



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT – (FOURTH SESSION)**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**SPECIAL SITTING**

**WEDNESDAY, DECEMBER 03, 2025 AT 9.00 AM (MORNING SITTING)**

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 SITTING OF THE SENATE FOR THE HEARING ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE AMOS KIMWOMI NYARIBO, GOVERNOR OF NYAMIRA COUNTY**

“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 Sitting of the Senate held on Thursday, 27th November, 2025, I appointed today, Wednesday, 3rd December, 2025 and tomorrow, Thursday, 4th December, 2025, as the days when the Senate will hear the charges for the proposed removal from office, by impeachment, of Honourable Amos Kimwomi Nyaribo, Governor of Nyamira County.

Vide Gazette Notice No. 17613 dated 2nd December, 2025, I notified the general public that pursuant to Standing Order 80 (1) (b) (ii) of the Senate Standing

Orders, the Senate shall investigate the proposed removal from office, by impeachment of the Governor of Nyamira County, in Plenary. Consequently, a Hearing Programme has been prepared and appended to the Order Paper for today, that highlight the various activities to be undertaken in the hearing.

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 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.

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. AMOS KIMWOMI NYARIBO, GOVERNOR OF NYAMIRA 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. Amos Kimwomi Nyaribo, Governor of Nyamira 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**

**HONOURABLE AMOS KIMWOMI NYARIBO, GOVERNOR OF NYAMIRA 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 of the proposed removal from office, by impeachment, of Honourable Amos Kimwomi Nyaribo, Governor of Nyamira County.

By a letter dated Tuesday, 25th November, 2025, the Speaker of the County Assembly of Nyamira informed the Speaker of the Senate that at a sitting of the County Assembly of Nyamira held on Tuesday, 25th November, 2025, the County Assembly of Nyamira approved a Motion for the removal from office, by impeachment, of Honourable Amos Nyaribo, Governor of Nyamira County.

The Speaker of the County Assembly of Nyamira 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 an approved Notice of Motion dated 11<sup>th</sup> November, 2025;
- (ii) Copy of an approved Impeachment Motion containing Grounds and Particulars with Annexures thereto;
- (iii) Copy of the Public Participation Report;
- (iv) Copy of Invitation letter to Governor to appear before the County Assembly to respond to the allegations dated 17<sup>th</sup> November, 2025;
- (v) Copy of the County Assembly Hansard Report dated 25<sup>th</sup> November, 2025;
- (vi) Copy of Division of Votes list;
- (vii) Advocates for the County Assembly; and
- (viii) List of Witnesses.

Pursuant to Section 33(3) (b) of the County Governments Act and Standing Order 80 (1) (a) of the Senate Standing Orders, at the Sitting of the Senate held on Thursday, 27th November, 2025, the charges against the Governor of Nyamira County, as contained in the Motion of Impeachment by the County Assembly of Nyamira, 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 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 the 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, Senate 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 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 Sitting of the Senate held on Thursday, 27th November, 2025, the Motion for the establishment of a Special Committee was withdrawn pursuant to Standing Order 70. This paved the way for the default position, the hearing of the impeachment charges against the Governor of Nyamira 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, 1st December, 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 in Plenary, the Senate notified the 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, 1st December, 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, 1st December, 2025, the Office of the Clerk of the Senate, received a response, Ref. No. NCA-AKN/MGA/032-2025, and dated 27th November, 2025, to the Invitation to Appear issued to the Governor, from M/S Mutuma Gichuru and Associates Advocates, who indicated that the Governor had appointed the firm to represent him in the hearing before the Senate and that the Governor would also appear in person and by advocates. The letter also indicated the list of Counsel representing the Governor and the list of witnesses for the Governor.

Similarly, on the same day, the Office of the Clerk of the Senate received a response, Ref. No. MNCA/SENATE/1/2025 and dated 1st December, 2025, to the Invitation to Appear issued to the County Assembly of Nyamira, from M/S Mokua Ndubi and Company Advocates, who indicated that the County Assembly of Nyamira had appointed the firm to represent the County Assembly in the hearing; and that the County Assembly would equally appear in person and by advocates. The letter also indicated the list of 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 to 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 should keep track of the balance of time on each activity displayed through the digital clocks.

In summary, the Programme states that today, Wednesday, 3rd December, 2025, the Charges against the Governor, as submitted by the County Assembly shall be read to the Governor. 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. After presentation of the case by the County Assembly, Honourable Senators will be given an opportunity to ask questions or seek clarifications from the County Assembly. This should take us up to the end of today's sitting.

At the Sitting scheduled for tomorrow, Thursday, 4th December, 2025, 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, following which the closing statements by the parties will be made for a period not exceeding one hour each. This will be followed by the Closing Statements by each of the parties for a period of 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 section 33(7) of the County Governments Act, 2012 and Standing Order 80(6) of the Senate Standing Orders, 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 Nyamira County Assembly accordingly.

Honourable Senators, Ladies and Gentlemen,

I now invite Counsel for the County Assembly of Nyamira to introduce the legal team of the County Assembly and the Members of the County Assembly of Nyamira representing the County Assembly, 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) Katwa Kigen Advocate; and
- (ii) Mokua Ndubi, Advocate;

“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, Mr. Elias Mutuma, Advocate introduced himself and proceeded to introduce the following: -

- (i) Zelmer Bonuke, Advocate;
- (ii) Ombui Ratemo, Advocate;
- (iii) Brianlee Orina, Advocate;
- (iv) Erastus Orina, Advocate;
- (v) Sylvia Njoki, Legal Assistant; and
- (vi) Michelle Makandi, Legal Assistant

“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 Honourable Amos Kimwomi Nyaribo, Governor of Nyamira County.

I thank you.”

8. **RECITAL OF THE CHARGES ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. AMOS KIMWOMI NYARIBO, GOVERNOR NYAMIRA COUNTY**

The Speaker directed the Clerk to read to the Honourable Amos Kimwomi Nyaribo, the Governor of Nyamira County, the particulars of the allegations against him as presented by the County Assembly of Nyamira.

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: -

“Honourable Amos Kimwomi Nyaribo, the Governor of Nyamira County, the charges against you as received from the County Assembly of Nyamira are as follows, and I quote—

**GROUND 1: GROSS VIOLATION OF THE CONSTITUTION AND OTHER LAWS**

The Particulars of this ground are as follows—

Allegation 1: Gross Violation of the Constitution of Kenya (2010) and the County Governments Act (2012) through Deliberate Formal Engagement, Endorsement and Support of an Unlawful, Illegal and Unconstitutional “Bunge Mashinani”

WHEREAS Articles 1, 10, and 73 of the Constitution, 2010, enshrine the principles of sovereignty of the people, the rule of law, and the responsibilities of State Officers;

WHEREAS Article 176(1) of the Constitution of Kenya, 2010, unequivocally establishes a county assembly for each county; and Sections 7B (2) and 14(1)(a) of the County Governments Act, 2012 govern the lawful sittings and procedure of the County Assembly;

WHEREAS Section 6A (1) and the Third Schedule of the County Governments Act, 2012 specifies the location of Nyamira County Government as: *Nyamira Urban Area*;

WHEREAS Section 7B (2) of the County Governments Act 2012 provides that *“Except for a sitting of a new county assembly under subsection (1), a sitting of a county assembly may be held at any place within the county and may commence at any time as the county assembly may appoint.”*

WHEREAS Section 30(2)(a) of the County Governments Act 2012 requires the Governor to *diligently execute the functions and exercise the authority provided for in the Constitution and legislation*;

WHEREAS Section 30(3)(c) of the County Governments Act 2012 requires the Governor to *promote democracy, good governance, unity and cohesion within the county*;

1. H.E. Amos Kimwomi Nyaribo deliberately engaged, endorsed and supported an unlawful, illegal and unconstitutional “Bunge Mashinani” gazetted by Enock Ogori Okero vide Kenya Gazette Notice No. 14229 of 2024 dated the 29<sup>th</sup> of October 2024; and the appointment of an Ag. Clerk vide Kenya Gazette Notice No. 14230 of 2024 despite knowledge of the fact that the said Enock Ogori Okero had been removed from office of Speaker by way of impeachment as published in the Kenya Gazette Notice No: 14050 of 2024 dated 25<sup>th</sup> October 2024.
2. The Senate of the Republic of Kenya on 15<sup>th</sup> May 2025, while considering a progress report of the Standing Committee on Devolution and



Intergovernmental Relations on the Operational and Leadership Crisis affecting the County Assembly of Nyamira, resolved that *“the decision and resolutions made by the impeached Speaker and members of the County Assembly that convened outside the gazetted precincts of the County Assembly are null and void”*; the same was communicated to the Clerk of the County Assembly of Nyamira and copied to the Governor of Nyamira County vide letter Ref: SEN/RESOLS/17/2025 dated 22<sup>nd</sup> May, 2025.

3. The impeachment of Enock Ogori Okero was affirmed by the Judgement of the High Court at Bomet in Petition No. E004 of 2025 delivered on the 4<sup>th</sup> day of June 2025. In Paragraph 74 of the said judgement, it was the Court’s finding *“that the 7<sup>th</sup> Respondent (Enock Ogori Okero, the impeached speaker) ceased to hold office on the 24<sup>th</sup> of October 2024”*.
4. Further, in paragraph 85 of the same judgement, the court found *“that any actions or duties performed by the 7<sup>th</sup> Respondent (Enock Ogori Okero, the impeached speaker) were illegal, null and void as the 7<sup>th</sup> Respondent neither had the power nor the locus to do so”*.

WHEREAS the Governor and his accomplices maintained that there were court orders stopping the County Assembly from removing Enock Okero from the Office of Speaker;

5. The High Court at Bomet vide Judgement in Petition No. E004 of 2025 delivered on the 4<sup>th</sup> day of June 2025 settled this matter and held that there was no such order and that the County Assembly was not barred from impeaching Enock Ogori Okero from the Office of Speaker or exercising its constitutional mandate. The same is found in Paragraph 72 of the said judgement, where the court held that:

*This court’s critical interpretation of Order number 2 issued on 11<sup>th</sup> October 2024 by Okwany J. was that she issued conservatory orders staying the suspension of the 7<sup>th</sup> Respondent as Speaker. This effectively meant that the 7<sup>th</sup> Respondent resumed his duties as Speaker of the County Assembly. In regards to Order number 3, the Judge issued conservatory orders that barred interference of the duties of the 7<sup>th</sup> Respondent as Speaker. Order 3 as worded above, did not mention that the County Assembly of Nyamira was barred from impeaching the 7<sup>th</sup> Respondent or exercising its constitutional mandate.*

6. H.E. Governor Amos Kimwomi Nyaribo consistently and deliberately supported and engaged with gatherings of an unlawful, illegal and unconstitutional *“Bunge Mashinani”* which conducted its meetings from October 31, 2024, up to June 2025, in locations away from the lawful and official gazetted premises of the County Assembly and without lawful appointment.

7. Further, the Governor made public pronouncements declaring Enock Ogori Okero and Silvanus Ndemo Nyamora as the “legitimate” Speaker and Clerk respectively while aware that Enock Ogori Okero was duly impeached.
8. The Governor’s actions to formally engage, endorse and support an unlawful, illegal and unconstitutional “*Bunge Mashinani*” directly undermined the legislative, representation and oversight role of the County Assembly of Nyamira as established by the Constitution of Kenya (2010) and the County Governments Act (2012) thereby constituting a gross violation of the rule of law and the principle of separation of powers.

Allegation 2: Gross Violation of the Constitution of Kenya (2010) and the County Governments Act (2012) and the Public Finance Management Act (2012) by Assenting to the Nyamira County Supplementary Appropriation Bill, 2024 without the Approval of the County Assembly of Nyamira

WHEREAS Article 175(a) of the Constitution of Kenya (2010) requires that *county governments shall be based on democratic principles and the separation of powers*;

WHEREAS Article 185(1) of the Constitution of Kenya (2010) states that *the legislative authority of a county is vested in, and exercised by, its county assembly*;

WHEREAS Article 224 of the Constitution of Kenya (2010) states that *on the basis of the Division of Revenue Bill passed by Parliament under Article 218, each county government shall prepare and adopt its own annual budget and appropriation Bill in the form, and according to the procedure, prescribed in an Act of Parliament*;

WHEREAS Section 21(1) of the County Governments Act (2012) requires that *county assembly shall exercise its legislative power through Bills passed by the county assembly and assented to by the Governor*;

WHEREAS Section 130 of the Public Finance Management Act (2012) provides for the procedures of processing a County Budget including transmission from the County Executive to the County Assembly for consideration and approval;

1. The Governor, on 26<sup>th</sup> November 2024, assented to the Nyamira County Supplementary Appropriation Bill, 2024 without the approval of the County Assembly of Nyamira in total defiance to the Constitutional principle of separation of powers.
2. The Nyamira County Supplementary Appropriation Bill, 2024 is not among the business transacted during the Morning and Afternoon Sitzings of the County Assembly of Nyamira on 26<sup>th</sup> November 2024.
3. The Nyamira County Supplementary Appropriation Act, 2024, as assented by the Governor, significantly altered the priorities and development programmes in the original approved budget.

4. This conduct constitutes a gross violation of Articles 175(a), 185(1), and 224 of the Constitution of Kenya (2010), Section 130 of the Public Finance Management Act (2012), Section 21(1) of the County Governments Act (2012), and Order No. 137(1) of the County Assembly of Nyamira Standing Orders and the due process of the law which requires that the County Budget be approved by the County Assembly.
5. The same undermined the representation and oversight role of the County Assembly. The Supplementary Budget was assented to, devoid of participation of the people and/or their representatives.

Allegation 3: Gross Violation of the Constitution of Kenya (2010) and the County Governments Act (2012) by Appointing Dr. Peris Nyaboke Oroko alias Peris Mongare to the County Executive Committee (CEC) without the Approval of the County Assembly

WHEREAS Article 179(2)(b) of the Constitution of Kenya, 2010 provides that *the County Executive Committee shall consist of members appointed by the county governor, with the approval of the assembly, from among persons who are not members of the assembly.*

WHEREAS Article 259 of the Constitution emphasizes the interpretation of the Constitution, which includes the respect for judicial pronouncements;  
FURTHER WHEREAS Section 30(d) of the County Governments Act, 2012 requires the Governor to *appoint, with the approval of the County Assembly, Members of the County Executive Committee;*

WHEREAS Section 4 of the Public Appointments (County Assemblies) Approval Act (2017) requires that *an appointment under the Constitution or any other law for which the approval of a County Assembly is required shall not be made unless the appointment is approved by the relevant County Assembly in accordance with this Act.*

1. H.E Amos Kimwomi Nyaribo appointed Dr. Peris Nyaboke Oroko to the County Executive Committee without the approval of the County Assembly of Nyamira in total disregard of the due process of the law.
2. In response to an inquiry by the County Assembly, the County Executive Committee Member for Public Service Management maintained that Dr. Peris Nyaboke Oroko is duly appointed.
3. Failure to submit the name of Dr. Peris Nyaboke Oroko for vetting and approval by the County Assembly of Nyamira constitutes gross violation of Articles 179(2)(b) and 259 of the Constitution of Kenya, 2010 and Section 30(d) of the County Governments Act, 2012.
4. The Governor has to date proceeded to retain Dr. Peris Nyaboke Oroko and supervised her integration into the payroll system since June 21, 2025, and authorized the payment of her salary and allowances despite clear judicial and senatorial pronouncements declaring all actions of "Bunge Mashinani" as illegal, null and void.

5. The Governor wilfully circumvented the legitimate constitutional approval process, rendering the appointment unlawful.
6. This action brazenly bypassed the County Assembly, constituting a gross violation of the Constitution and statutory provisions governing appointments.

Allegation 4: Gross Violation of the Constitution of Kenya (2010), the Urban Areas and Cities Act (2011) and Public Appointments (County Assemblies) Approval Act (2017) by Appointing Nyamira and Keroka Municipalities Board Members without the Approval of the County Assembly of Nyamira

WHEREAS Article 10 of the Constitution on National Values & Principles of Governance requires *the observance of the rule of law, good governance, integrity, transparency and accountability*;

WHEREAS Section 14(1) of the Urban Areas and Cities Act, 2011 [as amended 2019] requires that *a Board of a Municipality shall consist of nine members appointed by the County Governor with the approval of the County Assembly*;

WHEREAS Section 4 of the Public Appointments (County Assemblies) Approval Act (2017) requires that *an appointment under the Constitution or any other law for which the approval of a County Assembly is required shall not be made unless the appointment is approved by the relevant County Assembly in accordance with this Act*.

1. H.E Amos Kimwomi Nyaribo, vide Gazette Notice No. 1965 of 2025 dated 30th February 2025, appointed Members to the Boards of Keroka and Nyamira Municipalities without the approval of the County Assembly of Nyamira in direct defiance of the Constitution of Kenya (2010), the Urban Areas and Cities Act, 2011 [as amended 2019] and the Public Appointments (County Assemblies) Approval Act (2017).
2. The approval of Members to the two Board Members was not among the business transacted during the Morning and Afternoon Sitzings of the County Assembly of Nyamira on 19th November 2024.
3. The Governor has to date retained the said Board Members in defiance of clear judicial and senatorial pronouncements.
4. This constitutes a blatant disregard for the rule of law and contempt for legitimate authority.

Allegation 5: Gross Violation of the Constitution of Kenya (2010) and the County Governments Act (2012) by Appointing the Selection Panel for the Recruitment of the Chairperson, Secretary and Members of the Nyamira County Public Service Board (CPSB) without the Approval of the County Assembly of Nyamira

WHEREAS Article 10 of the Constitution on National Values & Principles of Governance requires *the observance of the rule of law, good governance, integrity, transparency and accountability*;

WHEREAS Article 73 and 74 of the Constitution, 2010 outline *the responsibilities of State Officers and the principles of public service, demanding objectivity, impartiality, and accountability;*

WHEREAS Article 232(1) of the Constitution, 2010 sets the *Values and Principles of Public Service, requiring efficient use of resources, transparency, and fair competition and merit;*

WHEREAS Section 4 of the Public Appointments (County Assemblies) Approval Act (2017) requires that *an appointment under the Constitution or any other law for which the approval of a County Assembly is required shall not be made unless the appointment is approved by the relevant County Assembly in accordance with this Act.*

1. The Governor appointed a Selection Panel for the recruitment of the Chairperson, Secretary and Members of the Nyamira County Public Service Board (CPSB) without the approval of the County Assembly of Nyamira.
2. The Governor wilfully circumvented the legitimate constitutional approval process, rendering the appointment unlawful.
3. The Selection Panel proceeded to invite, shortlist and conduct interviews for applicants for the positions of Chairperson, Secretary and Members of the Nyamira County Public Service Board in total defiance of clear judicial and senatorial pronouncements.
4. These actions are contrary to constitutional principles and undermine public service integrity.

Allegation 6: Gross Violation of the Constitution of Kenya (2010), County Governments Act (2012) by Failing to Appoint the Chairperson, Secretary and Members of the Nyamira County Public Service Board

WHEREAS Article 235 of the Constitution of Kenya (2010) provides that a County Government is responsible for:

- (a) establishing and abolishing offices in its public service;*
- (b) appointing persons to hold or act in those offices, and confirming appointments; and*
- (c) exercising disciplinary control over and removing persons holding or acting in those offices.*

WHEREAS Section 58A(1) of the County Governments Act 2012 provides that *whenever a vacancy arises in a county public service board, the Governor shall nominate and, with the approval of the county assembly, appoint members to a selection panel for the purpose of selecting suitable candidates for appointment as members of the county public service board.*

AND WHEREAS Section 58A (7) provides that *the Governor shall, within seven days of receipt of the names forwarded under subsection (6), nominate one person, and at least three but not more than five others for appointment as Chairperson and members of the county public service board, respectively, and forward the names to the county assembly for approval.*

1. The Governor, H.E Amos Kimwomi Nyaribo has to date failed to nominate for vetting, approval and appointment of the Chairperson, Secretary and Members of the Nyamira County Public Service despite vacancies arising in the Nyamira County Public Service Board as from 5<sup>th</sup> of July 2025.
2. The absence of a County Public Service Board has created a lacuna in the management of the Human Resource function of the County Government of Nyamira. In the obtaining circumstances, the provisions of Article 235 of the Constitution of Kenya (2010) cannot be realized in the Nyamira County Public Service.
3. Additionally, this has eroded confidence and public trust in the leadership of Governor Amos Kimwomi Nyaribo.

Allegation 7: Gross Violation of the Constitution of Kenya (2010) and the County Governments Act (2012) by Failing to Submit Annual Reports and Deliver an Annual State of County Address to the County Assembly for Two Consecutive Years

Article 183(3) of the Constitution of Kenya, 2010 provides that *the county executive committee shall provide the county assembly with full and regular reports on matters relating to the county;* and section 30(2)(j) & (k) of the County Governments Act, 2012 *mandates the Governor to:*

*(j) submit to the county assembly an annual report on the implementation status of the county policies and plans;*

*(k) deliver annual state of the county address containing such matters as may be specified in county legislation*

1. The Governor has failed to submit Annual reports and deliver annual state of the County address to the County Assembly of Nyamira for the past two consecutive years, 2023/2024 and 2024/2025, as required by law.
2. This failure constitutes a gross violation of constitutional and statutory provisions, demonstrating a blatant disregard for transparency, accountability, and the oversight role of the County Assembly. It further denies residents of Nyamira County an opportunity to hold their Governor accountable.
3. The Governor's consistent and prolonged failure to deliver the constitutionally required State of the County Address demonstrates a deliberate act to evade accountability to the County Assembly and the people, thereby constituting a gross violation of constitutional and statutory mandates.

Allegation 8: Gross Violation of the Constitution of Kenya (2010) by Failing to Appoint and Obey Court Orders regarding the Appointment of Clive Ogwora to the County Executive Committee

WHEREAS Article 159(1) of the Constitution of Kenya (2010) provides for the exercise of judicial authority;

WHEREAS Section 4(1)(a) of the Contempt of Court Act (2016) provides that *contempt of court includes civil contempt which means wilful disobedience of any judgment, decree, direction, order, or other process of a court or wilful breach of an undertaking given to a court;*

WHEREAS the Employment and Labour Relations Court at Kisumu in ELRC JR No. 10 of 2021 ordered the Governor to appoint and pay salaries to Mr. Clive Ogwora;

1. H.E Amos Kimwomi Nyaribo failed to appoint Mr. Clive Ogwora, nominee for Member of the County Executive Committee despite the fact that the nomination was cleared by law for appointment.
2. The Governor's disobedience of the High Court order directing him to appoint Mr. Clive Ogwora resulted into the loss of a decretal sum of Ksh. 4,417,875.
3. The actions of the Governor including delayed settlement, resulted into loss of public funds amounting to Kshs. 6,922,203.75 Million being the decretal sum plus costs, interests and other incidentals.

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.

## GROUND 2: ABUSE OF OFFICE

WHEREAS Article 10 of the Constitution on National Values & Principles of Governance requires *the observance of the rule of law, good governance, integrity, transparency and accountability;*

WHEREAS Articles 73, 74 and 75 of the Constitution, 2010, outline *the responsibilities of State Officers and the principles of public service, demanding objectivity, impartiality, and accountability, among others;*

WHEREAS Article 232(1) of the Constitution, 2010, sets the *Values and Principles of Public Service, requiring efficient use of resources, transparency, and fair competition and merit;*

WHEREAS Section 46 of the Anti-Corruption and Economic Crimes Act of 2003 provides that: *a person who uses his office to improperly confer a benefit on himself or anyone else is guilty of an offence.*

H.E Amos K. Nyaribo abused his office in the management and administration of County Affairs through the following acts as particularized below:

The Particulars of this ground are as follows—

Allegation 1: Abuse of Office by Improper Use of his Authority in Recruitment of Staff without Approved Budget (The Recruitment Frenzy)

WHEREAS Article 10 of the Constitution on National Values & Principles of Governance requires *the observance of the rule of law, good governance, integrity, transparency and accountability*;

WHEREAS Article 73, 74 and 75 of the Constitution, 2010 outline *the responsibilities of State Officers and the principles of public service, demanding objectivity, impartiality, and accountability*;

WHEREAS Article 201(a), (d) and (e) of the Constitution of Kenya (2010) state as follows:

*(a) there shall be openness and accountability, including public participation in financial matters;*

*(d) public money shall be used in a prudent and responsible way;*

*(e) financial management shall be responsible, and fiscal reporting shall be clear.*

WHEREAS Article 232(1) of the Constitution, 2010, sets the *Values and Principles of Public Service, requiring efficient use of resources, transparency, and fair competition and merit*;

AND WHEREAS Section 107(2)(c) of the Public Finance Management Act, 2012 (PFM Act), require that: *the county government's expenditure on wages and benefits for its public officers shall not exceed a percentage of the county government's total revenue as prescribed by the County Executive member for finance in regulations and approved by the County Assembly*;

WHEREAS Section 8(1)(c) of the County Governments Act (2012) which provides for the role of the County Assembly, including, *approve the budget and expenditure of the county government in accordance with Article 207 of the Constitution, and the legislation contemplated in Article 220(2) of the Constitution, guided by Articles 201 and 203 of the Constitution*

H.E. Amos Kimwomi Nyaribo presided over and influenced the approval of recruitment of Staff without an approved budget as demonstrated in County Executive Committee Minutes: MIN No. 04/02/2021 of 26<sup>th</sup> February 2021 in his response to an inquiry from the Controller of Budget. This recruitment was approved by the County Executive with full knowledge that there was no budgetary provision. In the said response to issue no. 4 in question, the Governor alleged that in lieu of a budget, *"the recruitment was based on the savings made from various separations which included but not limited to retirement and resignations"*.



DESPITE a resolution of the County Assembly to freeze new employments on account of lack of budgetary provision for any new recruitment dated 1<sup>st</sup> July 2021; which freezing was never vacated by a resolution of the County Assembly.

FURTHER, IN SPITE OF an advisory from the Secretary of the County Public Service Board dated 29<sup>th</sup> July 2021 to the County Executive to put the impugned recruitment in abeyance considering that there is no budgetary provision for any new recruitment.

H.E. Amos Kimwomi Nyaribo, has to date proceeded with a recruitment frenzy that has ballooned the County Wage bill making it unsustainable, irresponsible and imprudent contrary to the provisions of the Public Finance Management Act (2012).

The Governor's influence over the recruitment of hundreds of staff without a budget, in defiance of EACC advisory and County Assembly resolutions for political expediency and personal gain, constitutes a clear abuse of office aimed at fiscal plunder and violation of constitutional values and principles of governance.

Since the year 2021, when H.E Amos K Nyaribo assumed office as Governor, he has influenced the recruitment of staff without budgetary provision and approval of the County Assembly of Nyamira and particularly—

- a) in February-April 2021, there was a recruitment of 49 officers;
- b) the recruitment of the Deputy County Secretary, County Attorney, Support Staff, Ward and Sub-county Administrators;
- c) on March 9, 2023 the County Public Service Board advertised for 358 vacancies despite lack of approved budget for recruitment, a recruitment freeze by the County Assembly, and disregard for EACC advisories. This recruitment, projected to add Kshs. 325 million annually, proceeded without any budgetary allocation or approval;
- d) outstanding arrears to the tune of Kshs. 60 Million arising from unpaid salaries to healthcare workers for a period of 7 months.

Allegation 2: Abuse of Office by Influencing the Appointment of Godfrey Kiriago and Elmelda Nyaberi as Director of County Human Resource Management and Assistant Director Human Resource Management (Payroll Manager), Respectively

WHEREAS Article 179 of the Constitution designates the County Governor as the Chief Executive of the County;

WHEREAS Article 232(1)(g) of the Constitution of Kenya (2010), mandates *fair competition and merit as the basis for appointments and the right to equality and freedom from discrimination*;

WHEREAS Articles 75, 76 & 77 of the Constitution *govern the Conduct and financial probity of State Officers;*

WHEREAS Section 30 of the County Governments Act (2012) provides for the *functions of the Governor;*

WHEREAS Section 45 of the Anti-Corruption and Economic Crimes Act of 2003 provides for protection of public property and revenue;

WHEREAS Section 46 of the Anti-Corruption and Economic Crimes Act of 2003 provides that: *a person who uses his office to improperly confer a benefit on himself or anyone else is guilty of an offence.*

In a letter dated 18<sup>th</sup> January 2021, the County Secretary communicated the decision of the County Executive, an organ presided over by H.E Amos Kimwomi Nyaribo, to the County Public Service Board seeking the secondment of two cherry-picked officers Godfrey Kiriago Nyangau and Elmelda Nyaberi to the positions of Director Human Resource and Payroll Manager respectively. In response, the Chairperson of the County Public Service Board wrote back to the County Secretary demanding that the said offices ought to be vacant and that the process must follow the laid down procedures and legal provisions.

The Governor influenced the transfer of substantive office holders to create room for the cherry-picked officers and caused irregular integration into the county payroll.

By initiating the non-competitive appointment and retention of the cherry-picked officers, the Governor violated the principle of meritocracy and demonstrated a profound abuse of his office, leading to a direct and quantifiable loss of public funds since the two offices were hitherto substantively occupied.

The Governor further influenced the appointment of Mr. Godfrey Kiriago to the position of Deputy County Secretary and influenced the renewal of Ms. Elmelda Nyaberi's contract post her retirement date.

**Allegation 3: Abuse of Office through Personal Enrichment from Receipt of Irregular Salary Arrears of KES. 5,649,706**

WHEREAS Article 201(a), (d) and (e) of the Constitution of Kenya (2010) state as follows:

*(a) there shall be openness and accountability, including public participation in financial matters;*

*(d) public money shall be used in a prudent and responsible way;*

*(e) financial management shall be responsible, and fiscal reporting shall be clear.*

WHEREAS Article 230(4)(a) of the Constitution of Kenya, 2010, mandates the Salaries and Remuneration Commission (SRC) to *set and regularly review the remuneration and benefits of all State officers;*

WHEREAS Section 97 of the Public Finance Management Act, 2012 (PFM Act), requires *public funds to be used in accordance with the law and for the purpose for which they were appropriated;*

WHEREAS Section 46 of the Anti-Corruption and Economic Crimes Act of 2003 provides that: *a person who uses his office to improperly confer a benefit on himself or anyone else is guilty of an offence.*

In September 2021, through the facilitation of the two cherry-picked officers Mr. Godfrey Kiriago (Director Human Resource) and Elmelda Nyaberi (Payroll Manager), the Governor conferred upon himself an irregular salary payment christened as "arrears" amounting to KES. 5,649,706. It is apparent that there was no outstanding arrears due to the Governor since his assumption to office and neither was he owed any arrears as Deputy Governor.

The Governor's self-authorized receipt of KES. 5,649,706 in salary arrears outside of Salaries and Remuneration Commission guidelines is a clear act of personal enrichment, abuse of office, and a direct violation of PFM Act.

The Governor has publicly confessed that he received the above irregular payment. The people of Nyamira lost services and development programmes to the tune of KES 5.6 Million an account of this abuse of office and/or his actions.

The Governor has formed a habit of conferring upon himself irregular benefits going by other incidences for instance, in the year 2019 the governor caused to be paid a retrospective compensation of Kes. 13 million in allowances for housing (a benefit, not an allowance) and made a double medical claim in form of ex-gratia despite full settlement of his medical bills by the defunct NHIF, all outside of SRC guidelines which clearly demonstrate a pattern of personal enrichment, abuse of office and a direct violation of PFM Act.

This direct financial benefit to the Governor constitutes a direct loss of public funds and demonstrates a clear case of personal enrichment through corrupt practices and abuse of office.

**Allegation 4: Abuse of Office through Systematic Payroll Fraud and Syndicate (The KES 32 Million Payroll Heist)**

Besides an irregular receipt Kes. 5,649,706 as already established in Particular 2.3; the Governor presided over a well-orchestrated syndicate of payroll fraud which led to massive loss of public funds through huge, irregular, and unexplained salaries and special allowances paid to: Ms. Rose Bosibori Guto, an ECDE Teacher (Ksh 25,018,852); Ms. Gladys Moraa Nyambane an ECDE Teacher (Ksh 1,100,467); and Mr. Isaac Kerongo Onchiri an ECDE Teacher (Ksh 700,836).

While under oath during his appearance before the Senate's Public Accounts Committee, the Governor admitted to have received the illegal benefit.

**Allegation 5: Abuse of Office by Influencing Dual Appointments Outside the Lawful Establishment**

WHEREAS Article 235 of the Constitution of Kenya (2010) states that: *A county government is responsible, within a framework of uniform norms and standards prescribed by an Act of Parliament, for—*

- (a) establishing and abolishing offices in its public service;*
- (b) appointing persons to hold or act in those offices, and confirming appointments; and*
- (c) exercising disciplinary control over and removing persons holding or acting in those offices.*

WHEREAS Section 50(1) of the County Governments Act (2012) provides that *there shall be established at the level of each sub-county the office of the sub-county administrator;*

AND WHEREAS Section 51(1) of the County Governments Act (2012) provides that *there is established for each Ward in a county the office of the Ward administrator.*

FURTHER WHEREAS these offices were already substantively filled in the year 2014;

UPON ASSUMPTION OF OFFICE IN 2021, the Governor Hon. Amos K. Nyaribo, aware that these offices were substantively filled, deliberately allowed the recruitment of sub-county and ward administrators to fill the "artificial" vacancies leading to double appointments and hence double payment of salaries depriving the County of Development funds.

WHEREAS Section 10(5) of the Employment Act 2007 provides for the procedure of change of contract terms for an employee, the Governor through letter Ref: NCG/CS/TRANSF/18/VOL.III/283 dated 27<sup>th</sup> June 2024 redeployed 10 officers (Ward and Sub-county Administrators) to positions in which they had no requisite competencies so as to create room for the dual appointments.

**Allegation 6: Abuse of Office Through Usurpation of Powers of the Auditor General and the County Public Service Board and Violation of Due Process through Illegal Payroll Audit and Demotions**

WHEREAS Article 47 of the Constitution and the Fair Administrative Action Act, 2015, enshrine *the right to fair administrative action and due process;*

WHEREAS Article 229(4)(a) (4) provides that *within six months after the end of each financial year, the Auditor-General shall audit and report, in respect of that financial year, the accounts of the national and county governments;*

WHEREAS Section 59(a) of the County Governments Act, 2012 provides that *the county public service board shall—*

*(a) be independent and shall not be subject to the direction or control of any other person or authority; and*

WHEREAS Section 59(f) and Section 60(1)(g) of the County Governments Act, 2012, *vest the power to exercise disciplinary control over and to remove persons holding office in the county public service squarely in the County Public Service Board;*

WHEREAS Section 35 of the Audit Act (2015) provides for *the procedure and manner of auditing public entities;*

In September, 2021, the Governor purported to demote more than 1000 staff which action was reversed by the Employment and Labour Relations court sitting in Kisumu.

Further, in May/June 2024 he demoted another 254 staff on the basis of a payroll audit report without due process, usurping the function that falls squarely under the purview of the County Public Service Board.

The Governor appointed a payroll audit team without due regard to Section 35 of the Audit Act, approval by the County Assembly, or the Auditor General, contrary to legal requirements.

Human Resource payroll relates to use public funds and can only be audited as envisaged by Article 229 of the Constitution.

The Auditor General is the only constitutionally mandated body to audit all state organs including County Governments and it has not delegated any of her mandates to any institution to carry Nyamira County payroll audit.

The action of the Governor to carry County Payroll audit without proper authorization or delegation is straight usurpation of the Constitutional mandate of the Auditor General and therefore in violation of Article 229 of the Constitution of Kenya, 2010.

Article 226 (3) of the Constitution states that the accounts of all governments and state organs shall be audited by the Auditor General. The action of the Governor to carry County Payroll audit without proper authorization of the office of the Auditor General is in contravention of the Constitution.

Article 229 (1) of the Constitution creates the independent office of the Auditor General and Article 229 (4) of the Constitution cuts what the auditor ought to undertake. The action of the Governor to carry County Payroll audit without proper authorization of the office of the Auditor General and without the knowledge of the office undermines the independency of a constitutional office and is in contravention of the Constitution.

Article 229 (5) of the Constitution states that the Auditor General has the liberty to audit and report on the accounts of any entity that is funded from public funds. Section 34 of the Public Audit Act, 2015 provides for periodic audits to be undertaken by the Auditor General at his or her own initiative or upon request by an entity. The Auditor General has audited Nyamira County,

there are audit reports and there is no explanation whether the County government found existing audit report inadequate. The Governor have not requested the Auditor General to carry out any audit. The Governor have not requested for the County Assembly of Nyamira to sanction the Auditor General to undertake any audit.

Section 23 of the Public Audit Act, 2015 provides for outsourcing of audit services while Section 24 of the Public Audit Act, 2015 provides for engagement of services of technical experts or consultants and professionals in fulfillment of Article 229 (6) of the Constitution which states the principle purpose of the audit is to confirm whether or not public money has been applied lawfully and in an effective way. The Auditor General did not establish the firm that did the County payroll audit.

Audit is a process that follows cardinal guidelines which the purported auditors of the County Executive payroll did not follow before coming up with the purported payroll audit report. Section 31 of the Public Audit Act, 2015 provides how the processes of audit shall be undertaken.

Section 36 of the Public Audit Act, 2015 provides that the audit report is submitted to Parliament or County Assembly for tabling and debate. How the County payroll audit report which was not done by or authorized by the Auditor General will be placed to Parliament or the county Assembly for debate and consideration has not explained.

Section 37 of the Public Audit Act, 2015 provides for forensic Audits upon requests by Parliament or County assemblies to establish fraud, corruption or financial improprieties in state organs and public entities. The Audit report is then placed to Parliament or the county Assembly for debate and consideration where appropriate resolutions and actions to be taken emanate.

The Governor therefore usurped the Constitution mandate of the auditor General which he arrogated himself to initiate payroll audit without authorization.

The County Public Service Board in their submissions in a County Appeals Matter before the Public Service Commission through the respondents reply to the Appeal in Paragraphs 12, 13 and 20 affirmed that the Governor singularly commissioned the payroll audit including appointment of an ad hoc committee that would digest the findings of the audit.

The County Public Service Board (CPSB), in a communication dated 15<sup>th</sup> January 2025, reversed the Governor's purported demotions, explicitly implying that the demotions were processed without the Board's involvement or approval, confirming the usurpation of the Board's mandate.

The County Executive Committee, sitting in September 2025, resolved that it was aggrieved by the CPSB's reversal and would be appealing against this decision, fully aware that it has no provision for appealing, an advisory from the County Attorney affirmed this in an advisory to the Chief Officer, Public

Service Management. This further demonstrates a Governor that is hell bent in usurping the role of the CPSB.

The Governor's actions bypassed the established legal framework for personnel management, denying the affected staff due process and leading to demoralization and disruption of service delivery.

The Governor's decision to personally initiate and execute disciplinary action (demotions) based on an irregular audit, without reference to the constitutionally mandated CPSB or following due process, is a clear and unconstitutional usurpation of power and a violation of staff members' fundamental rights.

The Governor's intention to appeal the decision of the CPSB was in any case an act in futility as the decisions of the County Public Service Board are deemed to be the made for and on behalf of the County Government.

Additionally, the County Assembly, while considering a report of the Sectoral Committee on Public Service Management on Staff Progression, passed resolutions that included, among others—

- (i) the reinstatement of demoted officers to their rightful job groups and payment of their full emoluments;
- (ii) the censure of the Chief Officer, Public Service Management, Ms. Rael Momanyi and the further resolution to have her step aside for contempt of the County Assembly and its Committees.

The Governor has to date failed to enforce resolution No. (ii) above and equally failed to implement the resolutions of the County Assembly in the said report.

**Allegation 7: Abuse of Office by Purporting to Suspend the Secretary to the County Public Service Board**

**WHEREAS** Section 58(5)(b) of the County Governments Act (2012) as read together with Article 251(1) of the Constitution of Kenya (2010) provides that *the members of the Board may only be removed from office by a vote of not less than seventy five percent of all the members of the county assembly.*

1. The above article and/or section do not anticipate or confer power upon the Governor to cause such an action as suspension of a Secretary to the County Public Service Board.
2. H.E Amos Kimwomi Nyaribo acted *ultra vires* by purporting to suspend the Secretary to the County Public Service Board vide letter Ref: NCG/GVN/LEGAL/VOL.1 dated 2<sup>nd</sup> May, 2023 beyond his powers as provided for in Section 31 of the County Governments Act (2012).

**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 HONOURABLE AMOS KIMWOMI NYARIBO, GOVERNOR OF NYAMIRA COUNTY**

Before commencement of the hearing for the Proposed Removal from Office by Impeachment of Hon. Amos Kimwomi Nyaribo, Governor of Nyamira County, the Speaker invited the counsels for the parties to submit any preliminary objections.

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

- (a) The impeachment motion dated 11<sup>th</sup> November, 2025 failed to attain the constitutional threshold; hence the purported resolution for the removal of the Governor by way of impeachment was invalid and incompetent as it failed to meet the threshold under Article 181 of the Constitution of Kenya and section 33 of the County Governments Act in that–
  - (i) The County Assembly of Nyamira comprises 35 members. The requisite two-thirds majority for a valid impeachment resolution was therefore at least 24 members;
  - (ii) On the material date of 25<sup>th</sup> November, 2025, the official record confirms that only 19 members were physically present in the Assembly chamber; and
  - (iii) Despite this, the Assembly recorded 23 votes in favour of the motion. This numerical impossibility demonstrated that improper and fraudulent voting occurred, constituting a fundamental violation of the Standing Orders and the Constitution.
- (b) That the concept of proxy voting was alien, illegal and null and void. The attempt to explain the discrepancy through "*proxy voting*" was legally untenable and compounds the illegality of the proceedings premised on acts of fraud, forgery and misrepresentation in that–
  - (i) No authority was granted by any Member to vote on their behalf by proxy. The four (4) Members in whose names proxy votes were recorded have provided sworn statements confirming they were neither present in the Assembly nor did they issue any authority, written or otherwise, for any Member to vote on their behalf;
  - (ii) Proxy Voting was illegal. The Standing Orders of the County Assembly of Nyamira, in conformity with parliamentary practices and the Constitution, require that decisions of the Assembly be made by "*members present and voting*". The act of proxy voting is expressly



prohibited and is nullity *ab initio*, as it contravenes Standing Order 67 of the County Assembly of Nyamira Standing Orders and the principles of representative democracy; and

- (iii) The unauthorized casting of votes in the names of absent members without their authority constituted fraudulent misrepresentation, forgery and impersonation, further vitiating the entire process.
- (c) The resolution forwarded to the Senate was therefore a nullity and the Senate lacks jurisdiction considering that the law contemplates that impeachment proceedings before the Honourable Senate could only be triggered by a valid resolution passed in strict compliance with the Constitution and enabling statutes.
- (d) The County Assembly of Nyamira, by conducting a vote that was marred by illegality, fraud and failure to meet constitutional threshold, acted in an *ultra vires* manner. Consequently, the purported resolution forwarded to the Senate is null and void *ab initio*.

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, December 3, 2025 at 2.30 p.m.*

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