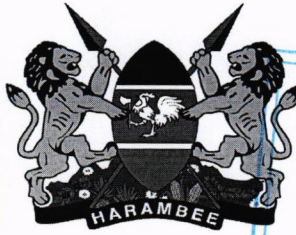


Scanned  
12/11/2021

REPUBLIC OF KENYA

PARLIAMENT  
OF KENYA  
LIBRARY



THE SENATE  
RECEIVED  
9 NOV 2021  
CLERK'S OFFICE

THE SENATE  
TWELFTH PARLIAMENT  
FIFTH SESSION

SENATE STANDING COMMITTEE ON DEVOLUTION AND  
INTERGOVERNMENTAL RELATIONS

REPORT ON THE PETITION CONCERNING THE MALPRACTICES OF  
THE GOVERNOR OF WAJIR COUNTY

PAPERS LAID	
DATE	10/11/2021
TABLED BY	Sen. Nyamunga
COMMITTEE	Devolution
CLERK AT THE TABLE	Daniel

RT. Hon. Speaker  
You may approve for  
tabling.  
09/11/21

Approved  
9/11/2021

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

NOVEMBER, 2021

COS  
Forwarded & recommended for production  
for approval for tabling.  
For DC-EG  
09/11/2021

## TABLE OF CONTENTS

Preface	2
Adoption of the Report	6
<b>Chapter 1: Introduction</b>	7
Summary of the Issues Raised in the Petition	7
Prayers to the Senate	10
<b>Chapter 2: Consideration of the Petition</b>	11
Consideration of the Petition by the Committee	11
Consideration of the Proposed Impeachment by the Special Committee	13
<b>Chapter 3: Conclusion of the Matter</b>	18
Committee findings	18
Committee recommendations	18
<b>Annexes</b>	

## PREFACE

**Mr. Speaker,**

The Standing Committee on Devolution and Intergovernmental Relations is established pursuant to Senate Standing Order 218 and mandated to: -

*'Consider all matters relating to devolution, intergovernmental and inter-county relations, governance and management of county governments, cities, towns and urban areas.'*

The Committee is comprised of the following members: -

- 1) Sen. Moses Kajwang', MP - Chairperson
- 2) Sen. Anuar Loitiptip, MP - Vice Chairperson
- 3) Sen. Kipchumba Murkomen,EGH, MP - Member
- 4) Sen. Aaron Cheruiyot,MP - Member
- 5) Sen. Rose Nyamunga, CBS, MP - Member
- 6) Sen. Cleophas Malalah, MP - Member
- 7) Sen. Agnes Kavindu, MP - Member
- 8) Sen. Abdulkadir Haji, MP - Member
- 9) Sen. Isaac Githua Ngugi, MP - Member

**Mr. Speaker,**

This Petition was originated by Mr. Osman Idris Mohamed, a resident of Wajir County, concerning the malpractices of the Governor of Wajir County. The Petition was tabled in the Senate on 30<sup>th</sup> March, 2021 by the Senator for Wajir County, Sen. (Dr) Abdullahi Ali and committed to the Committee on Devolution and Intergovernmental Relations on the same day.

**Mr. Speaker,**

In summary, the Petitioner raised the following allegations against the Governor of Wajir County-

- (1) The Breach of the Constitution with impunity;
- (2) Disregard of the County Government Act, 2012;
- (3) Breach of the Public Procurement and Asset Disposal Act, 2015;
- (4) Breach of the Public Finance Management Act, 2012 and Regulations herein

- (5) Violation of Human Resource Policies and Procedures in line with the values and principles of the public service as spelt out in Article 10 (2) and Article 232 of the Constitution; and
- (6) Incompetence and poor service delivery.

**Mr. Speaker,**

The Committee commenced consideration of the Petition pursuant to its mandate as provided in the Standing Orders of the Senate. The Committee met virtually with the Senator of Wajir County, Honorable Senator Dr. Hon. Sen. Dr. Abdullahi Ali Ibrahim, CBS, MP, and Sen. Farhiya Ali Haji, CPA, MP to gain their views on the happenings within their county. At this meeting, the Committee resolved to engage the Petitioner, the then Governor of Wajir County and any relevant parties to consider the allegations raised in the Petition.

**Mr. Speaker,**

However, at the sitting of the Senate held on Thursday, 6<sup>th</sup> May, 2021, the Honourable Speaker of the Senate, by way of a Communication from the Chair, informed the Senate that he had received a correspondence from the Speaker of the County Assembly of Wajir communicating the approval of a Motion by the County Assembly of Wajir to remove from office, by impeachment, the Governor of Wajir County.

**Mr. Speaker,**

Following deliberations on the Motion, the Senate resolved to establish a Special Committee, and the Senate Majority Leader subsequently gave notice of the Motion to form the Special Committee on the same day.

**Mr. Speaker,**

The Special Committee constituted the following membership:

1. *Sen. Okong'o Mogeni, SC, MP* - Chairperson
2. *Sen. Susan Kihika, MP;* - Vice Chairperson
3. *Sen. Sakaja Johnson, CBS, MP;*
4. *Sen. Mwangi Githiomi, MP;*

5. *Sen. Christine Zawadi Gona, MP;*
6. *Sen. Mithika Linturi, MP;*
7. *Sen. (Eng.) Hargura Godana, MP;*
8. *Sen. Fredrick Outa, MP;*
9. *Sen. Agnes Muthama, MP,*
10. *Sen. Petronilla Were, MP; and*
11. *Sen. Issa Juma Boy, MP,*

Furthermore, its mandate was to investigate the proposed removal from office of the Governor of Wajir County and to report to the Senate within ten (10) days of its appointment on whether it finds the Particulars of the Allegations to have been substantiated.

**Mr. Speaker Sir,**

In light of the turn of events, Honourable Speaker, the Committee on Devolution and Intergovernmental Relations, resolved to down its tools with regards to consideration of this Petition, and allow the Special Committee to fulfil its duty. The Committee further resolved to resume consideration of the Petition, depending on the outcome of the proposed impeachment.

**Mr. Speaker,**

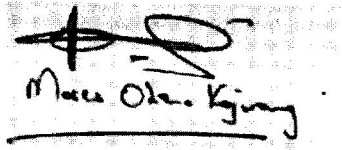
Consideration of the proposed impeachment of the Governor of Wajir County by the Special Committee resulted in the Impeachment of the Governor of Wajir County, who is the main perpetrator of the allegations levelled in the Petition herein. Consequently, the matter is now moot, and should be marked concluded. There is therefore no need to consider the Petition herein any further.

**Mr. Speaker,**

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the continued and steadfast support extended to it during consideration of this Petition, however brief this consideration was.

**Mr. Speaker,**

It is now my pleasant duty, pursuant to Standing Order 232(2), to present the Report of the Standing Committee on Devolution and Intergovernmental Relations on the Petition Concerning the Malpractices of the Governor of Wajir County



Moses Oluo Kajwang

**22<sup>ND</sup> OCTOBER, 2021**

Signed.....

Date.....

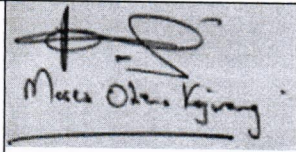

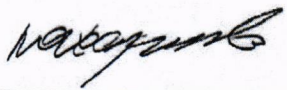



**SEN. MOSES KAJWANG', MP**

**CHAIRPERSON**

**STANDING COMMITTEE ON DEVOLUTION AND**  
**INTERGOVERNMENTAL RELATIONS**

**ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON  
DEVOLUTION AND INTERGOVERNMENTAL RELATIONS ON THE PETITION  
CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR  
COUNTY**

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

Sen. Moses Kajwang', MP	-Chairperson	
Sen. Anuar Loitytip, MP	-Vice-Chairperson	
Sen. Kipchumba Murkomen, EGH, MP	-Member	
Sen. Aaron Cheruiyot, MP	-Member	
Sen. Rose Nyamunga, CBS, MP	-Member	
Sen. Cleophas Malalah, MP	-Member	
Sen. Agnes Kavindu, MP	-Member	
Sen. Abdulkadir Haji, MP	-Member	
Sen. Isaac Githua Ngugi, MP	-Member	

## CHAPTER ONE

### INTRODUCTION

1. This Petition was authored by Mr. Osman Idris Mohamed, a resident of Wajir County, concerning the malpractices of the Governor of Wajir County.
2. The Petition was tabled in the Senate on 30<sup>th</sup> March, 2021 by the Senator for Wajir County, Honourable Senator (Dr) Abdullahi Ali, CBS, MP and committed to the Committee on Devolution and Intergovernmental Relations on the same day.
3. In terms of Standing Order No. 232, the committee is required in not more than sixty (60) calendar days from the time of reading the prayer to respond to the Petitioner by way of a report addressed to the Petitioner and laid on the Table of the Senate. This will be by 31<sup>st</sup> May, 2021. (A copy of the Petition is attached herein as *Annex I*)

#### **1.1. SUMMARY OF ISSUES RAISED IN THE PETITION**

4. In his Petition, the Petitioner raised the following allegations against the Governor of Wajir County-
  - (1) Breach of the Constitution with impunity
  - (2) Disregard of the County Government Act, 2012
  - (3) Breach of the Public Procurement and Asset Disposal Act, 2015
  - (4) Breach of the Public Finance Management Act, 2012 and Regulations herein
  - (5) Violation of Human Resource Policies and Procedures in line with the values and principles of the public service as spelt out in Article 10 (2) and Article 232 of the Constitution
  - (6) Incompetence and poor service delivery
5. With regard to each issue, the Petitioner elaborated as follows-
  - (1) **Breach of the Constitution with impunity**
6. With regard to breach of the Constitution, the Petitioner alleged as follows-
  - (i) That there were serious violations of the one-third gender rule- At that time, it was alleged that there were six (6) female chief officers against 23 male chief officers which brought the gender percentage to 21% female against 79% male.
  - (ii) Violation of Chapter 6 of the Constitution on Leadership and Integrity as follows-
    - Unlawful payment to the national security and investigative office with intention of corrupting and compromising them-



The County Government has been spending Kshs 2.4- 2.7 million on monthly basis. Former Wajir OSPD and Wajir OCS received monthly pay of Kshs. 45, 000 each and all other officers regardless of rank received Kshs. 30,000 each. The Petitioner alleges that the illegal payments amounts to corruption and misappropriation of public resources; and

- Promoting conflict of interest and self-dealing by awarding contracts to companies that belong or have direct relations or are in mutual interest to the immediate family members of the Governor.

**(2) Disregard of the County Government Act, 2012**

7. The Petitioner alleged that the County Government of Wajir disregarded the County Government Act, 2012 by failing to follow the procedural steps under the Act in order to requisition for exchequer releases as follows-

- (i) That there were instances where different payment schedules appeared in different requests submitted to COB;
- (ii) There were cases where different payment requests appeared in the same request more than once for the same works;
- (iii) The County Government of Wajir made payment requests for works already paid;
- (iv) There were cases of duplicate payment for payments for FY 2018/2019 and FY 2019/2020

**(3) Breach of the Public Procurement and Asset Disposal Act, 2015**

8. The Petitioner alleged that the County Government of Wajir was in breach of the Public Procurement and Asset Disposal Act, 2015 and that there were cases of split procurements in breach of section 54(1) of the Public Procurement and Asset Disposal Act, 2015. This was allegedly committed to avoid certain procurement methods.

**(4) Breach of the Public Finance Management Act, 2012 and Regulations herein**

9. The Petitioner alleged that the County Government of Wajir was in breach of the Public Finance Management Act, 2012 and Regulations. There were cases where the County Government of Wajir made payments and requests and received monies from the Treasury but failed to pay listed companies.

**(5) Violation of Human Resource Policies and Procedures in line with the values and principles of the public service as spelt out in Article 10 (2) and Article 232 of the Constitution**

10. The Petitioner alleged that the County Government of Wajir violated Human Resource Policies and Procedures in line with the values and principles of the public service as spelt out in Article 10 (2) and Article 232 of the Constitution. There was widespread violation of Human Resource Policies and Procedures by the County Government of Wajir.
11. The Governor went against the County Public Service Boards interview outcome and as a result the nomination made for Chief Officers was unconstitutional as follows-
  - (i) Nomination of a candidate who failed to attend the interview
  - (ii) Lack of merit and gender equity in appointment of Chief Officers
  - (iii) Unfair recruitment process with no regard for merit
  - (iv) Non-competitive recruitment process
  - (v) Constant interference with the independence of the County Public Service Board recruitment process

**(6) Incompetence and Poor Service Delivery**

12. The Petitioner alleged that the County Government of Wajir had been incompetent and poor at service delivery as follows-
  - (i) Using recurrent expenditure to make payments to fake suppliers alleged to have been rendered by proxy companies associated with the Governor and his family
  - (ii) Low expenditure on operation costs like fuel, vehicle maintenance and administrative cost as the sub-counties level
  - (iii) Variation between budget estimates for recurrent against actual spending and high rate of budget reallocation;
  - (iv) Single multi- million worth development project funded through balances from different departments
  - (v) Favouritism in payment of staff allowances
  - (vi) Lack of revenue automation
  - (vii) Poor service delivery
  - (viii) Violation of employment laws for ECD teachers
13. The Petitioner stated that he made best efforts to have these matters addressed by the relevant authorities all of which failed to give a satisfactory response.
14. Further, that none of the issues raised in the Petition is pending in any court of law, constitutional or any other legal body, at the time that the Petition was tabled in the Senate.

## **1.2. PRAYERS TO THE SENATE**

15. The Petitioner therefore prayed that the Senate-
  - (1) Consider this Petition; and
  - (2) Takes action against the various breaches of the laws by the Governor of Wajir County, and make appropriate recommendations or sanctions to this effect

**CHAPTER TWO**  
**CONSIDERATION OF THE PETITION**

**2.1 CONSIDERATION OF THE PETITION BY THE COMMITTEE**

1. Pursuant to the Standing Orders, the Committee proceeded to consider the Petition and held a virtual meeting with the County Senator, Honorable Senator Dr. Abdullahi Ali Ibrahim, CBS, MP, and Honorable Senator Farhiya Ali Haji, CPA, MP to ventilate on the issues that arose within the Petition and gain a better understanding of the situation. The meeting was held on Wednesday 21<sup>st</sup> April, 2021. (Minutes of the Sittings Considering this Petition are attached herein as *Annex 2*)
  
2. Furthermore, as a roadmap in the consideration of the Petition before reporting to the House, the Committee resolved to proceed as follows-
  - a) Invite the Petitioner to present evidence to prove that allegations outlined in the Petition;
  - b) Invite the Governor of Wajir County to respond to the allegations raised in the Petition;
  - c) Invite the County Assembly of Wajir to provide information on the issues raised and whether the matters have been addressed by the Assembly; and/or
  - d) Invite stakeholders conferred with the mandate to provide factual information on the issues raised by the Petitioner including the Offices of the Auditor General and the Controller of Budget.
  
3. However, the Honourable Speaker of the Senate, by way of a Communication from the Chair, informed the Senate that he had received correspondence from the Speaker of the County Assembly of Wajir communicating the approval of a Motion by the County Assembly of Wajir to remove from office, by impeachment, the Governor of Wajir County.
  
4. The Senate Majority Leader then gave Notice of the following Motion-

*THAT, WHEREAS, pursuant to Article 181 of the Constitution and section 33 of the County Governments Act, 2012, on Tuesday, 27<sup>th</sup> April, 2021, the Wajir County Assembly approved a Motion for the removal from office by*

*impeachment, of the Honourable Mohamed Abdi Mohamud, Governor of Wajir County;*

**AND FURTHER, WHEREAS** by letter Ref. No. SPK/WCA/SENATE/4/2021(1), dated Wednesday, 28th April, 2021, and received in the Office of the Speaker of the Senate on Thursday, 29th April, 2021, the Speaker of the County Assembly of Wajir informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

**AND WHEREAS**, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b) of the Senate, the Senate by resolution, may appoint a special committee comprising eleven of its Members to investigate the matter;

**NOW THEREFORE**, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b)(i), the Senate resolves to proceed on this matter by way of establishment of a special committee to investigate the proposed removal from office by impeachment of the Honourable Mohamed Abdi Mohamud, the Governor of Wajir County.

5. Following deliberations on the Motion, the Senate resolved to establish a Special Committee. The Senate Majority Leader subsequently gave notice of the following Motion on the same day, Thursday, 6<sup>th</sup> May, 2021, –

**THAT, WHEREAS**, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, 2012, on Tuesday, 27<sup>th</sup> April, 2021, the Wajir County Assembly approved a Motion for the removal from office by impeachment, of the Honourable Mohamed Abdi Mohamud, Governor of Wajir County;

**AND WHEREAS**, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b) of the Senate, the Senate by resolution, may appoint a special committee comprising eleven of its Members to investigate the matter;

*FURTHER* whereas, by a Resolution made on Thursday, 6<sup>th</sup> May, 2021 (Afternoon Sitting), the Senate resolved to proceed on this matter by way of a special committee, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b)(i),

*NOW THEREFORE*, pursuant to Standing Order 189, the Senate resolves to appoint a special committee comprising the following Senators -

1. Sen. Sakaja Johnson, CBS, MP;
2. Sen. Mwangi Githiomi, MP;
3. Sen. Christine Zawadi Gona, MP;
4. Sen. Susan Kihika, MP;
5. Sen. Mithika Linturi, MP;
6. Sen. (Eng.) Hargura Godana, MP;
7. Sen. Okong'o Mogeni, SC, MP;
8. Sen. Fredrick Outa, MP;
9. Sen. Agnes Muthama, MP,
10. Sen. Petronilla Were, MP; and
11. Sen. Issa Juma Boy, MP,

*to investigate the proposed removal from office by impeachment of the Governor of Wajir County and to report to the Senate within ten (10) days of its appointment, pursuant to Standing Order 75(2), on whether it finds the particulars of the allegations to have been substantiated.*

6. In view of the motion, the Committee resolved to down its tools and cease all consideration of the Petition in order to allow the Special Committee to consider the proposed impeachment, as most of the allegations in the Petition formed part of the Charges laid against the Governor in the Impeachment motion. (Attached herein is the Communication from the Speaker and Impeachment Motion as *Annex 3*)

## **2.2. CONSIDERATION OF THE PROPOSED IMPEACHMENT OF THE GOVERNOR OF WAJIR COUNTY BY THE SPECIAL COMMITTEE**

7. The Special Committee proceeded to consider the matter extensively. In summary, the Special Committee made the following recommendations on the two (2) main charges levelled against the then Governor of Wajir County, and their particulars:

**Charge 1: Gross Violation Of The Constitution Of Kenya, 2010; The County Governments Act, 2012; The Public Procurement And Asset Disposal Act, 2015 And The Public Finance Management Act, 2012**

---

a) **Allegation 1: Failure to account for the financial resources allocated to the County**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

b) **Allegation 2: Lack of accountability in the management of county resources**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

c) **Allegation 3: Failure to draft the medium-term strategy for the financial year 2020/2021**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

d) **Allegation 4: violation of articles 176(1) and 185 of the Constitution**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

e) **Allegation 5: Failure to establish the County Budget And Economic Forum**

The Special Committee found that the Governor had taken steps towards establishing a County Budget and Economic Forum. The Committee found that the allegation was not proved and was therefore not substantiated

f) **Allegation 6: Failure to deliver the annual state of the county address**

The Special Committee found that from the evidence adduced before it, the County Governments Act does not specify where a State of the County Address ought to be delivered. A State of the County Address can be delivered in a place other than the County Assembly.

The Special Committee therefore found that the allegation was not proved and was therefore not substantiated.

**g) Allegation 7: Failure to submit the annual report of the implementation status of county policies and plans**

The Special Committee found that Governor did not comply with the requirement under section 30(2)(j) of the County Governments Act to submit the annual report on the implementation status of the county policies and plans. The Committee however also determined that this violation did not rise to the threshold for impeachment of the Governor.

**h) Allegation 8: Failure to establish an audit committee**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

**i) Allegation 9: Failure to seek approval of payments out of emergency fund**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

**j) Allegation 10: Operation of various bank accounts at local commercial banks**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

**k) Allegation 11: Violation of regulation 25(1)(b) of the Public Finance Management (County Government) Regulations, 2015**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

**l) Allegation 12: Violation of section 119(5) of the Public Finance Management Act, 2012**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

**m) Allegation 13: Violation of articles 201(a)(d) and (e), 226(5) and 227(1) of the Constitution of Kenya**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

**n) Allegation 14: Violation of Article 227 of the Constitution of Kenya and the Public Procurement and Asset Disposal Act, 2015**



The Special Committee found that the allegation was not proved and was therefore not substantiated.

- o) **Allegation 15: Violation of the right to health of the people of Wajir County**  
**The Special Committee found that the allegation was proved and was therefore substantiated. The Committee further found that the allegation met the threshold for impeachment of the Governor under Article 181 of the Constitution.**

The Special Committee therefore found that Charge 1 on gross violation of the Constitution of Kenya, 2010; the County Governments Act, 2012; the Public Procurement and Asset Disposal Act, 2015 and the Public Finance Management Act, 2012 had been substantiated.

**Charge 2: Abuse Of Office/Gross Misconduct**

---

- p) **Allegation 1: Abuse of power and authority**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

- q) **Allegation 2: Violation of Article 73(2)(B) of the Constitution**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

- r) **Allegation 3: Violation of section 59(1)(b) of the County Governments Act, 2012**

The Special Committee found that the allegation was not proved and was therefore not substantiated.

The Special Committee therefore found that Charge 2 on abuse of office/gross misconduct has not been substantiated.

8. The Special Committee having investigated the matter in accordance with its mandate under section 33(4) of the County Governments Act and standing order 75(2) of the Senate Standing Orders reported to the Senate that it made the following findings:
  - (a) Charge 1 on gross violation of the Constitution of Kenya, 2010; the County Governments Act, 2012; the Public Procurement and Asset Disposal Act, 2015 and the Public Finance Management Act, 2012 was substantiated; and
  - (b) Charge 2 on abuse of office/gross misconduct was not substantiated.<sup>1</sup>
9. The Report of the Special Committee was debated in Plenary and on 17<sup>th</sup> May, 2021, and based on the recommendations of the Special Committee, the Senate resolved that the Governor of Wajir be Impeached.
10. Accordingly, the Governor was Impeached and the Deputy Governor was sworn in as Governor of Wajir County the following day.

### **CHAPTER THREE**

---

<sup>1</sup> *Report on the Impeachment of the Governor of Wajir County dated May, 2021.*

## CONCLUSION OF THE MATTER

### 3.1 Committee Findings

Having considered the Petition and the outcome of the Impeachment process, the Committee made the following observations:

1. That all of the allegations that were made in the Petition, which were also raised in the Impeachment Motion were already considered by the Special Committee;
2. That though most of the allegations which formed the particulars of the two main charges were found to be unsubstantiated, the Special Committee still found one charge that met the threshold of impeachability.
3. That the resultant outcome of the Special Committee's considerations was the Impeachment of the Governor of Wajir County, who is the main perpetrator in the Petition against whom the allegations are made.
4. That a new Governor has now been installed and therefore cannot be investigated as the allegations were not levelled against him.
5. That the impeached Governor has sought court redress to reverse the decision of the Senate to impeach him, therefore the *sub judice rule* applies, pursuant to Standing Order No. 98 which provides as follows:
  98. *Matters sub judice or secret*
    - (1) *Subject to paragraph (5), no Senator shall refer to any particular matter which is sub judice or which, by the operation of any written law, is secret.*
    - (2) *A matter shall be considered to be sub judice when it refers to active criminal or civil proceedings and the discussion of such matter is likely to prejudice its fair determination.*
6. Because the matter is active in Court and bearing in mind a House resolution has already been made on the same, **the Committee finds that matter is spent and should not be considered further.**

### 3.2 Committee Recommendations

7. Arising from its findings on the matter, the Committee recommends that this committee shall ensure that the resolutions of the Senate (following the recommendations of the Special Committee on the Impeachment of the Governor of Wajir County) have been complied with.

## LIST OF ANNEXES

- Annex 1:* Copy of the Petition
- Annex 2:* Minutes of Sittings of the Committee
- Annex 3:* Communication from the Chair and Motion of the formation of the Special Committee to consider the Impeachment of the Governor, Wajir County, dated 6<sup>th</sup> May, 2021.

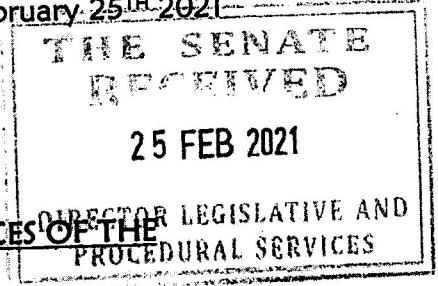
***Annex 1:***  
***Copy of the Petition***

**PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY**

① Mw. Mogere (AD LDC)  
*PS process.*

The Clerk of the Senate  
 Parliament Buildings  
 P.O. Box 41842 - 00100  
 NAIROBI.  
 Email: senate.petitions@parliament.go.ke

Monday, February 25<sup>th</sup> 2021



**RE: PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY**

I/We, the undersigned,

Citizens of the Republic of Kenya, and residents of Wajir County, within the Republic of Kenya;

DRAW the attention of the Senate to the following:

③ Ms. Macharia  
 Please review and facilitate the petition.  
D. Chanja  
 01/03/2021.

1. Breach of the constitution with impunity

1.1 THAT there are serious violations of the one-third gender rule;

The Governor of Wajir County has been acting in complete disregard of gender equality or the 2/3<sup>rd</sup> gender rule, and is completely gender insensitive in regards to recruitment of senior officials. Currently there are six female chief officers against 23 male chief officers which brings the gender percentage to 21% female against 79% male. The recent recruitment of nine (9) new COs was advertised after the resignation of four Chief Officers, meaning that the process resulted to the recruitment of 5 new positions while refilling the four vacant. The table below provides Gender analysis of the new recruitment and its impact on overall gender representation among Chief Officers vis-a-vis the one-third gender required rule of the county work force;

Gender analysis of the new recruitment and its impact on overall gender rep among Chief officers

Chief officer	Pre-recruitment		Post-recruitment	
	No	%	No	%
Female	4	16%	6	21%
Male	21	84%	23	79%

N.B: This analysis and the injustice committed against Shinde Ali Hassan as indicated in point 5.1(c) is a clear

In regards to gender analysis among the chief officers, records indicate that, Prior to this recruitment process, there were a total of 25 chief officer of which 16% were female while 84% were male. At this time, the county was 14% below the one-third gender required rule despite knowing this deficit, the county Government instead of addressing the gender disparity during the second

② Mr. Chanja  
 Please process

2m  
 25.02.21

③ Ms. Macharia  
 Please review and facilitate

## PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY

testimony of a governor who is gender insensitive and noncompliance to gender laws in the Country.

recruitment, they have recruited two female against seven male which is in itself below one third leave along bridging the previous gap. Thus in the end, and as a result of this, currently there are six female chief officers against 23 male which brings the gender percentages to 21% female against 71% male.

1.3 **THAT**, there is wanton violation of Chapter 6 of the Constitution on Leadership & Integrity, as illustrated by the following incidents

- a) Unlawful payment to national security and investigative office with intention of corrupting and compromising them:

The county Government of Wajir has been spending security allowance of 2.4m-2.7m on monthly basis. Part of this payment was received by key national security personnel. Those believed to have regularly benefited includes: the former OCPD Mr. Hussein Godana; the former OCS Chief Inspector Barkwol and Former County commander Mr. Nyatich.

Under normal circumstances, allowances are expected to be paid based on need and therefore should be varying from time to time. However, in this case the amount paid to these officers was constant just like a payroll without basis of either days, or Rank. Whereas the immediate former Wajir OSPD and Wajir OCS have been receiving a monthly pay of Ksh. 45,000 each, all other officer regardless of their rank are receiving monthly pay of Ksh30000 each.

So, in summary, this is basically a protection fee/mafiya tax paid to the national security officers. The suspicions about security allowances is that, the pay is constant and not night out. The two despite being in the County payroll, they are also in the list accompanying the voucher for security allowances. This illegal payment amounts to corruption and misappropriation of public resource, as well as abuse of power.

- b) Promoting Conflict of Interest and self-dealing:  
The County Government of Wajir promotes conflict of interest and engages in self-dealing as illustrated below:

**PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY**

- i) Awarding contract to companies that belong to or have direct relations or are in mutual interest to immediate family members of Governor Mohamed Abdi Mohamud.

Annex 1(a): Names of Governor's family members with direct links to companies that have transacted business with the County Government leading in to Conflict of interest. Mr. Farah Mohamed Abdi - engaged in a conflict of interest with Falcon Contractors Company LTD; Bakal Block Construction Company; Sahmo General Supplies & Construction LTS;

Further to this, one Mr. Hassan Mohamed Abdi Mohamud who is the first born Son of the Governor has been linked to several companies that offer services to the County government, in a clear case of self-dealing.

In addition, Ms. Farina, the 3rd born of the Governor is believed to be the director and shareholder of various companies which are regularly awarded contracts by the County government, hence the Governor is using his nuclear family to trade with the county.

Annex 1(b); is a list of Proxy companies believed to be owned by the immediate family members of Governor Mohamud; Further, there are individual persons registered as directors of Proxy companies believed to be owned by the immediate family of Governor Mohamud;

The governor's family is believed to have registered an estimate of 50 companies under the name of Abdirizak who is an extended relative and has been managing Liban Boarding & Lodging for decades, which lodging belongs to the Governor (the premise is registered under the name Hassan Abdi Mohamud). These list of companies shown in annex 1(b) is believed to have been registered at the same time, they have been contracted to deliver services by the County on many occasions.

Unlike many ordinary contractors, who often face delay or pending payments, evidence show that, the companies affiliated with the Governor have been regularly receiving payments in every disbursement made with many times receiving payments twice or even more.

According to circumstantial evidence there are a number of questionable critical incidents that casts serious doubts about this companies; First, there is a serious questions as to why Abdirizak will decide to register such a huge



**PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY**

number of companies within the same period and immediately after the birth of this Administration while it's a fact that prior to this, he never had single company registered under his name;

Secondly why is it that his companies are always receiving payments of multiple transactions more often than other ordinary companies operating in the County?

Thirdly, Since Abdirizak never owned a company before, and his economic status was considered as low income person, it's ridiculous that despite receiving millions in a day from the county and similar in many other times, his economic status (wealth) is inconsistent when compared to amount of money generated by this companies.

Fourthly; despite the fact that many contractors in the County have huge unpaid (pending) bills and are often complaining with immense frustration, all companies registered under his name are believed to have zero or minimal amount of unpaid pending bills.

Last but not least, its questionable to note that despite transacting millions from the county Government, this companies have no valuable assets (whether physical or financial) belonging to them. Its therefore right to conclude that, this companies are proxy serving other people who are influential in the County, and since he is a relative who had long term relation with the Governor's family, we believe beyond reasonable doubt that there is involvement of governor's family in this fishy business,

- ii) The County Government further engages in favoritism; where there is a deliberate and well-choreographed Scheme orchestrated by the Governor Mohamud's administration to favor payments to companies owned by his family members directly or by proxy. According to payment disbursement records of Wajir County Government. In addition, unlike many ordinary contractors who often face delay or pending of payments, a company such as Falcon has been receiving payments more frequently; at least twice or more in every single disbursement made by the County. See Appendix I

**2. Disregard of County Government Act 2012**

**PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY**

The County Government of Wajir has been acting in complete disregard to the County Government Act 2012, and the regulations made thereunder. Few instances of such disregard include: failure to follow the procedural steps under the Act for in order to requisition for exchequer releases.

The Act requires that the County treasury consolidates all the cash plans from different departments, which form the basis of the requisition for exchequer release. The county treasury then prepares Form A to request for the release of funds from the County Revenue funds by the Office of the Controller of Budget. This is supported by cash plan prepared by the County head of Treasury.

The authority is granted by the COB through issuing FORM B. A copy of this form is forwarded to the Banking director at the Central Bank of Kenya.

After thorough analysis and scrutiny, the following issues were observed from the review of the various exchequer requisitions made by the county government of Wajir, which go to show utter and contemptuous disregard of the Act:

**2.1 THAT** there are instances where different Payment Schedule appear in different requests submitted to COB

A cursory review of the county's exchequer requisitions and the supporting cash plans reveal instances of where payment request for works done appearing in multiple cash plans supporting various exchequer requisitions. See Appendix 2

**2.2 THAT** there are cases where different payment request appears in the same request more than once for the same works;

In some instances, works appearing in the same request, ostensibly working on the same projects simultaneously were each paid for as indicated in Appendix 3 attached.

**2.3 THAT** the County Government of Wajir makes payment request for works already paid;

Analysis of exchequer requisitions for development votes by the county government of Wajir shows that an amount of Ksh 182,493,242.80 that had already been paid was included in the subsequent request as unpaid bills. See Appendix 4.

## PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY

This deliberate and systematic inclusion/commission in the subsequent payment requests, when payment was previously done is suggestive of the existence of ghost projects in Wajir County.

This is a blatant and outright illegality that has occasioned loss of millions of public funds. It's worth noting that the duplicate payments observed in point 2.4 below are been perpetrated/ orchestrated through such dubious schemes.

**2.4 THAT** there are cases of duplicate payment for payments for FY 2018/2019 and FY 2019/2020

A review of payments made for departments of Road, Transport and Public Works & Water Resource Developments during FY 2018/2019 and Developments funds disbursed in FY 2019/2020 up to 31<sup>st</sup> March 2020 shows various duplicate payments made to the same service providers at different times and some at the same time.

In total, an amount of Kes. 366,950,090.25 was paid as part of such duplicate payments which are suspicious and frivolous.

### **3. Breach of the Public Procurement and Asset Disposal Act 2015**

The County Government of Wajir, acts in complete and utter disregard of the laws and regulations governing procurement, as illustrated by the following instances:

#### **3.1 Cases of split procurement**

Out of Ksh 1,914,764,781.10 paid for development projects as at 30<sup>th</sup> March 2020, Ksh 1,411,970,945.70 appear to be split procurements as the payments are all made in a pattern that indicates works are given in portion to avoid certain procurement methods. You clearly observe that payments are below 4 million. See Appendix 1

This is in total disregard of section 54. (1) of the Public Procurement and Asset Disposal Act 2015 which requires that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed.

## PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY

The fact that this is an instance of flagrant and contemptuous misappropriated of public funds, is buttressed by a look at the amounts that were being paid to the companies: all these amounts are less than 4 million shillings, meaning that the County Government was not under an obligation to award such contracts by way of open tender as they are procured using quotations, thus increasing the probability of loss and or pilferage of public funds.

#### 4. Blatant of breach of PFM Act 2012 and regulations therein

The County Government also acts in total disregard of the laws and regulations governing the handling of public finances, as explained hereunder

##### 4.1 THAT there are cases where the County Government of Wajir makes rayments requests and received monies, but fails to pay

For instance, vide a letter ref: WJR/FIN/DEV/VOL1 (1) dated 26<sup>th</sup> November 2019, the County Government of Wajir through the head of treasury requested for a grant of credit from the exchequer from the Controller of Budget, being the sum of Ksh. 199,237,448. In the letter requesting for the monies, the County Government claimed that the money was meant for development projects, for year 2019/2020 and provided a summary indicating the economic classification of the funds sought as being Ksh. 95,241,305.78 for roads transport and public works, while Ksh. 104,046,400 as for water resources development.

The said letter further provided a list of the intended payees of the monies requested for with 24 companies being listed as those to receive the while Ksh. 104,046,400 as for water resources and 15 companies listed as the intended receipts of Ksh. 95,241,305.78 for roads transport and public works. See Appendix 5.

An in-depth forensic audit into the matter shows that the controller of budget authorized the request for credit from the County Government of Wajir, vide a letter dated 5<sup>th</sup> December 2019, and the sum of Ksh. 199,237,448 was credited to the Wajir County Development Operational Account, and it was expected that the monies were to be used for the intended purposes.

Analysis of the payments (IFMIS Payment) made by the county government and the schedule attached to the exchequer approved revealed the following issues:

**PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY**

a) Out of the 39 companies that were listed in the request for the exchequer by the county executive, only 3 were paid an amount of Ksh 76,819,677.50 as follows:

- i) Halanle Construction Company Ltd Ksh 43,805,207.50
- ii) Hiliye Auto spare parts Ltd Ksh 3,968,070
- iii) Dulla Limited Ksh 29,046,400

b) The other 36 companies were never paid a total amount of Ksh 123,209,075.97 despite them been in the list that was submitted by the county executive and approved the COB. See Appendix 5.

Clearly, this is an outright breach & violations of the Provision of Public Finance Management Act 2012 Section 109(7) and Sec 53 of PFM Regulations –County Government.

Out of the three companies that were paid in (a) above, Halanle Construction Company Ltd and Dulla Limited were paid on 20<sup>th</sup> November 2019 and 12<sup>th</sup> November 2019 respectively long before the request and approvals for the exchequer to process the payment were done contrary to the provisions of statutes PFM Act 2012, PFM Regulations (County Government) 2015 and Article 10 of the Constitution of Kenya 2010.

5. Violation of HR policies and Procedures in line with the values and principles of the public service as spelt out in Article 232 of the Constitution. 10 (2).

5.1 THAT there is widespread violation of HR policies and Procedures by the County Government of Wajir

The governor has deliberately gone against the County public service Board's interview outcome and as a result the nomination made for Chief Officers is against the values and principles of the public service spelt out in Article 232 of the Constitution. 10 (2). Which states; "*In recruitment, the county government will ensure that the staff appointed into the county public service has the necessary skills, knowledge and attitude to deliver efficient and effective services*". The Public Service manual further elaborates under B7 on Matters to Take into Account during Appointments and provides thus: "*(2) In determining whether an appointment, promotion or re designation has been undertaken in a fair and*

**PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY**

*transparent manner, the overriding factors shall be merit, fair competition and representation of the diversity of the county”.*

After thorough analysis and scrutiny of the recruitment process of eight Chief Officers, the following issues were observed from the review of the records by the CPSB;

- a) The nomination of the candidate who failed to attend the interview was illegal and amounted to a breach of HR policies of fairness. Despite failing to attend the Interviews as clearly indicated in the Recruitment analysis report, “Mr. Ibrahim Abdi Mohamed” was somehow nominated for the position of “County Administration Devolve Unit”.
- b) Merit has NOT been used to select the best candidate for the Job. The County Government has deliberately decided to ignore performance merit and gender equity leading to unfair and biased decisions during appointment of chief officers.
- c) Unfair selection Process has been observed on a number of occasions, where unfair decision have been witnessed during selection of candidates competing for the slot of Tarbaj Sub-county. As clearly shown in the summary analysis, despite having candidates that were homogeneous in all factors except difference in scores, the County Government instead of selecting the best, they decided to ignore merit and selected/appointed the second best from the group, with no explanation for this.

The worst injustice is witnessed in the case of Wajir East Sub-county where a lady (female) (Shindes Ali Hassan) who worked hard to score 83.1% and become the 2<sup>nd</sup> best was left out only for the Government to appoint a Man/male (Mohamud Hassan Musa) with lowest score of 72.3 points only. Despite the two being from the same clan, it’s imperative to note that Shindes Ali Hassan was entitled to have two advantage over the appointee; (i) Better performance/merit and (ii) Gender equity advantage for being female candidates. This behavior by the Governor is NOT only illegal but shocking and extremely gender insensitive, and he ought to be held to account for it.

- d) Noncompetitive recruitment process; Favoritism is clear in sub-counties where the board had shortlisted single candidate for each. With the intention of manipulating the outcome, a total of three candidates from Wajir West, Wajir

**PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY**

North and Eldas sub-counties have NOT been subjected to competitive recruitment process and instead been appointed.

- e) There is constant interference with the independence of the County public services Board in the recruitment processes. The governor has usurped the CPSB powers by taking over the role of the board, where instead of allowing the Board to prepare the final recommended candidates to be presented to the assembly for vetting and but the Governor overrules the recommendation by the board and presents his preferred candidates. Unproved allegation/ public rumor attributed to corruption with many of this Chief Officers reported to have paid a bribe of between Ksh. 300,000-Ksh. 500,000 to secure the positions.

**6. Incompetency and poor service delivery**

As a result of poor leadership, service delivery in the County has fallen way below the expectations and the standards set by the previous administration.

For instance, there is evidence of irregular payments (to prove this, we demand copy of recurrent expenditure for the FY 2019/2020 from the treasury). Some of the key areas will be;

- a) Use of Recurrent expenditure to male payment of fake suppliers of goods and services alleged to have been rendered by proxy companies associated with the Governor and his family.
- b) Low expenditure of operation cost like fuel, vehicle maintenance and administrative cost at sub-counties level.
- c) Huge variation between Budget Estimate for recurrent against actual spending. High rate of budget re-allocation is an evidence of poor financial management discipline and cookery.
- d) Single multi-million worth development project funded through balances from different departments. For instance, a total amount of 50million big project of 50m moved.

This is an administration that uses favoritism in payment of staff allowance. Scrutiny of Financial records has shown evidence of allowances only paid to few officers who are either related or working for the governor and his family.

**PETITION TO THE SENATE CONCERNING THE MALPRACTICES OF THE GOVERNOR OF WAJIR COUNTY**

Records show huge payments in form of allowance with few employees benefiting from it over and over again, raising suspicion.

Revenue automation is not there, no plan to recover the down fall

The most basic needs of Wajir urban town is management of sanitation, today as we speak the workers have no protective gears, they are complaining of basic items like soap, paraffin etc.

Moreover, this is an administration that absolutely lack basic functioning fleet management unit despite having transport manager in the payroll. As a result of this, they have failed to undertake basic maintenance of its own fleets. The simple reason of rendering this important unit dysfunctional is to divert the budget planned for operation to pay fake suppliers of goods & services alleged to have been rendered by proxy companies associated with the Governor and his family. As a result, more than half of the County vehicles are in the garages with no funds to undertake minor repair work, 70% of sanitation tractors are none-functional with only one tractor currently operating in a bad condition.

This is a County that has kept hundreds of ECD teachers in casual for the 3<sup>rd</sup> year in a row, in violation of the Employment Act. This is an administration that has no mercy to workers at the lower cadre, they have no respect to employment laws and instead decided to apply jungle laws to its own workers.

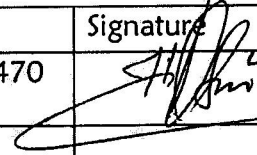
4. **THAT**, I/we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.

5. **THAT**, none of these issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.

**WHEREFORE**, your humble petitioners pray that the Senate-


1. Considers this Petition
2. Takes action against the various breaches of the laws by the Governor of Wajir County, and make appropriate recommendations or sanctions to this effect



No.	Name	Address	ID No.	Signature
1	OSMAN IDRIS MOHAMED	P.O.B136-70200	AK0785470	 0723 483940

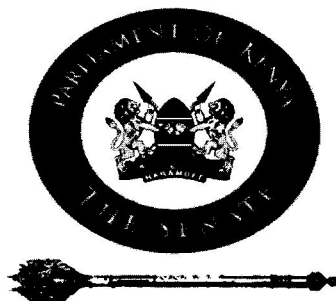
If presented by a Senator:

Counter signed by Senator Dr. Abdullahi Ali, Senator for Wajir County.

  
 .....  
 Sen. Dr, Abdullahi Ali  
Senator for Wajir County

*Annex 2:*

*Minutes of the Meeting*



**TWELFTH PARLIAMENT | FIFTH SESSION**

**MINUTES OF THE FOURTH SESSION OF THE RETREAT OF THE SENATE  
STANDING COMMITTEE ON DEVOLUTION AND INTER-GOVERNMENTAL  
RELATIONS HELD ON SATURDAY 23<sup>RD</sup> OCTOBER, 2021, AT 2.30 P.M IN  
MOMBASA, SERENA HOTEL**

**PRESENT**

- |                               |                                   |
|-------------------------------|-----------------------------------|
| 1. Sen. Moses Kajwang', MP    | - Chairperson ( <b>Chairing</b> ) |
| 2. Sen. Agnes Kavindu         | - Member                          |
| 3. Sen. Abdulkadir Haji, MP   | - Member                          |
| 4. Sen. Isaac Ngugi Githua    | - Member                          |
| 5. Sen. Rose Nyamunga, CBS MP | - Member                          |

**ABSENT WITH APOLOGY**

- |                                     |                    |
|-------------------------------------|--------------------|
| 1. Sen. Anuar Loiptip, MP           | - Vice Chairperson |
| 2. Sen. Kipchumba Murkomen, EGH, MP | - Member           |
| 3. Sen. Cleophas Malalah, MP        | - Member           |
| 4. Sen. Aaron Cheruiyot, MP         | - Member           |

**SECRETARIAT**

- |                         |   |
|-------------------------|---|
| 1. Ms. Carole Cheruiyot | - Legal Counsel                             |
| 2. Mr. Simon Muinde     | - Audio Officer                             |
| 3. Ms. Sylvia Adera     | - Clerk Assistant ( <b>Taking Minutes</b> ) |
| 4. Ms. Lucianne Limo    | - Media Relations Officer                   |
| 5. Mr. Fredrick Ouma    | - Sergeant at Arms                          |

**DEV-IR. MIN. NO.119/2021 PRAYER**

The sitting commenced at 2.45 pm with a word of prayer led by the Chair.

**DEV-IR. MIN. NO.120/2021 ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the programme being the adoption of reports, which was proposed by Sen. Abdulkadir Haji, MP and seconded by Sen. Isaac Ngugi Githua, MP.

**DEV-IR. MIN. NO.121/2021 CONSIDERATION OF PREPARED REPORTS**

The members considered the following reports :

1. The Report On The Petition On The Boundary Dispute Between Vihiga, Kisumu And Siaya Counties Around Maseno Area; and
2. The Report on the Petition on the Malpractices by the Wajir Governor.

The Committee went over the reports and with minor amendments, resolved to adopt the reports.

The reports were signed and the Committee Members thanked the Secretariat for their diligent work and efforts in concluding these Petitions.

**DEV-IR. MIN. NO. 122/2021 ANY OTHER BUSINESS**

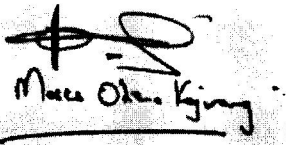
The Committee Members agreed on the priority of County Visits to be undertaken by the Committee, namely Visits to Nairobi County, Machakos County, Nyandarua County and Kisii County in that order.

**DEV-IR. MIN. NO.123/2021 DATE OF NEXT MEETING**

The next meeting will be held on October 27<sup>th</sup> 2021 at 11:30am.

**DEV-IR. MIN. NO.124/2021 ADJOURNMENT**

There being no other business, the meeting was adjourned the meeting at 5.00pm.



Moses Oluo Kijony

**SIGNED: .....**  
**(CHAIRPERSON)**

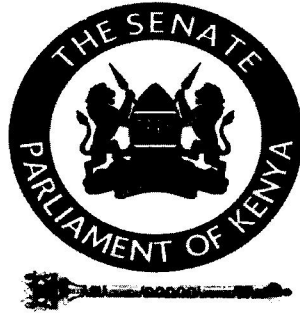
**27<sup>TH</sup> OCTOBER, 2021**

**DATE: .....**

# *Annex 3:*

*Communication from the Chair and Motion of  
the formation of the Special Committee to  
consider the Impeachment of the Governor of  
Wajir County dated 6<sup>th</sup> May, 2021*

**REPUBLIC OF KENYA**



**TWELFTH PARLIAMENT- FIFTH SESSION**

**COMMUNICATIONS FROM THE CHAIR**

|No. 22 of 2021|

**ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT  
OF HONOURABLE MOHAMMED ABDI MOHAMUD, THE GOVERNOR  
OF WAJIR COUNTY**

---

**Honourable Senators,**

1. By a letter, Ref. No. SPK/WCA/SENATE/4/2021, dated 28<sup>th</sup> April, 2021, and received in my Office on 29<sup>th</sup> April, 2021, the Speaker of the Wajir County Assembly informed me that at a sitting of the County Assembly held on Tuesday, 27<sup>th</sup> April, 2021, the County Assembly approved a Motion, pursuant to Section 33(2) of the County Governments Act, for the removal from office, by impeachment, of Honourable Mohammed Abdi Mohamud, the Governor of Wajir County.
2. The Speaker of the County Assembly also forwarded copies of the following documents-
  - (a) The Order Paper of the Wajir County Assembly dated, Tuesday, 27<sup>th</sup> April, 2021;
  - (b) Notice of Motion, by Hon. Abdullahi Issack, Member of the County Assembly, Elnur/Tula Tula Ward, on the proposed removal from office, by impeachment, of the Governor of Wajir County, dated Monday, 19<sup>th</sup> April, 2021;
  - (c) The Hansard and Votes and Proceedings of the Wajir County Assembly dated, Tuesday, 27<sup>th</sup> April, 2021; and

- (d) The Roll Call Register indicating the Members in support of the Motion for the removal from office, by impeachment, of the Governor.

**Honourable Senators,**

3. In terms of Article 181 of the Constitution, Section 33(3)(a) of the County Governments Act, 2012 and Standing Order 75(1)(a) of the Senate Standing Orders, the Speaker of the Senate is required “*within seven days after receiving notice of a resolution from the speaker of a county assembly to convene a meeting of the Senate to hear charges against the Governor.*”

**Honourable Senators,**

4. Pursuant to Section 33(3)(b) of the County Governments Act and Standing Order 75(1)(a) of the Senate Standing Orders, I hereby proceed to read the allegations against the Governor of Wajir County –

*(a) Charge 1: Gross Violation of the Constitution of Kenya 2010; County Governments Act, 2012, the Public Procurement and Disposal Act, 2015 and the Public Finance Management Act, 2012:*

- i) Failure to account for the financial resources allocated to the county in disregard to Article 201(a), 183(3) of the Constitution and Sections 149 and 166 of the Public Finance Management Act, 2021;*
- ii) Lack of accountability to the County Assembly pursuant to Section 30(2) of the County Governments Act, 2021;*
- iii) Misappropriation of resources through corrupt procurement processes contrary to Section 19 of the Wajir County Disaster Management Act, Sections 82(1)(b), 119(5), 201(a)(d)(e), of the Public Finance Management Act, and Sections 45,46,47, 48, 53, 54, 57, 71 and 74 of the Public Procurement and Disposal Act, 2015;*

*(b) Charge 2: Abuse of Office/Gross Misconduct;*

Contravention of Article 235 of the Constitution, the County Governments Act, 2021 and the Public Service Act by allegedly constantly reshuffling Chief Officers at the convenience of the Governor’s wife. Exercising nepotism, favoritism and other corruption practices contrary to Article 73(2)(b) of the Constitution. Furthermore, the Governor has allegedly usurped the powers of the County Public Service Board by appointing persons to hold office.

**Honourable Senators,**

5. In terms of the way forward, following the reading of the allegations against the Governor, Standing Order 75(1)(b) of the Senate Standing Orders, gives the Senate two options on how to proceed with the matter. The Senate may –

- (a) *by Resolution, appoint a Special Committee comprising eleven of its members to investigate the matter; or*
- (b) *investigate the matter in plenary.*

6. As listed at Order No. 2, in the Order Paper, the Senate Majority Leader will shortly give Notice of Motion for the establishment of a Special Committee and the Motion thereon is listed at Order No. 3. Should this Motion be carried, the Special Committee will be required, under Section 33(4) of the County Governments Act, 2012, and Standing Order 75(2) of the Senate, to investigate the matter and to report to the Senate on whether it finds the particulars of the allegations against the Governor to have been substantiated.

7. If, however, the Motion for the establishment of a Special Committee does not pass, the Senate shall proceed to investigate and consider the matter in Plenary and in that event, I will appoint the dates on which the Senate will sit in Plenary to hear and dispose of the matter.

**Honourable Senators,**

8. It is noteworthy, and I wish to emphasize to all Honourable Senators, that when we come to the debate on the Motion to establish the Special Committee, debate on the Motion shall be limited to the substance of the Motion, namely, whether or not to establish the Special Committee. It will not be a debate on the substance of the impeachment or its merits, propriety, prudence or even the constitutionality or the legality of the processes that have preceded the submission of this matter to the Senate. It is, therefore, not permissible to deviate to any matters other than the Motion before the Senate.

**Honourable Senators,**

9. Impeachment is one of the most crucial oversight tools and roles for the Senate to hold state officers accountable. Therefore, in undertaking this mandate, the Senate will be sitting as a quasi-judicial body and will conduct investigations into disputed claims and alleged infractions of the Constitution and the law and will thereafter make its determination. In this regard, it shall be out of order, within the meaning of Standing Order 117, for any Senator to make



comments, whether written or spoken, in relation to the conduct of the Governor or the impeachment process, outside the confines of the impeachment proceedings; as such comments may prejudice the just outcome of the process.

10. I conclude by urging all Senators to exercise the highest level of responsibility on this matter.

11. I thank you.

**RT. HON. SEN. KENNETH M. LUSAKA, EGH, MP,  
SPEAKER OF THE SENATE**

*Thursday, 6<sup>th</sup> May, 2021*



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - (FIFTH SESSION)

THE SENATE

**SUPPLEMENTARY ORDER PAPER  
SPECIAL SITTING**

THURSDAY, MAY 06, 2021 AT 2:30 PM

PRAYER

1. Communication from the Chair.
2. Notices of Motion (as listed in the Appendix)
3. **MOTION - APPOINTMENT OF SENATORS TO SERVE IN THE SPECIAL COMMITTEE TO INVESTIGATE THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE MOHAMMED ABDI MOHAMUD, THE GOVERNOR OF WAJIR COUNTY**  
(The Senate Majority Leader)

**THAT, WHEREAS**, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, 2012, on Tuesday, 27<sup>th</sup> April, 2021, the Wajir County Assembly approved a Motion for the removal from office by impeachment, of the Honourable Mohamed Abdi Mohamud, Governor of Wajir County;

**AND WHEREAS**, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b) of the Senate, the Senate by resolution, may appoint a special committee comprising eleven of its Members to investigate the matter;

**FURTHER** whereas, by a Resolution made on Thursday, 6<sup>th</sup> May, 2021 (Afternoon Sitting), the Senate resolved to proceed on this matter by way of a special committee, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b)(i),

...../Motion

**NOW THEREFORE**, pursuant to Standing Order 189, the Senate resolves to appoint a special committee comprising the following Senators -

1. Sen. Sakaja Johnson, CBS,MP;
2. Sen. Mwangi Githiomi,MP;
3. Sen. Christine Zawadi Gona, MP;
4. Sen. Susan Kihika,MP;
5. Sen. Mithika Linturi,MP;
6. Sen. (Eng.) Hargura Godana,MP;
7. Sen. Okong'o Mogeni, SC,MP;
8. Sen. Fredrick Outa,MP;
9. Sen. Agnes Muthama,MP,
10. Sen. Petronilla Were,MP; and
11. Sen. Issa Juma Boy,MP;

to investigate the proposed removal from office by impeachment of the Governor of Wajir County and to report to the Senate within ten (10) days of its appointment, pursuant to Standing Order 75(2), on whether it finds the particulars of the allegations to have been substantiated.

4. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020**  
(The Senate Majority Leader)

*(Second Reading)*

***(Resumption of debate interrupted on Thursday, 6<sup>th</sup> May, 2021 – Morning Sitting)***

5. **COMMITTEE OF THE WHOLE**  
**THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020**  
(The Senate Majority Leader)

6. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020**  
(The Senate Majority Leader)

*(Third Reading)*

**--XXX--**

**NOTICE**

**NOTICE** is given that, pursuant to Standing Order 251A and 251B, the sitting will be a hybrid sitting consisting of Senators who are physically present in the Senate Chamber and Senators participating virtually from a remote location through **Zoom** online meeting platform, as per guidelines issued by the Speaker pursuant to Standing Order 251A(4).

--XXX--

**KEY**

**\*\*\*\*\*** - Denotes a Majority /Minority Party Bill

**\*\*\*** - Denotes a National Assembly Bill

**\*\*** - Denotes a Committee Bill

**\*** - Denotes any other Bill

-----

APPENDIX

NOTICE OF MOTION – APPOINTMENT OF SENATORS TO SERVE IN THE SPECIAL COMMITTEE TO INVESTIGATE THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE MOHAMMED ABDI MOHAMUD, THE GOVERNOR OF WAJIR COUNTY

(The Senate Majority Leader)

**THAT, WHEREAS**, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, 2012, on Tuesday, 27<sup>th</sup> April, 2021, the Wajir County Assembly approved a Motion for the removal from office by impeachment, of the Honourable Mohamed Abdi Mohamud, Governor of Wajir County;

**AND WHEREAS**, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b) of the Senate, the Senate by resolution, may appoint a special committee comprising eleven of its Members to investigate the matter;

**FURTHER** whereas, by a Resolution made on Thursday, 6<sup>th</sup> May, 2021 (Afternoon Sitting), the Senate resolved to proceed on this matter by way of a special committee, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b)(i),

**NOW THEREFORE**, pursuant to Standing Order 189, the Senate resolves to appoint a special committee comprising the following Senators -

1. Sen. Sakaja Johnson, CBS,MP;
2. Sen. Mwangi Githiomi,MP;
3. Sen. Christine Zawadi Gona, MP;
4. Sen. Susan Kihika,MP;
5. Sen. Mithika Linturi,MP;
6. Sen. (Eng.) Hargura Godana,MP;
7. Sen. Okong’o Mogeni, SC,MP;
8. Sen. Fredrick Outa,MP;
9. Sen. Agnes Muthama,MP,
10. Sen. Petronilla Were,MP; and
11. Sen. Issa Juma Boy,MP;

to investigate the proposed removal from office by impeachment of the Governor of Wajir County and to report to the Senate within ten (10) days of its appointment, pursuant to Standing Order 75(2), on whether it finds the particulars of the allegations to have been substantiated.

-----



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FIFTH SESSION)

THE SENATE

**ORDER PAPER  
SPECIAL SITTING**

**THURSDAY, MAY 06, 2021 AT 2:30 PM**

**PRAYER**

1. Communication from the Chair.
2. Notices of Motion (as listed in the Appendix)
3. **MOTION - ESTABLISHMENT OF A SELECT COMMITTEE TO INVESTIGATE THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE MOHAMMED ABDI MOHAMUD, THE GOVERNOR OF WAJIR COUNTY**  
(The Senate Majority Leader)

**THAT, WHEREAS**, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, 2012, on Tuesday, 27<sup>th</sup> April, 2021, the Wajir County Assembly approved a Motion for the removal from office by impeachment, of the Honourable Mohamed Abdi Mohamud, Governor of Wajir County;

**AND FURTHER, WHEREAS** by letter Ref. No. SPK/WCA/SENATE/4/2021(1), dated Wednesday, 28<sup>th</sup> April, 2021, and received in the Office of the Speaker of the Senate on Thursday, 29<sup>th</sup> April, 2021, the Speaker of the County Assembly of Wajir informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

**AND WHEREAS**, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b) of the Senate, the Senate by resolution, may appoint a special committee comprising eleven of its Members to investigate the matter;

...../Motion

**NOW THEREFORE**, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b)(i), the Senate resolves to proceed on this matter by way of establishment of a special committee to investigate the proposed removal from office by impeachment of the Honourable Mohamed Abdi Mohamud, the Governor of Wajir County.

4. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020**  
(The Senate Majority Leader)

*(Second Reading)*

***(Resumption of debate interrupted on Thursday, 6<sup>th</sup> May, 2021 – Morning Sitting)***

5. **COMMITTEE OF THE WHOLE**  
**THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020**  
(The Senate Majority Leader)

6. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020**  
(The Senate Majority Leader)

*(Third Reading)*

--XXX--





APPENDIX

**NOTICE OF MOTION - ESTABLISHMENT OF A SELECT COMMITTEE TO INVESTIGATE THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE MOHAMMED ABDI MOHAMUD, THE GOVERNOR OF WAJIR COUNTY**

(The Senate Majority Leader)

**THAT, WHEREAS**, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, 2012, on Tuesday, 27<sup>th</sup> April, 2021, the Wajir County Assembly approved a Motion for the removal from office by impeachment, of the Honourable Mohamed Abdi Mohamud, Governor of Wajir County;

**AND FURTHER, WHEREAS** by letter Ref. No. SPK/WCA/SENATE/4/2021(1), dated Wednesday, 28<sup>th</sup> April, 2021, and received in the Office of the Speaker of the Senate on Thursday, 29<sup>th</sup> April, 2021, the Speaker of the County Assembly of Wajir informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

**AND WHEREAS**, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b) of the Senate, the Senate by resolution, may appoint a special committee comprising eleven of its Members to investigate the matter;

**NOW THEREFORE**, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order 75(1)(b)(i), the Senate resolves to proceed on this matter by way of establishment of a special committee to investigate the proposed removal from office by impeachment of the Honourable Mohamed Abdi Mohamud, the Governor of Wajir County.

-----