guide the Parliament of the Republic of Kenya to make the right decision, I said, I will listen to that one.

I have never met the gentleman who came here. I want to believe that he has very little interaction, perhaps with the people of Kericho, save for the fact that he was executing an assignment granted by this House. He has returned to this House a verdict.

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In fact, I want to ask, why are we debating this Motion? I thought you already gave a ruling, that because we cannot make an impartial decision for one reason or the other, maybe for want of understanding of technology or because of other interests, let us invite an expert to guide us. An expert has gone through the system, they have given us the results. What are we debating, Mr. Speaker? Why are we voting?

Mr. Speaker, Sir, we are being unfair to ourselves, even procedurally, as a House. Why did we call experts? It is because we knew, even amongst ourselves, that the so-called IT experts in the House would not agree.

At least I have listened to Sen. Kisang, somebody that I respect so much. I have gone to his private office. I know that he practices IT, but you know, nowadays everybody, even somebody just downloads WhatsApp onto their phone, and all of a sudden, they are ICT experts.

Mr. Speaker, Sir---

The Speaker (Hon. Kingi): Senate Majority Leader, are you, therefore, suggesting that the Senate is wrong by bringing this Motion?

The Senate Majority Leader (Sen. Cheruiyot): Correct.

Mr. Speaker, Sir, I am very clear in my mind that upon the tabling of this report by the expert, as per your direction, we shall have proceeded to look into the issues.

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators.

Sen. Cheruiyot, you are the Senate Majority Leader in this Senate.

The Senate Majority Leader (Sen. Cheruiyot): Yes, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): That Motion is yours. Why did you bring it, if you did not believe in it?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, you need to hear me. I am now speaking as a Senator representing the people of Kericho. That Motion has been brought by the office of the Senate Majority Leader.

The Speaker (Hon. Kingi): Proceed, Senator, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, the most useful thing for me in this House is that before being Senate Majority Leader, I first represent the interests of the people of Kericho. That is what I am doing.

I want to remind you of something, that, as you listen to colleagues contribute, I want to urge colleagues that you can disagree with the things that have been said, but honestly---

(Sen. Kathuri and Sen. Sifuna consulted loudly)

The Speaker (Hon. Kingi): Order, Senator for Meru County and Senator for Nairobi City County. Allow the Senate Majority Leader to speak as the Senator of Kericho. This is a very emotional moment for him. The only thing you can do is to support him.

Proceed, Senator.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I do not know--

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(Sen. Thang'wa consulted loudly)

Order!

Now, Senator for Kiambu County. I am going to caution you for the evening. If you proceed to be disorderly, you may not have the opportunity to exercise the right to vote.

Proceed, Sen. Cheruiyot.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir. page 5 out of 23---

The Speaker (Hon. Kingi): Order, Sen. Thang'wa.

(Sen. Thang'wa spoke off record)

The Speaker (Hon. Kingi): Order, Sen. Thang'wa, unless you do not want to participate in the remaining part of this proceeding.

Proceed.

The Senate Majority Leader (Sen. Cheruiyot): Page five of 22 of this report, the expert answers a question that many of you continue to cling on as you explain why you do not want us to open the real case and look into the issues of the people of Kericho.

He states, was it possible for any MCA or any other person who had a link to vote on the Motion, on behalf of an MCA or another MCA? The answer, in caps and in bold, is no. You cannot vote for any other person and MCA with the link provided alone. You need to have the other details. Sen. Kisang, together with that expert have already debunked this theory by the Governor's team that there are MCAs who voted for others.

Mr. Speaker, Sir, I have been in this House long enough. I know when people have made a decision. However, I want to make a humble plea to you colleagues; that even when you have decided on a matter, at least, respect the work of professionals. It is not fair on some of the comments that have been made about an innocent gentleman who was just sitting on his desk doing his work yesterday afternoon. It is us who invited him to come to this House. That gentleman had no business coming here. How can we invite a gentleman to this House---

(Sen. Lemaletian consulted loudly)

Sen. Hezena, you are disorderly.

Proceed.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I am about to conclude, so I want to plead that my colleagues listen to me. I want to register the appreciation of the people of Kericho to this gentleman who gave us the greenlight and assured us what the Assembly did is right.

It is not because I have anything against the Governor. This gentleman is somebody I know very well. This gentleman is a Governor duly elected. However, I wanted to listen to the things that the MCAs have alleged.

Today, I will go home. I do not know how Members will vote. I want to plead with my colleagues to allow us the opportunity, so that the people of Kericho can know exactly what the Senate of the Republic of Kenya thinks on all the issues that the County Assembly has brought before you. Do you want to tell me, leaders, that you are surely going home convinced that the County Assembly has not been able to prove beyond reasonable doubt that there is systemic corruption in the County Government of Kericho?

Mr. Speaker, Sir, unfortunately or fortunately, we may never get to that point if this Motion does not carry the favour of Members. However, I want to tell the people of Kericho, speaking from this House, that justice you will get by any means necessary. It can be from this House or through other agencies constitutionally charged to ensure that when public funds are pilfered and looted, they are recovered.

There are companies that have been named here. There are individual directors that own those companies. There are directors of those institutions in the public institution that is the County Government of Kericho, who engaged in those exercises. We want to tell you that by bad luck, if you escape the Senate today, you will not escape the next trap that the people of Kericho have laid for you.

I thank you and rest my case.

(Applause)

The Speaker (Hon. Kingi): Now, Sen. Boni, as you respond, look at the clock. If you can do it in under one minute, you will help the Senate.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I thank the Senate Majority Leader for allowing me to move this Motion. I am very satisfied and happy for the reason that the House has now risen to the level it should as a House of debates. You are not supposed to agree. You are supposed to disagree and then convince your colleague to see your point.

You have done very well, colleagues. Vote the way you want. However, as I appeal to you that we allow this Motion to go on until we hear the full Motion, let me appeal to you something I learned in medical school from my professional.

My professor of orthopaedics, Prof. Mulimba, was approached by a medical student whose father was suffering from diabetes. Mulimba said, “for you to treat this diabetes, the problem is the rotten foot. Let us amputate.” The boy said, “No, you are a professor, but you cannot amputate the limb of my father.” As Professor begged; the boy refused. The diabetes consumed the father because the boy did not want the opinion of the professional.

Mr. Luvuga has been here, a professional. Pay attention to him. He is right, whether you like it or not.

I beg to move.

The Speaker (Hon. Kingi): Now, hon. Senators, we are moving to Division. We are going to vote on this first Motion. Now, voting shall be by delegation. Therefore, I will ask the Serjeant-at-Arms to ring the Division Bell for two minutes.

(The Division Bell was rung)

The Speaker (Hon. Kingi): Order, Hon. Senators. The two minutes are over. Kindly take your seats. Please, take your seats.

*(Several Senators stood in their places
and consulted loudly)*

Senator for Kitui--- Hon. Senators, kindly take your seats. Sen. Abass and Deputy Speaker--- Order, hon. Senators, let us take our seats. Sen. Okiya Omtatah--- Senator for Kiambu County--- The miracle Senator, kindly take your seat.

Hon. Senators, we will move to vote. Before you vote, I need to put the question, which I will proceed to do right now. However, before we do that, Serjeant-at-Arms, kindly lock the door and draw the bar.

(The Doors were locked and the Bar drawn)

Sen. Boy Issa, please, take your seat.

Hon. Senators, I will now proceed to put the Question.

Order, Senator for Meru.

(Question put)

Order, Sen. Mundigi.

Hon. Senators, before we vote, kindly pull out the cards from your delegates' units. Serjeant-at-Arms, move around the Chamber and collect any unattended card that is still in the delegate units. Serjeant-at-Arms, if you are done with that exercise, kindly let me know. Serjeant-at-Arms, are we done?

Hon. Senators, kindly log back. Now, before you vote, let me make it very clear, so that we do not make mistakes. If you vote 'yes,' you are basically saying 'yes,' the threshold was met. If you vote 'no,' you are saying 'no,' the threshold was not met, and, therefore, this matter ends here.

Have you logged in? Hon. Senators, you may now proceed to vote.

(Hon. Senators consulted loudly)

Please, hon. Senators, we have not suspended the Standing Orders.

(Hon. Senators proceeded to vote)

The Speaker (Hon. Kingi): Sen. Thang'wa proceed to the Dispatch and cast your vote.

(Sen. Thang'wa registered his vote at the Clerks-Table)

(Loud consultations)

Hon. Senators, kindly take your seats. Sen. Boni, would you like to sit there are proceed to your usual seat.

MOTION

ASCERTAINMENT OF THE THRESHOLD REQUIRED FOR THE
IMPEACHMENT OF HON. (DR.) ERICK KIPKOECH MUTAI,
THE GOVERNOR OF KERICHO COUNTY

DIVISION

ELECTRONIC VOTING

(Question, that now therefore, the Senate resolves that the threshold required for removal of a Governor from office, by impeachment, contemplated in Section 33 of the County Governments Act and Standing Order 74 of the County Assembly of Kericho was met, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass, Wajir County; Sen. Boy, Kwale County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Kajwang. M, Homa Bay County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang, Elgeyo-Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Madzayo, Kilifi County; Sen. Oketch Eddy, Migori County; Sen. Olekina, Narok County; Sen. Omar, Garissa County; Sen. Sifuna Nairobi City County; and, Sen. Tabitha Keroche, Nakuru County.

NOES: Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. Kinyua, Laikipia County; Sen. Lomen, Turkana County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mo Fire, Tharaka Nithi County; Sen. Mungatana, MGH., Tana River County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita-Taveta County; Sen. (Prof.) Tom Odhiambo Ojienda, SC., Kisumu County; Sen. Omogeni, Nyamira County; Sen. Okiya Omtatah, Busia County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Thang'wa, Kiambu County; Sen. Wafula, Bungoma County; Sen. Wamatinga, Nyeri County; and, Sen. Wambua, Kitui County.

ABSTENTION: Sen. Wakili Sigei, Bomet County.

The Speaker (Hon. Kingi): Hon. Senators, the result of the vote on the Division is as follows-

AYES: 16

NOES: 26

ABSENTIONS: 1

The "Nays" have it

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(Question negated by 26 votes to 16)

COMMUNICATION FROM THE CHAIR

EFFECT OF VOTE ON MOTION ON ASCERTAINMENT OF THE
THRESHOLD REQUIRED FOR THE IMPEACHMENT, OF
HON. (DR.) ERICK KIPKOECH MUTAI,
GOVERNOR OF KERICHO COUNTY

The Speaker (Hon. Kingi): Hon. Senators, as I had earlier indicated, in the event that the Senate finds that the two-thirds threshold of 32 Members of County Assembly was not met, then the impeachment proceedings shall immediately terminate and the Senate shall not proceed to determine the impeachment charges. The result of the division indicates that the Motion has been negated. Consequently, the impeachment hearing hereby terminates.

(Applause)

Hon. Senators, rise.

(Hon. Senators stood up in their places)

ADJOURNMENT

The Speaker (Hon. Kingi): Hon. Senators, there being no other business to transact, this Senate stands adjourned until Tuesday, 23rd September, 2025 at 2.30 p.m.

The Senate rose at 11.33 p.m.