



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT – (FOURTH SESSION)**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**SPECIAL SITTING**

**WEDNESDAY, AUGUST 27, 2025 AT 9.00 A.M.**

1. The Senate assembled at Nine O'clock.
2. The proceedings were opened with Prayer said by the Speaker.

3. **QUORUM OF THE SENATE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, directed that the Bell be rung for ten minutes, pursuant to Standing Order 40;

And there being no Quorum at the expiry of the ten minutes, the Speaker directed that the Bell be rung for a further ten minutes;

And there being a Quorum before the expiry of the further ten minutes, the Speaker invited the Clerk to call the Orders of the day.

4. **COMMUNICATION FROM THE CHAIR - CONVENING OF A SPECIAL SITTING OF THE SENATE FOR THE HEARING ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) ERIC MUTAI, GOVERNOR OF KERICHO COUNTY**

The Speaker conveyed the following communication from the Chair: -

“Honourable Senators, Ladies and Gentlemen,

I have a Communication to make relating to the business of the Senate scheduled for consideration during this solemn Sitting.

You will recall that at the Special Sitting of the Senate held on Wednesday, 20<sup>th</sup> August, 2025, I appointed today, Wednesday, 27<sup>th</sup> August, 2025, Thursday, 28<sup>th</sup> August, 2025 and Friday, 29<sup>th</sup> August, 2025, as the days when the Senate will hear the charges for the proposed removal from office, by impeachment, of Hon. (Dr.) Eric Mutai, Governor of Kericho County.

Vide Gazette Notice No. 11796 dated 21<sup>st</sup> August, 2025, I notified the general public that pursuant to Standing Order 80 (b) (ii) of the Senate Standing Orders, the Senate shall investigate the proposed removal from office, by impeachment, of Hon. (Dr.) Eric Mutai, Governor of Kericho County, in Plenary. Consequently, a Hearing Programme has been prepared and appended to the Order Paper for today.

Honourable Senators, Ladies and Gentlemen,

In accordance with the schedule of activities for an impeachment hearing in Plenary, the Senate will hold a closed-door preparatory session to deliberate on the management of the investigation. The objective of the preparatory session is to ensure that the process is conducted seamlessly, concluded timeously, and in line with the requirements set out under the Constitution, the County Governments Act and the Senate Standing Orders.

Honourable Senators, Ladies and Gentlemen,

During the pre-hearing, the parties (if they are present), 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 the media, to withdraw from the Chamber and the galleries and that any form of broadcast from the Chamber to cease forthwith. In accordance with the Hearing Programme for an Impeachment Hearing in Plenary, the open session will commence at 10.00 am.

I thank you.”

Thereupon, members of the public and media withdrew from the galleries – Closed Session.

5. **BRIEFING ON THE RULES OF PROCEDURE FOR THE HEARING AND DETERMINATION OF THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) ERIC MUTAI, GOVERNOR OF KERICHO COUNTY**

Upon invitation by the Speaker, the Clerk briefed Senators on the Rules and Procedure for the hearing and determination of the proposed removal from office, by impeachment, of Hon. (Dr.) Eric Mutai, Governor of Kericho County.

6. **OPEN SESSION RESUMED** – at eleven O’clock (Rt. Hon. Speaker – in the Chair)

7. **COMMUNICATION FROM THE CHAIR - MANDATE OF THE SENATE, RULES OF PROCEDURE FOR THE HEARING AND DETERMINATION OF THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) ERIC MUTAI, GOVERNOR OF KERICHO COUNTY**

The Speaker conveyed the following communication from the Chair: -

“Honourable Senators, Ladies and Gentlemen,

Having dispensed with the Pre-Hearing meeting of Senators, which was a closed session, it is now time to commence the proceedings on the proposed removal from office, by impeachment, of Hon. (Dr.) Eric Mutai, Governor of Kericho County.

By a letter dated 15<sup>th</sup> August, 2025, the Speaker of the Kericho County Assembly informed the Speaker of the Senate that at a sitting of the Kericho County Assembly held on 15<sup>th</sup> August, 2025, the County Assembly of Kericho approved a Motion for the removal from office, by impeachment, of Hon. (Dr.) Eric Mutai, the Governor of Kericho County.

The Speaker of the County Assembly of Kericho also forwarded the following documents to the Senate, being the record of proceedings of the County Assembly and the evidence adduced in support of the impeachment Motion –

- (i) Copy of approved Notice of Motion dated 6<sup>th</sup> August, 2025 - laid on the Table of the Assembly on Wednesday, 6<sup>th</sup> August, 2025 (Afternoon Sitting).
- (ii) Certified copy of a list of Members (with signatures) in support of a Motion for removal of the Kericho County Governor by Impeachment dated 6<sup>th</sup> August, 2025.
- (iii) Order Papers for the Assembly Sitzings of Wednesday, 6<sup>th</sup> August, 2025 (Afternoon Sitting); and Friday, 15<sup>th</sup> August, 2025 (Special Sitting).
- (iv) Copy of the Gazette Notice for the Special Sitting of Friday, 15<sup>th</sup> August, 2025.
- (v) Certified Hansard Reports for the Assembly Sitzings of Wednesday, 6<sup>th</sup> August, 2025 (Afternoon Sitting); and Friday, 15<sup>th</sup> August, 2025 (Special sitting).
- (vi) Copies of letters dated 6<sup>th</sup> and 13<sup>th</sup> August, 2025, Reference numbers KCA/SP/3 Vol 1 (37) and KCA/SP/3 Vol 1 (38), respectively, inviting the Governor of Kericho to respond to the tabled impeachment Motion.
- (vii) Copy of Affidavit of Service by Ms. Sharon Chepng'etich Mibey serving His Excellency, the Governor of Kericho County, with the invitation letter and

copy of laid Notice of impeachment Motion together with its evidence and another letter for supplementary evidence and memorandum on public participation and Gazette notice on behalf of the Speaker, County Assembly of Kericho.

- (viii) Certified copy of electronic voting extracts (33 votes) on the Motion for the impeachment of His Excellency, the Governor of Kericho county held during the Assembly Sitting of Friday, 15<sup>th</sup> August, 2025.
- (ix) Documents tabled during the debate on the Motion for removal of the Governor of Kericho County by impeachment:
  - a. Payment vouchers for Land's, Housing and Physical Planning Department made to –
    - (i) Denbi Holdings Limited;
    - (ii) Debral Ventures Limited; and
    - (iii) Crane Bee Group.
  - b. Payment vouchers for the Agriculture, Livestock and Cooperative Management Department made to –
    - (i) Derju Enterprise Limited;
    - (ii) Lewry Enterprise Limited;
    - (iii) Mabsa General Supplies Limited;
    - (iv) Aksak Techogies Limited;
    - (v) Pkendes Company; and
    - (vi) Joylee Group Limited.
  - c. A Procurement Plan and Memo for supply and delivery of assorted office stationeries
  - d. Payment vouchers for Public Works, Roads and Transport Department made to –
    - (i) Simron Construction Company Limited;
    - (ii) Enreal Supplies Limited; and
    - (iii) Tokiila General Supplies.
  - e. Payment vouchers for Finance and Economic Planning Department made to –
    - (i) Alucraft Voucher;
    - (ii) Roreki Limited;
    - (iii) Darhk Limited;
    - (iv) Finch Focus Limited;
    - (v) Jomarcx Holding Limited; and
    - (vi) Benlock Ventures Limited.
  - f. Payment vouchers for Health Services Department made to –
    - (i) Afroscape Limited; and
    - (ii) Slick Solutions Limited.
  - g. Payment Vouchers for Water, Energy, Environment, Forestry and Natural Resources made to –
    - (i) Chebema Construction Supply; and
    - (ii) Roley Ventures Limited.
  - h. Report on Pending Bills by committee on Ad hoc

- i. Report by the Committee on Water and Environment on FLLoCA projects
- j. NAVCDP Report by the Committee on Agriculture, Livestock and Fisheries
- k. Adhoc Committee report on Kazi Mtaani
- l. Report by Department of Finance and Economic Planning (Strategic Intervention Phase 2) and 2 photos
- m. Four (4) Affidavits
- n. One (1) Judgement and one (1) Ruling
- o. Adhoc Committee Report on Londiani Incident
- p. Auditor General Reports
- q. Correspondence between the Governor and the Speaker dated 20<sup>th</sup> August, 2024 and 3<sup>rd</sup> September, 2024
- r. Advertisement for vacancies by County Public Service Board -
  - (i) An internal memo on Redeployment of staff under the Health Service Department;
  - (ii) A Facebook extract; and
  - (iii) Letters of termination.
- s. Adhoc Committee report on alleged fictitious payment
- t. Voucher for Mengro Products Limited (Retention)
- u. Other Companies that were paid retention money
- v. Evidence of Public Participation-
  - (i) An extract of the Standard Newspaper Advertisement for Public Participation on Notice of motion for the removal of Dr. Erick Kipkoech Mutai, Governor of the County Government of Kericho, by Impeachment;
  - (ii) A scanned memorandum and submissions received in response to the notice of Motion for removal of Dr. Erick Mutai as Governor of Kericho County;
  - (iii) A Public Participation register for the collection of Memorandum forms; and
  - (iv) A Report on public participation.
- w. Governor's response and Volume 1 and 2
- x. Kericho County Assembly Standing Orders
- y. Flash disc containing video evidence and three (3) transcripts

Pursuant to Section 33(3) (a) of the County Governments Act and Standing Order 80 (1) (a), at a Special Sitting of the Senate held on Wednesday, 20<sup>th</sup> August, 2025, the charges against the Governor of Kericho County, as contained in the Motion of Impeachment by the County Assembly of Kericho, were read to the assembled Senate.

Honourable Senators, Ladies and Gentlemen,

As you are aware, the mandate of the Senate in relation to the proposed removal from office by impeachment, of a County Governor is provided under Article 181 of the Constitution as read together with section 33 of the County Governments Act, 2012 and Standing Order 80 of the Senate Standing Orders. In particular, Article 181 of the Constitution provides as follows—

- (1) A county governor may be removed from office on any of the following grounds –
  - (a) gross violation of this Constitution or any other law;
  - (b) where there are serious reasons for believing that the county governor has committed a crime under national or international law;
  - (c) abuse of office or gross misconduct; or
  - (d) physical or mental incapacity to perform the functions of office of county governor.
- (2) Parliament shall enact legislation providing for the procedure of removal of a county governor on any of the grounds mentioned in clause (1).

Section 33 of the County Governments Act, 2012, Standing Order 80 and the Third Schedule to the Senate Standing Orders provide for the procedure to be followed in the hearing and determination of the proposed removal from office, by impeachment, of a county governor. Specifically, section 33 (3) and standing order 80(1)(b) of the Senate provide that the Senate may either, by resolution, appoint a Special Committee comprising eleven of its members to investigate the matter; or investigate the matter in Plenary.

Honourable Senators will recall that at the Special Sitting of the Senate held on Wednesday, 20<sup>th</sup> August, 2025, the Motion for the establishment of a Special Committee was withdrawn pursuant to Standing Order 70 for failure to be seconded. This withdrawal paved the way for the default position, the hearing of the impeachment charges against the Governor of Kericho County to be held in Plenary.

Honourable Senators, Ladies and Gentlemen,

By way of a status update, pursuant to Rules 4(a) and 6 of the Rules of Procedure when considering the proposed removal of a governor in Plenary, the Senate invited the Governor to appear and be represented before the Senate during its investigation. The Senate further invited the Governor, if he so chooses to appear before the Senate, to file an answer to the Charges with the Office of the Clerk of the Senate by 5:00 pm on Monday, 25<sup>th</sup> August, 2025 setting out –

- (i) the Governor's response to the Particulars of the allegations;
- (ii) the mode of appearance before the Senate; whether in person, by advocate or in person and by advocate;
- (iii) the names and addresses of the persons to be called as witnesses, if any, and witness statements containing a summary of the evidence to be presented by such witnesses before the Senate; and
- (iv) any other evidence to be relied on.

Pursuant to Rules 4(b) and 7 of the Rules of Procedure when considering the proposed removal of a governor or a deputy governor in Plenary, the Senate notified the Kericho County Assembly of the date for the commencement of the investigation and invited the County Assembly to designate Members of the County Assembly, who shall appear and be represented before the Senate during the investigation. The County Assembly was further invited, if it so chooses to appear before the Senate, to file with the Office of the Clerk of the Senate by 5:00 pm on Monday, 25<sup>th</sup> August, 2025, documentation –

- (i) designating the Members of the County Assembly, being not more than three Members, if any, who shall attend and represent the Assembly in the proceedings before the Senate;
- (ii) indicating the mode of appearance before the Senate; whether in person, by Advocate, or in person and by Advocate;
- (iii) indicating the names and addresses of the persons to be called as witnesses, if any, and witness statements containing a summary of the evidence to be presented by such witnesses before the Senate; and
- (iv) specifying any other evidence to be relied on.

Honourable Senators, Ladies and Gentlemen,

On Monday, 25<sup>th</sup> August, 2025, the Office of the Clerk of the Senate, received a response dated 23<sup>rd</sup> August, 2025, to the Invitation to Appear issued to the Governor, from M/S. Katwa and Kemboy Advocates, who indicated that the Governor had appointed the firm to represent him in the hearing before the Senate. The letter also indicated the Counsel representing the Governor and the list of witnesses for the Governor. Counsel for the Governor also indicated that the Governor would appear before the Senate in person and by Advocate.

Similarly, on Monday, 25<sup>th</sup> August, 2025, the Office of the Clerk of the Senate received a response, Ref. No. H&K/009/017/2025 and dated 24<sup>th</sup> August, 2025, to the Invitation to Appear issued to the County Assembly of Kericho, from M/S. H&K Law Advocates, who indicated that the County Assembly of Kericho had appointed the firm to represent the County Assembly in the hearing, and that the County Assembly would also appear in person and by advocates. The letter also indicated the Counsel representing the County Assembly and the list of witnesses for the County Assembly.

Pursuant to Rule 8 of the Rules of Procedure when considering the proposed removal of a governor in Plenary, the Clerk of the Senate furnished each party with the documentation filed by the other party in accordance with Rules 6 and 7 of the Rules of Procedure.

Honourable Senators, Ladies and Gentlemen,

The Hearing Programme which has been appended in today's Order Paper, details the various activities in the hearing and determination of the matter and the time allocated to each activity. It will be crucial that all the parties comply with the time allocated. The parties will be notified of the balance of time on each activity through the digital clocks mounted on the Clerks' Table.

In summary, the Programme states that today, Wednesday, 27<sup>th</sup> August, 2025, after we have dispensed with preliminary matters, the Charges against the Governor shall be read. The Governor will be given an opportunity to take a plea on each charge. This will be followed by an opening statement by the County Assembly and thereafter by the Governor. After the conclusion of the opening statements, the presentation of the case of the County Assembly shall commence and shall not exceed five (5) hours.

At the Sitting scheduled for tomorrow, Thursday, 28<sup>th</sup> August, 2025, Honourable Senators will be given an opportunity to ask questions or seek clarifications from the County Assembly. Thereafter, the Governor will have an opportunity to present his case before the Senate. The presentation shall also not exceed five (5) hours. Honourable Senators will also be given an opportunity to ask questions or seek clarifications from the Governor.

At the Sitting scheduled for Friday, 29<sup>th</sup> August, 2025, the closing statements by the parties will be made for a period not exceeding one hour each. The Senate shall then proceed to a debate prior to voting on each of the charges. At this stage, a Supplementary Order Paper will be issued to facilitate this debate.

In accordance with Article 123 of the Constitution, the County Governments Act, 2012 and Standing Order 80(6) of the Senate, the voting shall be by county delegations. The Governor shall cease to hold office if a majority of the county delegations in the Senate vote to uphold any impeachment charge. If, however, the vote in the Senate fails to result in the removal of the Governor, pursuant to standing order 80(7), the Speaker of the Senate shall notify the Speaker of the Kericho County Assembly accordingly.

Honourable Senators, Ladies and Gentlemen,

I now invite Counsel for the County Assembly of Kericho to introduce the legal team of the County Assembly and the Members of the County Assembly of Kericho representing the County Assembly, by stating the full name and designation of each person."

Thereupon, Mr. Kimutai Bosek, Advocate introduced himself and proceeded to introduce the following: -

- i.) Mr. Elisha Ongoya, Lead Counsel.
- ii.) Mr. Vincent Kipronoh, Advocate.
- iii.) Mr. Joel Wakhungu, Advocate.



- iv.) Mr. Evans Kiplangat, Advocate.
- v.) Mr. Elvis Kipkorir, Advocate.
- vi.) Mr. Victor Kibet, Advocate.
- vii.) Mr. Geoffrey Langat, Advocate.
- viii.) Mr. Brian Langat, Advocate.
- ix.) Mr. Hillary Kiplangat, Advocate.
- x.) Mr. Elias Mutuma, Advocate.
- xi.) Ms. Sharon Mibey, Advocate and also the Deputy Clerk of the County Assembly.
- xii.) Hon. Kiprotich Rogony, Member of County Assembly/Witness.
- xiii.) Hon. Albert Kipkoech, Member of County Assembly/Witness.
- xiv.) Hon. Vincent Korir, Member of County Assembly/Witness.

“Honourable Senators, Ladies and Gentlemen,

I now similarly invite Counsel for the Governor to introduce the legal team representing the Governor, by stating the full name and designation of each person.”

Thereupon, Ms. Doris Ng’eno, Advocate introduced herself and proceeded to introduce the following: -

- i.) Senior Counsel Katwa Kigen K. J, Lead Counsel
- ii.) Mr. Peter Wanyama, Advocate.
- iii.) Ms. Rose Thiong’o, Advocate.
- iv.) Mr. Joash Mitei, Advocate.
- v.) Mr. Evanson Kirui, Advocate.

“Honourable Senators, Ladies and Gentlemen,

On behalf of the Senate, I welcome the team for the County Assembly, the team for the Governor, members of the public and the media to the Senate and to these proceedings.

Finally, I now invite the Clerk to call the next order and thereafter to read the charges against Hon. (Dr.) Eric Mutai, Governor of Kericho County.

I thank you.”

8. **RECITAL OF THE CHARGES ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) ERIC MUTAI, GOVERNOR OF KERICHO COUNTY**

The Speaker directed the Clerk to read to Hon. (Dr.) Eric Mutai, Governor of Kericho County, the particulars of the allegations against him as presented by the County Assembly of Kericho.

Upon invitation by the Clerk, the Governor proceeded to take the stand;

Thereupon, pursuant to Rule 16 of the Rules of Procedure for the hearing and determination of the proposed removal from office by impeachment of a Governor in Plenary (Part 1), the Clerk proceeded to read out the particulars of the allegations as follows: -

“Hon. (Dr.) Erick Kipkoech Mutai, Governor of Kericho County, the charges against you as received from the County Assembly of Kericho are as follows, and I quote—

Ground 1: Gross Violation of the Constitution and Other Laws

*(Gross Violation of the Constitution of the Republic of Kenya, 2010; the County Governments Act, 2012; the Public Procurement and Asset Disposal Act; the Public Finance Management Act, 2012; and Kericho County Laws)*

The Particulars of this ground are as follows-

Allegation 1: Misappropriation and Misallocation of County Finances

On various occasions since his election as a governor and subsequent assumption of office, the Governor has engaged in various acts of gross violation of Articles 10, 183 and 201 of the Constitution, Sections 102 and 109 of the Public Finance Management Act, Cap 412A, and the provisions of the Kericho County Rating Act, No. 5 of 2019 as follows:

I. Fictitious Payment of Works, Goods and Services

Between January 2025 and July 2025, the Governor engaged in gross violations of Articles 10, 183, 201, 207 and 208 of the Constitution and Sections 102, 109 and 110 of the Public Finance Management Act, 2012 and Section 30(3)(f) of the County Government Act, 2012, the Governor aided, abetted and/or condoned the fictitious payment of goods, services and works which were neither delivered nor done occasioning the County loss of Kshs. 85, 704,522.90 in;

- (a) Services which were not rendered and/ or partially done e.g. the maintenance of 15 residential houses in Kipkelion West Sub-County at a cost of Ksh. 2,999,000;
- (b) Goods not delivered including; soya beans, maize germ, sunflower seed cake and cotton seed cake alleged to have been supplied for Kshs. 14,980,640;
- (c) Overpriced goods including sodas alleged to have been bought for about Kshs. 500/= per 300 millilitres bottle and a bale of tissue paper alleged to have been bought for Kshs. 2,750 per bale of 10 tissue papers, and a hand towel priced at Kshs. 3,600/-;

- (d) Works, goods and services alleged to have been procured for Kshs. 5,172,715.60 from companies including Mengro Products Limited, Hildama Construction and Supplies Limited, Brissack Construction and Supplies Limited, Prospera Ventures Limited and IBM Pro Construction Limited without any supporting documents; and
- (e) Payment of contractors from the retention account for the works done more than five (5) years ago, some of which companies had already been paid and therefore misappropriating county funds through double payments.

Some of the goods, services and works were procured without following the procurement processes. No tender opening committees were formed contrary to Section 78 of the Public Procurement and Asset Disposal Act 2015 as read together with Regulation 25 of the Public Procurement and Asset Disposal (Regulations), 2020. Similarly, there were no professional opinions done to the accounting officers contrary to Section 84 of the Public Procurement and Asset Disposal Act, 2015.

There was deliberate circumvention of competitive tendering of the same goods, services and works by splitting of contracts to suit the Request for Quotation method thus violating Section 54 of the Public Procurement and Asset Disposal Act, 2015 as read together with Regulation 43 of the Public Procurement and Asset Disposal (Regulations), 2020.

Most of the goods, services and works were procured outside the approved budget as required under Section 44(2) (a) of the Public Procurement and Asset Disposal Act, 2015.

The documents used by the departments were not clear and did not bear references to the procurement requirement, provision of dates especially invoices generated and signatures of respective officers. There was therefore blatant violation the provision of Regulation 68 of the Public Procurement and Asset Disposal (Regulations), 2020.

No market survey was conducted as required under Regulation 43(4) of the Public Procurement and Asset Disposal (Regulations) 2020. The contractors therefore supplied goods with exorbitant prices contrary to Section 54(2) of the Public Procurement and Asset Disposal Act, 2015.

All of the subject goods, services and works were paid for in advance yet the County has accumulated pending bills over the last three (3) years of Kshs. 1.1 Billion which have been verified and are yet to be paid from the time the Governor assumed office.

The Report of the Ad-hoc Committee on the Alleged Fictitious Payments tabled before the Assembly on 5<sup>th</sup> August, 2024 made pertinent and damning findings and recommendations that point to the deliberate failure to act, neglect of duty and even conspiracy on the part of the Governor, *to wit*;

- (a) The documents shared with the Ad-hoc Committee by the departmental heads called to testify were not accompanied by the ETIMS invoice. This lends credence to the suspicion that the documents may have been prepared to cover up the theft after the whistle was blown.
- (b) The payments were made in advance before goods, service and works were delivered or done and, as at the date of tabling of the Report, some of those goods, services and works remained undelivered to date.
- (c) Documents that were used to process payments bore the signatures that could not be authenticated. Subsequently, certain officers whose signatures appear in the said documents have denounced the documents.
- (d) The gaps highlighted in the Report point to serious governance concerns and weak internal controls in Kericho County that the Appointing authority i.e. the Governor, policy makers, accounting officers and indeed all the officers entrusted to deliver services to the county have failed to do as required by law.
- (e) There was an intention to defraud the County and violations of the Constitution, 2010, the Public Finance Management Act, 2012, the County Governments Act, 2012, the Leadership and Integrity Act, the Powers and Privileges (County Assemblies) Act, the Public Procurement and Asset Disposal Act, 2015.

Under Article 179 of the Constitution and Section 30 (3) (f) of the County Government Act, 2012, the Governor has the overall responsibility of being accountable for the management and use of county resources.

It is a matter of public notoriety that when the whistle was blown on these fictitious payments, the Governor, on 26<sup>th</sup> July, 2025 while attending a function at Kamolok Village in Cheboin Ward, rubbished the claims and called for stern action against the whistle blower. This shows someone who is either unaware of the happenings in the County or was deeply involved in the scandal.

## II. Misappropriation of National Agricultural Value Chain Development Project (NAVCDP) Funds

On various dates between the year 2023 and 2025, the Governor has violated the provisions of Articles 10, 183, 201, 207 and 208 of the Constitution and Sections 48 and 159 of the Public Finance Management Act, 2012 and Section 30(3) (f) of the County Government Act, 2012 by aiding, abetting, condoning and/or overseeing the massive looting, pilferage, misappropriation and misallocation of NAVCDP Funds amounting to over Kshs. 351,000,000/= as at 10<sup>th</sup> June, 2025. From the Report of the Committee of Agriculture, Livestock and Fisheries and Cooperative Management, Tourism and Wildlife on the Implementation Status of National Agriculture Value Chain Development Project (NAVCDP) in Kericho County tabled in the County Assembly on 6<sup>th</sup> August, 2025, the County Assembly noted the following discrepancies in the use of the Fund:

- (a) The expenditure was used for Farmers' Cooperative Societies (Farmer Producer Organizations) found only in 19 out of 30 Wards in Kericho County. This implies that the funds that were meant for agriprenuers whose role was to enumerate farmers and organize them into saccos was not adequately utilized;
- (b) Each ward sacco was meant to get Kshs. 1,000,000/- yet the Committee found that out of the 19 saccos under the program, only 7 have ever received financial support since the inception of the Fund.
- (c) It is further indicated in the Report that some sacco received nominal support in kind in form of office furniture and some farm inputs while others have never received any support.
- (d) Even those saccos and farmer producer organizations which received support in kind, did not receive delivery notes when the furniture, computers and other supplies were delivered and they cannot therefore ascertain the prices, source and therefore quality of what was supplied.
- (e) The procurement of furniture and equipment under the NAVCDP program was conducted centrally with minimal involvement of key stakeholders. This does not only undermine the principle of transparency in procurement, decision-making and lack of ownership but also created room for pilferage and misappropriation of the Fund.

The office furniture and equipment supplied under the NAVCDP program are largely of substandard quality. There was therefore no value for money and compliance with the Public Procurement and Asset Disposal Act, 2015 particularly section 124 which obligates the procuring entity to select Quality and Cost Based Selection (QCBS) method as the preferred method to be used to evaluate proposals.

The manner in which the few projects which were implement were done show that they were done without following the Project Implementation Manual published by the World Bank to guide the implementation of the projects.

Again, the Governor shirked his overall responsibility under Article 179(4) of the Constitution and Section 30(3)(f) of the County Government Act, 2012 to be accountable for the management and use of county resources.

There is evidence that the Governor has been ordering withdrawals from the Fund for reasons other those for which the Fund was created by the donor. Evidence of this shall be availed at the hearing and consideration of this Motion. The Mover will as well be asking the Assembly to issue an order under Article 195 (2) (b) of the Constitution and Section 27 (1) (c) and (2) of the County Assemblies Powers and Privileges Act, 2017 compelling the relevant banks where the funds were drawn from to furnish this House with the bank statements showing the withdrawals of the funds from 2023 to date.

### III. Misappropriation of Funds and Unfair Distribution of Projects Funds under the Financing Locally-Led Climate Action (FLOCCA) Fund

On various dates between the year 2023 and 2025, the Governor has violated the provisions of Articles 10, 179, 183, 201, 207 and 208 of the Constitution and Sections 102 and 107 of the Public Finance Management Act, 2012 and Section 30(3)(f) of the County Government Act, 2012 by presiding over unfair, skewed and nepotistic distribution of projects under FLOCCA Funds; imprudent use, misappropriation and misallocation of FLOCCA Fund as follows:

- (a) Skewed and unfair distribution of Projects under the Fund with the Governor's home ward, namely Chemosot Ward alone getting projects worth Kshs 21,701,590/= while there are many other wards not only in other sub-counties but even in Bureti Sub-county which have received not a single project under the Fund. This nepotically skewed distribution of projects under the Fund violates the national values and principles of governance under Article 10 of the Constitution and in particular the values of equity, non-discrimination, equality, good governance, integrity, transparency and accountability; the principles of public finance under Chapter Twelve of the Constitution; as well as the provisions of Sections 102 and 107 of the Public Finance Management Act which enjoins the Governor to ensure fiscal responsibility and adherence to the values and principles of the Constitution in the management of the County Funds.
- (b) The Joint Committee on Water and Sanitation and Environment, Energy, Forestry and Natural Resources in their Report on the Implementation Status of FLOCCA Programs noted that some projects under the Fund, namely Chemomul Water Project in Kabianga, Water and Environment Projects in Seretut-Cheptororiet Ward, Torochtany Cooperative Society Milk Cooling Plant in Kapsaos Ward, Soliat Water Tree Nursery Establishment Project in Soliat Ward, are Ndonyo Mare Borehole Water Project and Lelaitich Water Project in Soliat Ward are marked as 100% complete yet there are either defects in the works, incomplete and substandard works.

As a result of this unfair distribution of projects, wards like Cheplanget, Litein, Chaik, Kipchebor, Chilchila and Kunyak did not get even a single project in all the categories under the Fund, namely; environment, agriculture and water.

### IV. Misappropriation of County Funds under Equalizer Kazi Mtaani Initiative

On or about 31<sup>st</sup> August, 2023, the Governor engaged in gross violation of Articles 10, 183, 201, 207 and 208 of the Constitution and Sections 102, 109 and 110 of the Public Finance Management Act, 2012 by launching a programme dubbed "Equalizer Kazi Mtaani Initiative" and drawing county funds towards the Initiative without a legislation to anchor the initiative, public participation, prior approval of the County Assembly and the Controller of Budget, and prior approval of the Budget and Appropriation Committee approval.

Under the Fund, a total of Kshs. 39,000,000/= were paid without proper tendering, local service orders and for the services which were not delivered. The County Assembly's Report on the Ad hoc Committee on Kazi Mtaani Project pointed out various violations of the Constitution and the law in the rolling out and implementation of the Initiative. However, the Governor deliberately disregarded the Report and it has hitherto not been implemented.

The deliberate failure, omission and unwillingness to implement the Report of the County Assembly on Equalizer Kazi Mtaani Initiative undermines devolution, the doctrine of separation of powers and is therefore antithetical to the values and principles of governance under Article 10 of the Constitution, the objects of devolution under Article 174 of the Constitution.

**V. Misappropriation of Funds under the Strategic Intervention Projects (SIP's)**

In various dates during the financial year 2024/ 2025, the Governor engaged in gross violation of Articles 10, 183, 201, 207 and 208 of the Constitution and Sections 102, 109 and 110 of the Public Finance Management Act, 2012 by overseeing misappropriation of various projects under the Strategic Intervention Projects (SIP) Fund.

For instance, the Project for Upgrading of Kunyak Dispensary to Health Centre which is a retender project for the construction and renovation of various facilities within the Health Centre by Ms. Belitra enterprises Limited for Kshs. 44, 756,846/=-, a total of Kshs. 8,575,186/=- has been paid for no works done. Indeed, when the County Assembly's Committee on Implementation visited the site, they found that the contractor had only supplied materials contrary to the Finance Department's Report to the assembly that Kitchen and staff house was at walling stage while the MCH is at slab level.

**VI. Other Violations of the Constitution and the Law**

The present and former chief executive committee members and chief officers have variously reported coercion by the Governor to make financial allocations for Governor's own use from the funds allocated to their respective departments and which funds they were required to remit through the Governor's personal assistants.

Violation of Article 201 (a), (d), (e) of the Constitution of Kenya, 2010 on principles of public finance management and Article 226 as read with Article 227 of the Constitution by presiding over glaring irregularities evidenced by:

- (a) Irregular award of contracts and evasion of accountability;
- (b) Willfully interfering in the procurement processes and the award of tenders;
- (c) Skewed tender awards to various contractors at inflated rate and in collusion with fraudulent contractors and suppliers;

- (d) Irregular implementation and unfair distribution of various programs in the County; and
- (e) Intentionally and negligently presiding over massive theft of county public funds as evidenced by the Auditor General's Reports for the preceding Financial Years which have raised red flags over various projects.

On 15<sup>th</sup> August, 2023, the Governor compensated the victims of Londiani accident from the County emergency fund to cover up for the funds raised by the public and misappropriated by a committee he had formed to steer the fund drive, and without a cogent explanation of how the funds publicly raised for the victims had been expended.

Allegation 2: Misappropriating and/or Abetting Misappropriation of the Funds Publicly Raised for the Victims of Londiani Accident

On various dates between 4<sup>th</sup> July, 2023 and 9<sup>th</sup> July, 2023, the Governor grossly violated the provisions of Articles 10, 73 and 75 of the Constitution, and sections 29 and 34 of the Leadership and Integrity Act, 2012 by:

- (a) Overseeing misappropriation of the funds raised for the victims of horrendous Londiani Junction accident tragedy in which over Kshs. 9 million of public raised funds were lost.
- (b) Reneging on his undertaking to implement the Report of the County Assembly's Ad hoc Committee formed to probe the misappropriation of funds meant for the victims of the accident. There is evidence that the Governor filed a suit and/or supported a suit by those implicated in the Report of the County Assembly's Ad hoc Committee in Kericho ELRC Petition No. E006 of 2023 – Dr. Wesley Bor & 5 Others vs. The Governor, Kericho County Government & Others and Kericho ELRC Petition No. E014 of 2023 – Victor Tum & Others vs. The Governor, Kericho County Government & Others.
- (c) Being personally and directly complicit in the flawed award of direct tenders for service providers during the fund raiser and requiem mass of the victims of the accident.
- (d) The County Governor has in this regard committed numerous and various acts in the course of his duties that are contrary to, and in violation of the Constitution and the Laws of Kenya. These include:
  - (i) The authenticity of various payments made cannot be confirmed. The fact that the exact amount of money expended from the sum collected during the fundraiser points to impropriety and suggests a clear fraud on those whom the funds ought to have benefited.



- (ii) A total of Kshs. 13,682,660/- was collected at the fund raiser. A sum of Kenya Shillings Four Hundred and Twenty- Three Thousand (Kshs. 423,000/-) was purportedly expended as: Pastor's facilitation, transport refund, field preparation, lunches and refreshments, printing, publishing and radio announcements. Other payments that were approved from the fund were: Kericho County Referral Hospital- Kshs. 2,037,524/- ; Londiani Hospital- Kshs. 1,534,190/-; Supertix Limited- Kshs. 2,945,000/-; Supershine Limited- Kshs. 411,000/-; Rays Hotel- Kshs. 100,000/-; County Commissioner's fuel- Kshs., 300,000/- etc.
  - (iii) That when Kenyans from all walks of life voluntarily made contributions to aid the victims of the tragedy, it was never intended, or anticipated that the funds would be misappropriated with the blessings of the Governor who had a higher calling to ensure the money is accounted for to the last coin and on whom the people bestowed their trust.
  - (iv) The Governor issued contradictory statements in so far as the use of the funds is concerned. The contradictory statements point to his being complicit in the matter.
  - (v) While the Governor is on record indicating that the medical bills for all the victims would be waived and taken care of by the County Government, it is not clear why money had to be paid out from the fund collected to various public hospitals against the express and unequivocal representations of the Governor.
- (e) By his acts of omission and commission, the Governor has grossly violated the provisions of Article 75 of the Constitution which demands that a state officer shall, whether in private or in public, behave in a manner that avoids conflict of interest between personal interests and public or official interests, or compromises public interest in favour of personal interest.
- (f) By overseeing the misappropriation of the funds aimed at assisting the victims of the accident, the Governor violated Article 73(2) which demands from him selfless service based solely on public interest, demonstrated by honesty in the execution of his duties, accountability to the public for decisions and actions and discipline and commitment in service.
- (g) By allowing himself to be a master of double speak in such a grave matter that shook the conscience of the nation, the Governor violated Article 73(1)(a)(ii), (iii) of the Constitution which demand that he at all times demonstrates respect to the people; and brings honour and dignity to the office he holds.

- (h) By allowing himself and senior officials close to him to benefit from the funds, the Governor violated Article 76(2)(b) of the Constitution which prohibits a state officer from accepting a benefit in circumstances that compromise the integrity of the state officer.
- (i) By failing to ensure that decision making in the executive office of the County Governor are not influenced by corruption, nepotism, and other callous and improper motives, the Governor has failed to exercise objectivity and impartiality thus violating Article 73(2)(b) of the Constitution Kenya, 2010.

### Ground 2: Abuse Of Office

The Particulars of this ground are as follows-

#### Allegation 1: Illegal Appointments, Unlawful Dismissals and Transfers, and Usurpation of the Constitutional and Statutory Functions of County Public Service

The Governor has variously engaged in (i) gross misconduct, and (ii) gross violations of Articles 10, 73, 75, 232, 235 and 236 of the Constitution, (iii) gross violation of section 17 of the Public Officer Ethics Act, Sections 55, 59, 59A, 60, 62, 63, 64 and 65 of the County Governments Act, Section 4 of the Public Appointments (County Assemblies Approval) Act, 2017, and variously abused his office by:

- (a) Skewed, uncompetitive and nepotic appointments of the County employees of various cadres. For instance, the Governor recently hired his own brother, one Victor Mutai, as a revenue clerk. Similarly, the Governor's personal assistant's wife, one Chepkirui Mercy who was recently hired as a nurse on contract basis, was confirmed yet there are a number of nursing staff who have been serving on contract for long without confirmation.
- (b) Illegally appointing one Mrs. Alice Bett (now Judge of the High Court) as the County Attorney when there was a substantive office holder, an act which the Employment and Labour Relations Court (Hon. Lady Justice Wasilwa) affirmed was irregular, unprocedural and unlawful in Sang v Governor Kericho County & 2 others (Petition E001 of 2023). In that case, the Governor was found by the Court to be in gross violation of Articles 73 and 232 of the Constitution, his actions found to be illegal and unconstitutional and ordered to pay costs of Kshs. 2,000,000 and costs personally. The Governor has therefore been already adjudged to be in gross violation of the law and all the Assembly and the Senate.
- (c) Causing the advertisement of the positions of doctors, nurses, early childhood education (ECDE) teachers just to endear himself politically when he knew the County Government did not have capacity to hire. The applicants were subsequently not short listed nor the alleged vacancies filled up.
- (d) Illegally deploying health staff vide the Notice dated 22<sup>nd</sup> July, 2024 Without any justification, authority and involvement of County Service Board, thus creating a crisis in health sector.

- (e) Since his assumption of office, the Governor has dismissed a total of ten (10) County Executive Committee (CEC) members, six (6) Chief Officers (CO's), Two (2) Chiefs of Staff, among other senior county staff without any cause or reason thus exposing the County to protracted litigation and the risk of huge compensation in damages. The Governor has perpetuated this firing-spree not for any reason but as a show of might, power and authority, and that is where the abuse lies.

Allegation 2: Subversion, Discrediting and Impeding of the Oversight Role of the County Assembly

On 3<sup>rd</sup> September, 2024 the Governor engaged in (i) gross misconduct and (ii) grossly violated the provisions of Articles 10, 73, 75, 174 and 185(3) of the Constitution, and abused his office by writing to the speaker purporting to direct the Speaker on, inter alia, the timelines the Speaker should give the chief officers who are summoned by the Assembly for questioning in exercise of the Assembly's oversight mandate.

Ground 3: Gross Misconduct

The Particulars of this ground are as follows-

Allegation: Bullying, Incitement, Vilification of People and County Staff

On various occasions, the Governor has repeatedly engaged in (i) gross misconduct and (ii) gross violation of the provisions of Articles 10, 73 and 75 of the Constitution, and sections 29 and 34 of the Leadership and Integrity Act by:

- (a) The Governor has been operating with impunity as though he is above the law. On the second day of being sworn in to office, the Governor led a mob to invade a private land owned by one Mr. Joseah Kiplangat Kogo within Kericho town and tore down the fence. The Governor has since designated the subject land as an illegal dumpsite operated by the County Government without the consent of the registered proprietor, National Environment Management Authority (NEMA) approval, gazettment by the County designating the parcel as a dumpsite and in total disregard of a court order issued by the Environment and Land Court in Kericho in ELC Petition No. E001 of 2022 – Joseah Kiplangat Kogo vs. County Government of Kericho. The Governor has also obstructed the enforcement of the orders by the police administration. The actions are illegal, contemptuous to the authority and dignity of the court and the rule of law, unethical and demeaning the office the Governor holds. Further, as a result of the illegal actions of the Governor, the County was condemned to pay the costs.
- (b) None of the dismissed CECs, CO's, Chiefs of Staff and other senior county staff were given fair administrative, due process and hearing thus violating the provisions of Articles 41, 47 and 50(1) of the Constitution.
- (c) The Governor has persistently intimidated, molested, harassed county officers who do not sing to his tune leaving officers jittery and creating an atmosphere

of fear, uncertainty and despondency in the county and thus creating a toxic work environment. This violates the provisions of Sections 11 and 13 of the Leadership and Integrity Act, 2012.

- (d) The Governor has persistently used divisive and unbecoming language which undermines the office he holds contrary to Section 8 of the Leadership and Integrity Act, 2012.
- (e) The acts of the Governor enumerated above have collectively brought dishonour and disrepute into the Office of the Governor in violation of Chapter 6 of the Constitution and the Leadership and Integrity Act, 2012.

Hon. (Dr.) Erick Kipkoech Mutai, how do you plead to the three Grounds? Guilty or not guilty?”

**Taking of plea:**

The Clerk of the Senate invited the Governor to plead to the particulars of the allegations as read;

Thereupon, the Governor pleaded ‘Not Guilty’ to the charges.

9. **PRELIMINARY OBJECTIONS TO THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) ERIC KIPKOECH MUTAI, GOVERNOR OF KERICHO COUNTY**

Before commencement of the hearing for the Proposed Removal from Office by Impeachment of Hon. (Dr.) Erick Kipkoech Mutai, Governor of Kericho County, the Speaker invited the counsels for the parties to submit any preliminary objections.

Thereupon, Counsel for the Governor, Mr. Katwa Kigen, submitted preliminary objections to the proceedings as follows –

- (a) The County Assembly of Kericho ought not have entertained and or decided on the impeachment proceedings, considering that there were orders served to stay the proceedings. The orders made in Kericho HCCHR Pet/E010/2025 on 14<sup>th</sup> August, 2025 provided that—

*Having considered the material placed before this Court, I find the motion dated 13<sup>th</sup> August 2025 to be urgent. The same is admitted to hearing during the court’s vacation. It is fixed for inter parties hearing on 28<sup>th</sup> August, 2025.*

*In the interim and pending the inter parties hearing on the instant motion, a conservatory order is issued against the Respondents jointly and severally suspending and staying the admission onto the 1<sup>st</sup> Respondent’s Assembly’s Plenary by the 2<sup>nd</sup> Respondent/ Speaker, tabling/moving of the impeachment motion by the 4<sup>th</sup> Respondent or anyone else, seconding, debating, voting, considering and/or acting upon the Notice of Motion dated 6<sup>th</sup> August, 2025 given by the 4<sup>th</sup> Respondent Hon. Kiprotich Rogony on 6<sup>th</sup>*

*August, 2025 and scheduled to be moved at the Plenary of 1<sup>st</sup> Respondents/ County Assembly Plenary on 15<sup>th</sup> August, 2025.*

- (b) The impeachment Motion dated 6<sup>th</sup> August 2025 did not meet the threshold required under section 33 (2) of the County Governments Act, 2012. This is because out of 47 members of the County Assembly of Kericho, 18 members did not vote whatsoever on 15<sup>th</sup> August, 2025 as they were in opposition of the Motion. The maximum voting MCAs would have been 29 MCAs. The required statutory threshold of 32 members of the County Assembly to support the motion was therefore not achieved.
- (c) Despite 18 members of the County Assembly of Kericho not voting on 15<sup>th</sup> August, 2025, hence having “abstained”, the Speaker and the Clerk of the County Assembly of Kericho fraudulently altered the votes allegedly cast and used an electronic voting platform that had no transparency and integrity, all so as to indicate that 33 members of the County Assembly voted to support the impeachment motion. The voting system, infrastructure and framework did not meet the standard of transparency, accountability and did not have any integrity. Further, that the method of voting that the Speaker and the Clerk of the County Assembly of Kericho deployed on 15<sup>th</sup> August, 2025 did not meet the mandatory requirement of transparency in Article 10 (2) (c) of the Constitution.
- (d) The impeachment proceedings moved on 6<sup>th</sup> August, 2025 and voted upon on 15<sup>th</sup> August 2025, then forwarded to the Senate by the County Assembly of Kericho, are contrary to the provisions of Standing Order No. 70 A (2) of the Kericho County Assembly Standing Orders. The Standing Order prohibits the use of previously “highlighted” grounds from being used in subsequent impeachment.

Pursuant to Rule 14 of the Rules of Procedure for the Hearing and Determination of the Proposed Removal from Office by Impeachment of a Governor in Plenary, the Speaker allowed Counsels for the parties to make arguments on the preliminary objections following which Senators sought clarifications on the preliminary objections.

The Speaker interrupted the proceedings and adjourned the Senate at fifteen minutes past One O'clock, pursuant to Standing Order 34(2A).

10. **SENATE ROSE** – at fifteen minutes past One O'clock.

### **M E M O R A N D U M**

*The Speaker will take the Chair on  
Wednesday, August 27, 2025 at 2.30 p.m.*

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