

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 7th November, 2023

Afternoon Sitting

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

[The Speaker (Hon. Kingi) in the Chair]

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum?

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

I am informed that we do have the quorum. Kindly, proceed to call the first Order.

HEARING AND DETERMINATION OF THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. KAWIRA MWANGAZA, THE GOVERNOR OF MERU COUNTY

The Speaker (Hon. Kingi): Clerk, can you confirm that we have both parties in the House? If they are not in, kindly usher them in, so that we can start the hearing.

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

I am now informed that both parties are present.

Now, before we begin the hearing this afternoon, this is to the parties; you note that the hearing programme is pretty packed. Therefore, we need to keep time. We need to keep time in terms of coming into the Chamber.

If you are allocated time within which to do an activity, then please restrict yourself to the minutes you have been given to undertake that particular activity.

Looking at the hearing programme for the afternoon sitting, we are now supposed to hear the evidence by the County Assembly. The County Assembly will proceed to give their evidence-in-chief by calling the respective witnesses.

Those witnesses will be cross-examined by the Governor's team. Thereafter, if need be, they will be re-examined. After that is done, the Senators will have an opportunity to seek clarifications from the witness before that witness is stood down. We will proceed in that manner.

County Assembly, it is now your turn to proceed.

PRESENTATION OF THE CASE OF THE
MERU COUNTY ASSEMBLY

Dr. Muthomi Thiankolu: Mr. Speaker, Sir and hon. Senators, the County Assembly is ready with the first witness. His name is Arimi Paul Mwaki. He will be examined by my learned friend, Mr. Mari Maranya.

The Speaker (Hon. Kingi): Kindly usher in the witness.

(The Witness for Meru County Assembly, (Mr. Paul Mwaki Arimi) was ushered into the Chamber)

Mr. Maranya Domisiano Mari: Thank you, Mr. Speaker, Sir. Being mindful of time, kindly allow me to start. The witness to introduce himself for the record.

The Speaker (Hon. Kingi): Clerk, let the witness take an oath.

*(The Witness for Meru County Assembly
(Mr. Paul Mwaki Arimi) took the Oath)*

Mr. Maranya Domisiano Mari: Mr. Paul Mwaki Arimi, kindly introduce yourself for purposes of the record.

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir and distinguished Senators, my name is Paul Mwaki Arimi.

Mr. Maranya Domisiano Mari: Did you record a statement in respect to the matter before the Senate today?

Mr. Paul Mwaki Arimi: Yes, I did.

Mr. Maranya Domisiano Mari: Where is that copy of your statement found?

Mr. Paul Mwaki Arimi: It is from Page 48 to 51 of Volume One.

Mr. Maranya Domisiano Mari: What do you do for a living?

(Loud consultations)

The Speaker (Hon. Kingi): Hon. Senators, the witness has a statement that is in your bundles. Apart from the physical booklets that you are holding, your iPads also contain the soft copy.

Counsel, you will refer to the bundle where that statement is so that you aid the Senators to move there.

Mr. Maranya Domisiano Mari: Mr. Speaker, Sir, I will constantly be referring to two documents – Volume one, the green booklet and Volume two, which is written at the bottom.

Mr. Arimi, your statement is found in which page?

Mr. Paul Mwaki Arimi: Volume one, Page 48 to 51 of Volume one.

Mr. Maranya Domisiano Mari: Mr. Speaker, Sir, I believe we are now together. What do you do for a living?

Mr. Paul Mwaki Arimi: Currently, I am the Chief Executive Officer (CEO) Meru County Alcoholic Drinks Control Board.

Mr. Maranya Domisiano Mari: For how long have you served as the CEO of the Liquor Board?

Mr. Paul Mwaki Arimi: I started serving as CEO from January, 2018 and I am supposed to be still serving.

Mr. Maranya Domisiano Mari: Very well. Who is your employer and whom do you report to on daily basis?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, my employer is the Board.

Mr. Maranya Domisiano Mari: Please explain to this honourable House what happened on 6th September, 2022 in respect to your employment.

Mr. Paul Mwaki Arimi: On 6th September, I was called together with my colleagues who head other corporations and we got served with a compulsory leave letter.

Mr. Maranya Domisiano Mari: You were served with who else?

Mr. Paul Mwaki Arimi: I and other colleagues who were heading the other corporations.

Mr. Maranya Domisiano Mari: Were they all corporations in Meru County or a few of them and how many were you?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, those who received letters on 6th September were three.

Mr. Maranya Domisiano Mari: Were you the fourth one?

Mr. Paul Mwaki Arimi: There was a previous one, which was issued on 29th August to my colleague, Dr. Ntoiti who was the head of Meru County Revenue Board.

Mr. Maranya Domisiano Mari: When was the Governor of Meru sworn in in office?

Mr. Paul Mwaki Arimi: The Governor was sworn in on 25th of August.

Mr. Maranya Domisiano Mari: When was her first day in office?

Mr. Paul Mwaki Arimi: I am not certain of the day she started working, but my colleague Dr. Ntoiti was served barely a weekend after the Governor was inaugurated.

Mr. Maranya Domisiano Mari: You have said barely a weekend after the Governor was inaugurated?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: This is to indicate that Dr. Ntoiti was served the first day the Governor took office. Is that your evidence?

Mr. Paul Mwaki Arimi: That is true.

Mr. Maranya Domisiano Mari: Prior to the letter sending you on compulsory leave, had you had prior interactions with the Governor?

Mr. Paul Mwaki Arimi: Not at all.

Mr. Maranya Domisiano Mari: You have made reference to your letter sending you on compulsory leave. For purposes of the proceedings, guide the honourable Senate on where the same can be found?

Mr. Paul Mwaki Arimi: Those letters can be found in Volume Two, from page 336 to 339.

Mr. Maranya Domisiano Mari: Mr. Speaker, Sir, I am making reference to the big booklet written Volume two at the bottom. What was to happen to your institution once you were sent on compulsory leave and who was to man the institutions?

Mr. Paul Mwaki Arimi: Immediately we were sent on indefinite compulsory leave, other persons were appointed in acting capacity.

Mr. Maranya Domisiano Mari: Were those formally appointed?

Mr. Paul Mwaki Arimi: They were appointed from the Office of the Governor.

Mr. Maranya Domisiano Mari: Is there a formal appointment letter to that respect.

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Where are those formal letters appointing your representatives found?

Mr. Paul Mwaki Arimi: Those letters are found on pages 340 to 342 of Volume 2.

Mr. Maranya Domisiano Mari: Upon receiving the letters that sent you on compulsory leave, did you make any attempt to establish the cause, the charge or the reason as to why that happened, a day or a few days into assuming office by the Governor?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, we interrogated the letter and we found it genuine. We then made several efforts to be reinstated back to our offices since we were sent home unprocedurally.

Mr. Maranya Domisiano Mari: Did you have any audience with the Governor over the subject matter?

Mr. Paul Mwaki Arimi: We had audience with the Governor and the County Secretary on the same matter.

Mr. Maranya Domisiano Mari: What did the County Secretary say?

Mr. Paul Mwaki Arimi: He told us that we could not be reinstated because he was acting on instructions of the Governor.

Mr. Maranya Domisiano Mari: Did you sit down with the Governor over the same?

Mr. Paul Mwaki Arimi: We did not get an opportunity to sit with the Governor on the same, but the County Secretary gave us the instructions.

Mr. Maranya Domisiano Mari: After you were unable to meet the Governor and the County Secretary indicated that he had instructions from the Governor not to allow you back, what action did you take?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, after all these efforts failed, we made an application to court to seek redress and reinstatement through the court.

Mr. Maranya Domisiano Mari: Does that mean that you filed a matter in court?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir. We filed a matter in Court.

Mr. Maranya Domisiano Mari: Who were the petitioners in the matter?

Mr. Paul Mwaki Arimi: The petitioners were myself, the Managing Director, Meru Revenue Board, Dr. John Ntoiti, Mr. Joseph Mberia, the Executive Officer (CEO), Meru Water and Sanitation Services and Mr. Kimathi, the Head of Meru Microfinance Corporation.

Mr. Maranya Domisiano Mari: This means you filed as first to fourth petitioners.

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: What did the court rule in respect to your matter?

Mr. Paul Mwaki Arimi: The court issued stay or conservatory orders, reinstating us back to office.

Mr. Maranya Domisiano Mari: The court ruled that you be reinstated back to the office. What else did the court rule?

Mr. Paul Mwaki Arimi: The court further ruled that those who were in acting capacity in our place, be removed from office or be issued with letters cancelling their appointment in acting capacity.

Mr. Maranya Domisiano Mari: Therefore, it is your evidence that the court ruled that you be returned back to work and letters of appointment of your predecessor be revoked. Is that so?

Mr. Paul Mwaki Arimi: It is true, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Did you annex that particular court order in your statement?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Where can the same be found?

Mr. Paul Mwaki Arimi: The court order can be found on volume two, page 416.

Mr. Maranya Domisiano Mari: According to your evidence, it contains two prayers. One of reinstatement and the other one of revocation. Please confirm.

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, I confirm.

Mr. Maranya Domisiano Mari: Did you serve the Governor and the County Secretary?

Mr. Paul Mwaki Arimi: Yes, they were duly served.

Mr. Maranya Domisiano Mari: How did you confirm to this hon. House that you duly served the Governor and the County Secretary that particular court order?

Mr. Paul Mwaki Arimi: Through a notice of service.

Mr. Maranya Domisiano Mari: Upon service, was the same court order obeyed?

Mr. Paul Mwaki Arimi: The court orders were disobeyed.

Mr. Maranya Domisiano Mari: Please explain to the Senate how the same order was disobeyed.

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, upon the court issuing orders, a meeting was convened at a place called Mitugu by the Governor. In the meeting, the first gentleman threatened to organize people to flush us out of office, in case we went to that court order to report back to the office.

Mr. Maranya Domisiano Mari: Who threatened against disobedience of court order?

Mr. Paul Mwaki Arimi: The first gentleman is the one who threatened to mobilize people to come and evict us.

Mr. Maranya Domisiano Mari: Was the Governor present in that particular meeting?

Mr. Paul Mwaki Arimi: The Governor was present in that meeting.

Mr. Maranya Domisiano Mari: Do you have any evidence to that particular meeting you are making reference to?

Mr. Paul Mwaki Arimi: The evidence is in a video form.

Mr. Maranya Domisiano Mari: Mr. Speaker, Sir, with your leave, we can play to the Senate the video in support of contempt of court.

Mr. Speaker, Sir, this is the video in support of Count five.

(A video clip was played)

Mr. Maranya Domisiano Mari: In that video, did you hear the first gentleman mention the petitioners?

Mr. Paul Mwaki Arimi: Yes. Mr. Speaker, Sir. He has mentioned Mberia and my colleague, Dr. Ntoiti.

Mr. Maranya Domisiano Mari: Would you also wish that evidence of a video be part of your examination- in-chief?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Did you report back to the office in compliance with the court order?

Mr. Paul Mwaki Arimi: In compliance with the court order, we reported back to office. The threat was actualized and we were chased out of office ruthlessly.

Mr. Maranya Domisiano Mari: What do you mean by being chased out of the office ruthlessly?

Mr. Paul Mwaki Arimi: There were organized people who evicted us from offices.

Mr. Maranya Domisiano Mari: So, you were physically evicted from the office?

Mr. Paul Mwaki Arimi: We were physically evicted from the office and the precincts of the offices.

Mr. Maranya Domisiano Mari: The second limb of the court order talked of the Governor revoking the appointment of those acting in your capacity. Were those appointments revoked?

Mr. Paul Mwaki Arimi: The appointments of those who were in acting in our place were never revoked.

Mr. Maranya Domisiano Mari: That is your statement. That is to mean that they are still acting as CEOs in your establishments?

Mr. Paul Mwaki Arimi: Up to now, all those letters have not been revoked.

Mr. Maranya Domisiano Mari: Are those CEOs still in office in your respective offices?

Mr. Paul Mwaki Arimi: Since they were in acting capacity, upon us obtaining contempt of court orders, we have been able to get back to the office and some of them have been reappointed back under different capacity.

Mr. Maranya Domisiano Mari: You have jumped the gun. What happened after the court order was disobeyed when you were evicted from the office? What action did you take?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, we made an effort and applied for contempt of court orders.

Mr. Maranya Domisiano Mari: Has the court pronounced itself on the contempt of court?

Mr. Paul Mwaki Arimi: The court pronounced itself and convicted the Governor and the County Secretary and one more person of contempt of court.

Mr. Maranya Domisiano Mari: Sorry, repeat the last bit.

Mr. Paul Mwaki Arimi: The Governor was cited for contempt of court.

Mr. Maranya Domisiano Mari: Do you have that particular order or a ruling to that effect, citing the Governor for contempt of court?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Where can it be established, for quick reference?

Mr. Paul Mwaki Arimi: From page 418 of volume two.

Mr. Maranya Domisiano Mari: Let us start with the ruling. Where is the ruling found?

Mr. Paul Mwaki Arimi: The ruling is found on page 418.

Mr. Maranya Domisiano Mari: From page 418 to what page?

Mr. Paul Mwaki Arimi: The ruling is found on page 418 to page 439.

Mr. Maranya Domisiano Mari: On which page is the particular order citing the Governor for contempt?

Mr. Paul Mwaki Arimi: It is found on page 440 and 441.

Mr. Maranya Domisiano Mari: On which volume?

Mr. Paul Mwaki Arimi: Volume two.

Mr. Maranya Domisiano Mari: According to those two court documents, was the Governor found guilty of contempt of a court order?

Mr. Paul Mwaki Arimi: Yes, the Governor was found guilty of contempt of court.

Mr. Maranya Domisiano Mari: Was she punished accordingly?

Mr. Paul Mwaki Arimi: The court scheduled a date for punishment, and the County Secretary appeared in court to show cause why they should not be punished.

Mr. Maranya Domisiano Mari: Did the County Secretary on behalf appeared to demonstrate why they should not be punished?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, he did appear.

Mr. Maranya Domisiano Mari: What happened after appearing?

Mr. Paul Mwaki Arimi: The Governor was ordered to reinstate us back to office under supervision of the County Secretary.

Mr. Maranya Domisiano Mari: Would you recall when the County Secretary was instructed to take you back to the office?

Mr. Paul Mwaki Arimi: I recall, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: When was that?

Mr. Paul Mwaki Arimi: That is on 23rd of September.

Mr. Maranya Domisiano Mari: What happened to the punishment in respect to contempt of court? Was it administered at that time?

Mr. Paul Mwaki Arimi: The court has rescheduled the punishment to today. So, the County Secretary can go back and prove whether they really honored the court orders.

Mr. Maranya Domisiano Mari: It is your evidence that the court punishment was scheduled for today.

Mr. Paul Mwaki Arimi: The punishment is scheduled for today.

Mr. Maranya Domisiano Mari: You may not tell what happened.

Mr. Paul Mwaki Arimi: Yes, I may not tell the outcome.

Mr. Maranya Domisiano Mari: In all this saga, were your respective boards notified of the proceeding of what is happening? You said the management of the corporation is through the boards. Were they notified of what has been happening?

Mr. Paul Mwaki Arimi: They were not, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Sorry.

Mr. Paul Mwaki Arimi: They were not.

Mr. Maranya Domisiano Mari: Your letter of sending on compulsory leave talks of reason being to reorganise the Board.

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Have you ever been called upon for re-organization of the Board for the last one year, as the Chief Executive Officer (CEO)?

Mr. Paul Mwaki Arimi: No, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: You have never been called upon?

Mr. Paul Mwaki Arimi: Yes.

Mr. Maranya Domisiano Mari: Does the Governor have power over re-organization of matters in respect to independent corporations?

Mr. Paul Mwaki Arimi: The semi-autonomous Government agencies, like our corporations, are supposed to be reorganised by the Boards.

Mr. Maranya Domisiano Mari: For the entire period of one year that you have been away until only 14 days ago when you resumed your office as CEO, were you getting your salaries?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Sorry.

Mr. Paul Mwaki Arimi: Yes, I was earning my salaries while at home.

Mr. Maranya Domisiano Mari: You were earning your salaries while at home?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Did the court order provide that you be paid your salaries? Did it address the question of you being paid your salaries while away for a whole year?

Mr. Paul Mwaki Arimi: No, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: What stated that you be paid your salaries for the entire period that you would be away?

Mr. Paul Mwaki Arimi: The compulsory leave letter, which came from the Office of the Governor, is the one that indicated we should be entitled to full pay and all benefits while we are at home indefinitely.

Mr. Maranya Domisiano Mari: Therefore, the compulsory leave stated that you would be paid your full salary while you are at home?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Were you paid your full salary while at home?

Mr. Paul Mwaki Arimi: Indeed, we were paid.

Mr. Maranya Domisiano Mari: For the entire period?

Mr. Paul Mwaki Arimi: For the entire period.

Mr. Maranya Domisiano Mari: Do you have evidence to the effect that you continued being paid salaries while you were not working?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Where are the copies? For ease of reference, again, where are they found?

Mr. Paul Mwaki Arimi: Volume two, Page No.33 to 41.

Mr. Maranya Domisiano Mari: To this extent, today, have you ever known the reason as to why you were sent on compulsory leave by the Governor and the County Secretary?

Mr. Paul Mwaki Arimi: It has never been communicated to anyone of us the reason for compulsory leave, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: None of you has ever known why you were sent on compulsory leave?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: You said that only 40 days ago, the Governor complied with the court order and reinstated you back to your office, alongside the acting CEO. That was your evidence.

Mr. Paul Mwaki Arimi: It is true.

Mr. Maranya Domisiano Mari: In your opinion, why do you think the Governor was able to comply with a court order, a year after the initial order was granted?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, the governor may have complied because she had been found to be in contempt of court and her punishment was about to happen. The next thing---

Mr. Maranya Domisiano Mari: Therefore, it is your evidence that she was fearing the looming sentence or punishment by the court?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir. The other thing was there was an impending Motion of Impeachment a day to the day we were escorted back to office. That was a ground.

Mr. Maranya Domisiano Mari: According to you, again in your opinion, who do you think is to blame for you being illegally sent on compulsory leave?

Mr. Paul Mwaki Arimi: I would lay the blame on the Governor herself.

Mr. Maranya Domisiano Mari: Why do you say so? What is the foundation of your opinion?

Mr. Paul Mwaki Arimi: The County Secretary indicated that the letters were instructions from the Governor.

Mr. Maranya Domisiano Mari: He indicated that he was acting on instructions of the Governor?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Has the Governor to date revoked the appointment of the persons meant to replace you?

Mr. Paul Mwaki Arimi: No, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Are they in the office?

Mr. Paul Mwaki Arimi: They handed over and then they were given other mandate. However, the letters which appointed them to that office have not been revoked.

Mr. Maranya Domisiano Mari: Are they within the establishment for the last two weeks that we have been in the office?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: The Governor argues that she was ordered by the court to pay you a salary. What is your opinion? What is your take on that?

Mr. Paul Mwaki Arimi: I do not agree with that, Mr. Speaker, Sir.

Mr. Maranya Domisiano Mari: Why do you not agree?

Mr. Paul Mwaki Arimi: It is because the issue of payment of our salaries while we are not working is in the compulsory leave letter which originated from the Governor's office.

Mr. Maranya Domisiano Mari: Did that court order in particular address the question of payment of salaries?

Mr. Paul Mwaki Arimi: The court order addressed reinstatement and the revocation of appointment letters of those officers who were acting.

Mr. Maranya Domisiano Mari: I want to pen over that point.

Mr. Elisha Ongoya: Mr. Speaker, Sir, I will subject the witness to cross-examination.

The Speaker (Hon. Kingi): Counsel for the Governor, proceed.

Mr. Elisha Ongoya: Thank you, Mr. Speaker, Sir. It is my singular pleasure to take on this witness in cross-examination. My name is Elisha Ongoya.

Allow me to start from where the witness has ended. Mr. Paul Mwaki Arimi, is it your testimony before this distinguished Senators, that the court did not order that you be paid salaries?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Elisha Ongoya: Thank you. May I have the witness's attention drawn to the index of annexures to the Governor's response, in particular at Page No.402.

The Speaker (Hon. Kingi): Counsel, refer to those bundles in terms of volumes for ease of reference.

Mr. Elisha Ongoya: My apologies, Mr. Speaker, Sir. The Governor just filed three documents. One called a response and one called index of annexures to the response; and then we have the transcript of videos. So, it is just three documents.

The Speaker (Hon. Kingi): Very well.

Mr. Elisha Ongoya: I am referring to Page No.402 of the biggest volume in blue. Mr. Paul Mwaki Arimi, are we there?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir. I am there.

Mr. Elisha Ongoya: Please, confirm to these Senators that, that is a court order.

Mr. Paul Mwaki Arimi: I can confirm, Mr. Speaker, Sir.

(Loud consultations)

Mr. Elisha Ongoya: Please, confirm to these hon. Senators that what you are seeing there is a court order.

Mr. Paul Mwaki Arimi: I am seeing a court order, Mr. Speaker, Sir.

Mr. Elisha Ongoya: The second applicant or claimant in that order, is Paul Mwaki Arimi. True or not true?

Mr. Paul Mwaki Arimi: True, Mr. Speaker, Sir.

Mr. Elisha Ongoya: That Paul Mwaki Arimi is you, the Assembly's witness number one, before this Senate.

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Elisha Ongoya: Let us turn over to the next page, Page No.403 of that document. Confirm for the record that this is a continuation of that court order that began at Page No.402.

Mr. Paul Mwaki Arimi: Confirmed, Mr. Speaker, Sir.

Mr. Elisha Ongoya: Please, confirm and I read, Order Six reads as follows-
“That finally, Dr. Atheru is directed to file sufficient evidence in court within seven days to show that all the petitioners salary have been paid from May, 2022 to date.”
Please confirm that is what it says.

Mr. Paul Mwaki Arimi: Confirmed.

Mr. Elisha Ongoya: Are you among the petitioners for whom that order is being made?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Elisha Ongoya: In addition, that order relates to salary.

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Elisha Ongoya: Dr. Atheru has to confirm to court that he has paid your salary.

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Elisha Ongoya: It is this salary that you are telling these Senators was not paid pursuant to a court order.

Mr. Paul Mwaki Arimi: I did not indicate that salary was not paid, Mr. Speaker, Sir.

Mr. Elisha Ongoya: It is the one you said that the payment was not pursuant to a court order, it was pursuant to the compulsory leave letter. Do you remember that indication?

Mr. Paul Mwaki Arimi: I will not agree with that because there are two court orders. The court order---

Mr. Elisha Ongoya: I did not talk about how many court orders. I have just said I am looking at a court order referring to a salary. Are we communicating?

Mr. Paul Mwaki Arimi: Yes, I agree.

Mr. Elisha Ongoya: However, you have also told these distinguished Senators that your salary was not paid pursuant to a court order; it was paid pursuant to the letter sending you on compulsory leave. Do you remember saying that?

Mr. Paul Mwaki Arimi: I do not remember saying that. This one was---

Mr. Elisha Ongoya: I am happy with that. The record will bear me out.

Mr. Paul Mwaki Arimi: Excuse me Mr. Speaker, Sir, I want to---

Mr. Elisha Ongoya: My apologies I have finished my question and I am moving to the next. Kindly save my time. We have only four hours to finish with your case.

Mr. Paul Mwaki Arimi: Okay.

Mr. Elisha Ongoya: Mr. Speaker, Sir, allow me to pick the second limb of argument. May I request the video in support of count five that was played here, be played.

(A video clip was played)

Kindly stop the video there. I wanted the clip to remain visible so that the witness can identify something in the clip. My apologies. Kindly pause the video. I may have had a slip of tongue. Kindly play and pause the video---

The Speaker (Hon. Kingi): Counsel, I hope you are not assuming that I am in that video?

Mr. Elisha Ongoya: My apologies Mr. Speaker, Sir. It was a complete slip of the tongue. I could not even remember saying it. My deepest apologies.

(Laughter)

Mr. Speaker, Sir, sadly I do not even know who is playing it so I cannot look at him or her. I am just looking at the screen. May I have the video replayed?

(A video clip was played)

Mr. Elisha Ongoya: Witness, who is that standing behind the person speaking?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, that is the face of the Deputy Governor of Meru County Government.

Mr. Elisha Ongoya: That is the Deputy Governor Meru county Government behind the person speaking? True or not?

Mr. Paul Mwaki Arimi: True.

Mr. Elisha Ongoya: This video was played - and I urge it to be re-played. Have you seen the Governor in that video?

(Mr. Paul Arimi spoke off record)

Mr. Paul Mwaki Arimi: I do not see the Governor there.

(A video clip was played)

Mr. Elisha Ongoya: Okay you spoke when your microphone was off. I want the record to capture you. I shall ask the question again.

Mr. Paul Mwaki Arimi: Yes.

Mr. Elisha Ongoya: Have you seen the Governor in that clip from the beginning to the end?

Mr. Paul Mwaki Arimi: Up to where the clip ends, I have not seen the Governor.

Mr. Elisha Ongoya: This clip was presented here by your team, so we do not know whether there is a further continuation of that clip. Are you suggesting it continues beyond where it has reached?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sri, it can continue. I am suggesting you can continue.

Mr. Elisha Ongoya: Let me get a precise answer to my question. Have you seen the Governor in the whole of that clip?

Mr. Paul Mwaki Arimi: I said no.

Mr. Elisha Ongoya: Your case before this Senate is that the Governor should be held responsible for the utterances of that gentleman who is speaking?

Mr. Paul Mwaki Arimi: Exactly, Mr. Speaker, Sir.

Mr. Elisha Ongoya: I am happy. I now understand what your case is. I want you to look at volume one of the County Assembly documents, page seven.

Mr. Paul Mwaki Arimi: Yes, I am there.

Mr. Elisha Ongoya: Confirm for the record that it says---

A Hon. Member: Page?

Mr. Elisha Ongoya: Page seven, Volume one of the County Assembly documents. The page starts with a paragraph numbered C.

Mr. Paul Mwaki Arimi: Yes, I can see it.

Mr. Elisha Ongoya: The grievance in that paragraph is paying full salary and benefits for more than a year to Dr. Ntoiti, Paul Mwaki Arimi and Mr. Kenneth Kimathi Mbae. My question to you is this: Is this the same salary we have seen in the order of court at page 403 of the Governor's documents?

Mr. Paul Mwaki Arimi: It is the same salary.

Mr. Elisha Ongoya: Are you complaining for having been paid this salary?

Mr. Paul Mwaki Arimi: Yes. I am complaining for having been paid this salary without offering services to the tax payers' of Meru County.

(Laughter)

The Speaker (Hon. Kingi): Order! Serjeant-at-Arms, kindly go up there in the Speaker's Gallery and tell the members of public that the only thing we need from them are their ears and eyes, nothing more.

Mr. Elisha Ongoya: Mr. Speaker, Sir, may I proceed?

The Speaker (Hon. Kingi): Yes, counsel. You may proceed.

Mr. Elisha Ongoya: Thank you, Mr. Speaker, Sir. When were you paid this salary? When did you see it in your account?

Mr. Paul Mwaki Arimi: Normally, salaries get into our accounts at the end of the month.

Mr. Elisha Ongoya: I just want the record to be clear on when this was. Say "end of September or end of October" so that the record is clear.

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, as per the attached pay slips.

Mr. Elisha Ongoya: Mr. Speaker, Sir, may I kindly get the witness to answer my question so that I can make progress. When were you paid this salary? The end of which month?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, at the end of every month from the time we were sent on compulsory leave, but not on the same date.

Mr. Elisha Ongoya: When did this cash land in your account? When did you see this money in your account, that you had been paid?

Mr. Paul Mwaki Arimi: It was not on regular dates because it is paid on monthly basis. It is not paid in lump sum.

Mr. Elisha Ongoya: When was the first time you were paid this salary?

Mr. Paul Mwaki Arimi: Immediately we were sent home we received the salary. That was end of September, 2022.

Mr. Elisha Ongoya: Have you made any efforts to return this money to the County Government since you were aggrieved by the payment?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, I am not supposed to do so.

Mr. Elisha Ongoya: I have asked: Have you made any efforts to return this money to the County Government?

Mr. Paul Mwaki Arimi: I have not.

Mr. Elisha Ongoya: Let me clarify something for the record of this Senate. It is true that Mr. Maranya; advocate appearing before you here today is your advocate in that court case. True or not true?

Mr. Paul Mwaki Arimi: True, Mr. Speaker, Sir.

Mr. Elisha Ongoya: Thank you. That matter came up in court today. True or not true?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, I am not sure, but it was supposed to come up today for---

Mr. Elisha Ongoya: That matter was supposed to come up today in court at Meru County.

Mr. Paul Mwaki Arimi: I am not sure whether it came up or not.

Mr. Elisha Ongoya: Was it supposed to come up today at the Employment and Labour Relations Court in Meru County? True or not true?

Mr. Paul Mwaki Arimi: It is true

Mr. Elisha Ongoya: Has your advocate briefed you on whether or not as a matter of fact, it came up?

Mr. Paul Mwaki Arimi: No, Mr. Speaker, Sir.

Mr. Elisha Ongoya: Very well. We can leave it at that. When were you sent on compulsory leave?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, I was sent on compulsory leave together with two others on 6th September, 2022.

Mr. Elisha Ongoya: When did the court give the conservatory order in Petition No.1 of 2022 in Meru?

Mr. Paul Mwaki Arimi: The conservatory orders were issued on 7th October, 2022.

Mr. Elisha Ongoya: Was that before or after the Governor's first impeachment or removal proceedings before this House?

Mr. Paul Mwaki Arimi: It was before the first impeachment Motion was tabled.

Mr. Elisha Ongoya: This was before the first impeachment proceedings before this House?

Mr. Paul Mwaki Arimi: Yes Mr. Speaker, Sir.

Mr. Elisha Ongoya: Did you make this grievance part of that impeachment process?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, it did not come to this place so we did not make it part of it.

Mr. Elisha Ongoya: I do not understand your answer. Did you suggest that it did not come to the Senate?

Mr. Paul Mwaki Arimi: We did not make it part for the grounds of impeachment.

Mr. Elisha Ongoya: You did not make that grievance part of the first impeachment process?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Elisha Ongoya: It is that ground that arose well before the first impeachment that is being made part of this current impeachment.

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Elisha Ongoya: Thank you. Allow me to briefly take you to page 336 to 339---

Mr. Paul Mwaki Arimi: Volume?

Mr. Elisha Ongoya: Volume two of the County Assembly documents.

Mr. Paul Mwaki Arimi: Yes, I am there.

Mr. Elisha Ongoya: Is that letter authored by the Governor?

Mr. Paul Mwaki Arimi: No.

Mr. Elisha Ongoya: Is it copied to the Governor?

Mr. Paul Mwaki Arimi: No.

Mr. Elisha Ongoya: Let us look at a document on page 337. Is that letter authored by the Governor?

Mr. Paul Mwaki Arimi: It is not authored by the Governor.

Mr. Elisha Ongoya: I am on volume two of the County Assembly's documents. May I describe it as the big green volume. We are now at page 337. I will repeat the question for the benefit of the distinguished Members who have not seen the document. Is that letter authored by the Governor?

Mr. Paul Mwaki Arimi: No.

Mr. Elisha Ongoya: Is it copied to the Governor?

Mr. Paul Mwaki Arimi: No.

Mr. Elisha Ongoya: Let us look at page 339. Is that letter authored by the Governor?

(An hon. Senator spoke off record)

My apologies, Senator. We are on page 338.

Mr. Paul Mwaki Arimi: No.

Mr. Elisha Ongoya: Is it copied to the Governor?

Mr. Paul Mwaki Arimi: No.

Mr. Elisha Ongoya: Correct if I got you wrong, you have said that the author of this letter was acting on the instructions of the Governor. Did I get you right?

Mr. Paul Mwaki Arimi: You got me right.

Mr. Elisha Ongoya: The body of that letter has only three sentences. This is on page 336. Which of the three sentences – you can use first, second, or third – says that the author was acting on the instructions of the Governor?

Mr. Paul Mwaki Arimi: None.

Mr. Elisha Ongoya: If I got you right, the evidence of the compulsory leave letters is to be found on pages 336 to which page?

Mr. Paul Mwaki Arimi: Up to page 338.

Mr. Elisha Ongoya: Which of those letters is addressed to you?

Mr. Paul Mwaki Arimi: The one addressed to me is not attached, but this is a sample. All the letters had the same information except our names only.

Mr. Elisha Ongoya: To save time, are you saying that of all the letters presented to this Senate to support that point, none is addressed to you, the witness on the stand? Am I saying the truth?

Mr. Paul Mwaki Arimi: Yes.

Mr. Elisha Ongoya: When you were employed in the County Government of Meru, was your employment letter under the hand of the Governor?

Mr. Paul Mwaki Arimi: The Governor *gazetted* me.

Mr. Elisha Ongoya: Was the *Gazette* Notice under the hand of the Governor?

Mr. Paul Mwaki Arimi: Of course, it is the Governor who gazettes.

Mr. Elisha Ongoya: I have asked you a simple question. Not 'of course it is'. I am asking what it was. Are we communicating?

Mr. Paul Mwaki Arimi: Yes.

Mr. Elisha Ongoya: Was the *Gazette* Notice under the hand of the Governor?

Mr. Paul Mwaki Arimi: I just know there was a *Gazette* Notice and do not know whose hand---

Mr. Elisha Ongoya: Mr. Speaker, Sir, my question is not ambiguous. I would rather the witness be ordered to answer my question.

Mr. Paul Mwaki Arimi: Yes, it is the Governor.

Mr. Elisha Ongoya: Have you presented that *Gazette* Notice anywhere in the documents you have given to this Senate?

Mr. Paul Mwaki Arimi: No, Mr. Speaker, Sir.

Mr. Elisha Ongoya: Does the Governor prepare the payroll for your payment to your knowledge?

Mr. Paul Mwaki Arimi: No, Mr. Speaker, Sir.

Mr. Elisha Ongoya: Let me get this right. It is that person; who is not responsible for your name in the payroll, did not author these letters on pages 336 to 338, was not copied in these letters from pages 336 to 338, and did not speak in the meeting you have shown us on that clip that you want this Senate to impeach. Am I getting your case, right?

Mr. Paul Mwaki Arimi: Correct.

Mr. Elisha Ongoya: Thank you. Allow me to refer you to yet another document. The ruling of the Employment and Labour Relations Court in Meru County. For ease of time, I want us to go to page 436 of volume two of the County Assembly's documents.

Mr. Paul Mwaki Arimi: Yes, I am on page 436.

Mr. Elisha Ongoya: For the record, I want you to confirm that this is a part of the ruling of the Employment and Labour Relations Court at Meru County.

Mr. Paul Mwaki Arimi: I confirm.

Mr. Elisha Ongoya: I want us to read paragraph 34 so that you confirm I am reading it correctly, for the sake of HANSARD.

"In view of the matters and findings made herein above, it is clear that all the three thresholds for contempt of court have been proved by evidence and to the required standard. Consequently, I must cite the respondents for contempt for disobeying the order issued by Marete J. on 7th October, 2022."

Confirm that after that the Order says that the County Secretary, Mr. Ruphus Miriti, is the head of the County Public Service and is the one who wrote the compulsory leave letters. Therefore, he was the proper person to ensure that the court orders were complied with by ensuring that the applicants were allowed back to their offices and that all their salaries were duly paid. Am I reading it correctly?

Mr. Paul Mwaki Arimi: Correct

Mr. Elisha Ongoya: For completeness of record, confirm that the court is referring to that your salaries be fully paid.

Mr. Paul Mwaki Arimi: Reinstated and fully paid.

Mr. Elisha Ongoya: The court ruling is talking about ensuring your salaries are duly paid.

Mr. Paul Mwaki Arimi: Confirmed.

Mr. Elisha Ongoya: Therefore, it is not correct to say that your salaries were not paid according to a court order?

Mr. Paul Mwaki Arimi: What you are saying is not correct.

Mr. Elisha Ongoya: If I said that your salaries were not paid pursuant to a court order, I would not be speaking the truth?

Mr. Paul Mwaki Arimi: You would be lying.

Mr. Elisha Ongoya: I will be lying? Therefore, when you told this Senate that your salaries were not paid pursuant to a court order, you equally were lying.

Mr. Paul Mwaki Arimi: I am not lying.

Mr. Elisha Ongoya: The court ruling in paragraph 34 identifies by name and office the person who was responsible for ensuring the court orders were complied with. Does it?

Mr. Paul Mwaki Arimi: Yes, it identifies.

Mr. Elisha Ongoya: Whose name is it?

Mr. Paul Mwaki Arimi: The name of the person and their office, the County Secretary---

Mr. Elisha Ongoya: No, I want you to give me the name.

Mr. Paul Mwaki Arimi: Rufus Miriti.

Mr. Elisha Ongoya: What is the office?

Mr. Paul Mwaki Arimi: The County Secretary.

Mr. Elisha Ongoya: That person is not facing impeachment before this Senate. Is he?

Mr. Paul Mwaki Arimi: Exactly.

Mr. Elisha Ongoya: Is that person facing impeachment in this Senate?

Mr. Paul Mwaki Arimi: No.

Mr. Elisha Ongoya: Whom did the court summon to attend court and purge the contempt?

Mr. Paul Mwaki Arimi: The court invited the County Secretary.

Mr. Elisha Ongoya: By name?

Mr. Paul Mwaki Arimi: Dr. Kiambi Atheru.

Mr. Elisha Ongoya: Is that person before this Senate facing impeachment?

Mr. Paul Mwaki Arimi: No.

Mr. Elisha Ongoya: Let us go to page 438 of volume two of the County Assembly's document in particular, paragraph 37(b).

Mr. Paul Mwaki Arimi: I am there.

Mr. Elisha Ongoya: Is that the paragraph summoning Rufus Miriti or his successor in title?

Mr. Paul Mwaki Arimi: Yes.

Mr. Elisha Ongoya: That title will be the title of County Secretary, true or not true?

Mr. Paul Mwaki Arimi: True.

Mr. Elisha Ongoya: Is any of those people, either Rufus Miriti or his successor before this Senate for impeachment?

Mr. Paul Mwaki Arimi: No.

Mr. Elisha Ongoya: Did I hear you say that the Governor appeared in court?

Mr. Paul Mwaki Arimi: I did not say that.

Mr. Elisha Ongoya: I just wanted clarification. If you did not say that I am happy with it. Did I hear you say that you got audience with the Governor over your compulsory leave matter?

Mr. Paul Mwaki Arimi: Yes, I said through the County Secretary.

Mr. Elisha Ongoya: Did you get audience with the Governor?

Mr. Paul Mwaki Arimi: Through the County Secretary.

Mr. Elisha Ongoya: I want to get this right. The County has an officer called the County Governor. True or not true?

Mr. Paul Mwaki Arimi: Yes, we did.

Mr. Elisha Ongoya: The County has another officer called the County Secretary. True or not true?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir,

Mr. Elisha Ongoya: I am asking about the first officer, the County Governor. Did I hear you say you got audience with that person?

Mr. Paul Mwaki Arimi: We sought audience through the County Secretary.

Mr. Elisha Ongoya: Did you get it?

Mr. Paul Mwaki Arimi: We did not get to the Office of the Governor directly.

Mr. Elisha Ongoya: You never spoke to the Governor over this matter directly?

Mr. Paul Mwaki Arimi: Instead we spoke to the County Secretary.

Mr. Elisha Ongoya: You never spoke directly to the County Governor over this matter?

Mr. Paul Mwaki Arimi: Yes.

Mr. Elisha Ongoya: In the course of the proceedings in Meru Employment and Labour Relations Court, Petition No.1/2022, you once filled an application to have Mr. Murega Baichu made a party to those proceedings. Do you remember that?

Mr. Paul Mwaki Arimi: Yes, we did.

Mr. Elisha Ongoya: You filed to have Mr. Murega Baichu made a party because you believed he must be held personally responsible for his own actions or words?

Mr. Paul Mwaki Arimi: Yes.

Mr. Elisha Ongoya: Before this Senate, you believe the Governor is now the one to be held responsible for the words of Mr. Murega Baichu?

Mr. Paul Mwaki Arimi: Yes, I believe.

Mr. Elisha Ongoya: I am happy with that.

That is all in my cross examination of this witness.

The Speaker (Hon. Kingi): Counsel for the County Assembly, any re-examination?

Dr. Muthomi Thiankolu: Yes, Mr. Speaker, Sir and it will be dealt by my colleague, Mr. Eric Muriuki.

Mr. Erick Muriuki: Mr. Speaker, Sir, my name is Erick Muriuki. I am an advocate of the High Court. I shall conduct the re-examination.

Mr. Paul Mwaki, you were referred to two orders. The first order is the order that is dated 7th October, 2022.

Mr. Paul Mwaki Arimi: Yes, you referred me to that.

Mr. Erick Muriuki: Have you seen that order?

Mr. Paul Mwaki Arimi: I know it.

Mr. Erick Muriuki: That is the order on page 440 of volume two. Is that order different from the order on page 402 of the Governor's documents?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir, they are different.

Mr. Erick Muriuki: On page 402 of the Governor's index of documents, at the top of that order, where does the story of payment of salaries come in?

Mr. Paul Mwaki Arimi: It comes under item number one.

Mr. Erick Muriuki: What is the heading of where that is explained?

Mr. Paul Mwaki Arimi: It says that all the salaries have been paid.

Mr. Erick Muriuki: No, what is the title?

Mr. Paul Mwaki Arimi: The title is "In open court via TIMS on the 19th October, 2023 before the Hon. Justice Onesmus N. Makau.

Mr. Erick Muriuki: Confirm that the issue of salary is brought in as an explanation or a way of mitigation for the respondents to avoid being punished for contempt of court.

Mr. Paul Mwaki Arimi: I do confirm.

Mr. Erick Muriuki: You were asked about the person seen on the video that was played. Who were the respondents in the contempt of court application? Was he one of them?

Mr. Paul Mwaki Arimi: He was not one of them.

Mr. Erick Muriuki: Who were the respondents for the benefit of this august House? Quickly state their names.

Mr. Paul Mwaki Arimi: There is the Governor, the County Public Service Board and the County Secretary.

Mr. Erick Muriuki: The Deputy Governor is not a respondent in that contempt of court application?

Mr. Paul Mwaki Arimi: He is not.

Mr. Erick Muriuki: He was not convicted for contempt?

Mr. Paul Mwaki Arimi: He was not.

Mr. Erick Muriuki: I want you to look at the payslip on page 35 of the volume two of the Assembly's documents. What is the date?

Mr. Paul Mwaki Arimi: The date is---

Mr. Erick Muriuki: Just a minute. What is the date of the stamp on those payslips?

Mr. Paul Mwaki Arimi: The date on the stamp is 26th April, 2023.

Mr. Erick Muriuki: The order that you were referred to on page 402 of the Governor's documents is issued on what date?

Mr. Paul Mwaki Arimi: Let me confirm. The order is issued on 19th October, 2023.

Mr. Erick Muriuki: Do you confirm that before that order which has been referred to and which has been put to you was the cause of your payment, you were receiving your salary?

Mr. Paul Mwaki Arimi: Yes, I confirm.

Mr. Erick Muriuki: You were asked whether you have made effort to refund the monies that you have paid.

Mr. Paul Mwaki Arimi: I was.

Mr. Erick Muriuki: What was your response?

Mr. Paul Mwaki Arimi: That we did not make any effort to refund the monies.

Mr. Erick Muriuki: Why did you not make that effort? Whose fault was it that you were not providing the services that you were being paid for?

Mr. Paul Mwaki Arimi: The Governor is the one who obstructed us and made sure we are not able to go back and work.

Mr. Erick Muriuki: You were asked whether the Governor authored your letters of suspension.

Mr. Paul Mwaki Arimi: Yes, I was.

Mr. Erick Muriuki: I want to refer you to page 339 of our volume two.

Mr. Paul Mwaki Arimi: Yes, I am on page 339.

Mr. Erick Muriuki: Can you read for us what is written? That is a post made by the Governor on her Facebook page.

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir, I can read-

“Hon. Kawira Mwangaza’s press release-

I have this afternoon made some changes in the Meru County Revenue Board to ensure efficient service delivery to Meru people. In this regard, I have appointed Mr. Francis Mungai, as the General Manager for Meru County Revenue Board replacing Mr. John Ntoiti and Frida Kagwira as the Director replacing Mr. Erick Kagwae.

I have also ordered-

(i) The Board to release all items that had been confiscated by the former regime--
_”

Mr. Erick Muriuki: That is enough.

So, on that press release, who is taking responsibility for the decision to make these changes in the semi-autonomous county organisation?

Mr. Paul Mwaki Arimi: Mr. Chairman, Sir, it is Governor Kawira Mwangaza.

Mr. Erick Muriuki: Thank you. When you look at the letters that you are referring to on pages 336 to 339, who does the letter say has made a decision? It is fairly a short letter; just read it.

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, it says that the decision---

Mr. Erick Muriuki: Just read the body of the letter

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, page 336, volume two, this is to notify you that the government---

Mr. Erick Muriuki: Please, pause. That, who?

Mr. Paul Mwaki Arimi: The government has decided.

Mr. Erick Muriuki: The government has decided. To your knowledge, who heads the county government?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, it is the Governor

Mr. Erick Muriuki: In particular, what about the Meru County Government?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, the Governor.

Mr. Erick Muriuki: What is the name of the Governor?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, Governor Kawira Mwangaza.

Mr. Erick Muriuki: I thank you. I want you to look at page 340 of our volume two.

Mr. Paul Mwaki Arimi: Yes, I am there.

Mr. Erick Muriuki: Can you see the letter there?

Mr. Paul Mwaki Arimi: Yes, I can see the letter.

Mr. Erick Muriuki: Who is it addressed to?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, it is addressed to Mr. Tony Kirima.

Mr. Erick Muriuki: Whose position is this letter referring to?

Mr. Paul Mwaki Arimi: Can you repeat the question?

Mr. Erick Muriuki: Whose position is this in the legal board is this letter referring to?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, it is referring to the position that I was holding, which I still hold.

Mr. Erick Muriuki: The position you are occupying?

Mr. Paul Mwaki Arimi: Yes, Mr. Chairman, Sir.

Mr. Erick Muriuki: Thank you. You will also confirm that from the court order on page 416 of volume two of the Assembly's document--- Are you there?

Mr. Paul Mwaki Arimi: Yes, I am there.

Mr. Erick Muriuki: Who are the claimants?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, the claimants are Mr. Joseph Beria, Mr. Paul Mwaki Arimi, Dr. John Ntoiti, Mr. Kenneth Kimathu Mai--

Mr. Erick Muriuki: Which one are you among those?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, I am Mr. Paul Mwaki Arimi.

Mr. Erick Muriuki: Thank you. I will still take you to that order on page 416. Where does it talk about increment of your salaries?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, it does not talk about salaries.

Mr. Erick Muriuki: So, the order that is dated 7th October, 2022, does not talk about salaries?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

Mr. Erick Muriuki: Let us go to the content of the court ruling and order that is now coming in a year later. Let us go straight to the order on page 440. This court order is coming in respect of the previous order.

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, it is coming concerning the order of 7th October, 2022.

Mr. Erick Muriuki: That is in paragraph four, thank you. The order on page 440 in paragraph five. Can you read the first line?

Mr. Paul Mwaki Arimi: That the respondent be cited for contempt of court and be committed to civil jail for a term of six months until they purge the contempt and comply with the orders of this honourable court issued on the 7th of October, 2022.

Mr. Erick Muriuki: Can you confirm that it refers to the respondent(s), plural?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, yes, I do.

Mr. Erick Muriuki: Who are the respondents in that order, as you can see it?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, it is the County Secretary, County Government of Meru; Meru County Public Service Board, and the Governor of the County Government of Meru.

Mr. Erick Muriuki: So, you confirm that there is a conviction against the Governor of the County Government of Meru based on that order?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, yes, I do.

Mr. Erick Muriuki: I will again take you to the ruling on page 437 of volume two.

Mr. Paul Mwaki Arimi: Yes, I am there.

Mr. Erick Muriuki: At the bottom, the sentence that starts with “However,” Can you please read it and then read it on the next page?

Mr. Paul Mwaki Arimi: However, before passing a sentence against the respondents, the respondents are invited to attend this court through the County Secretary, Mr. Rufus Miriti or his successor in title to show cause why the court should not punish them for disobeying the court orders issued on 7th of October, 2022.

Mr. Erick Muriuki: So, it is your testimony that the respondents are invited through the County Secretary or rather, the County Secretary is invited on behalf of all the respondents.

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir I confirm that.

Mr. Erick Muriuki: On paragraph (a) page 438, what does it say? just paragraph (a) the first sentence?

Mr. Paul Mwaki Arimi: The respondents are hereby cited for contempt of this court’s order issued on 7th October, 2022 by failing to allow the applicants back to their offices---

Mr. Erick Muriuki: Thank you. So, you will confirm that these orders issued by the court through and through refer to all the respondents in that application for contempt of court?

Mr. Paul Mwaki Arimi: Mr. Speaker, Sir, yes, I confirm.

Mr. Erick Muriuki: Thank you. Mr. Speaker, Sir, that is my examination.

The Speaker (Hon. Kingi): Now, hon. Senators, you have an opportunity to seek clarification either from the witness or the counsel for the witness; that is the counsel for the County Assembly or, you may ask questions to the witness.

Sen. Wakili Sigei, you may proceed and your question should be direct to the point. Do not give a speech.

Sen. Wakili Sigei: Thank you, Mr. Speaker, Sir. I want to seek clarification from the witness or his counsel regarding the establishment of the entity board called Meru Alcoholic Control Board on two things. Paragraph one of your Affidavit refers to a semi-autonomous entity and the allegation makes no reference to the board. I would like to know whether the board is a statutory organ or it is what you have referred to as a semi-autonomous entity.

Mr. Paul Mwaki Arimi: Thank you, Mr. Speaker, Sir. The Board is established through a County Assembly Act of 2014. In that case, it is backed by law.

The Speaker (Hon. Kingi): Sen. Maanzo, please, proceed.

Sen. Maanzo: Mr. Speaker, Sir, I want to ask the witness in relation to the court order by Justice Njagi. There are three and four parties ending with the County Governor. Was this court order specifically ordered against the Governor of Meru County or for all the parties appearing there, including the County Secretary?

Mr. Paul Mwaki Arimi: It was ordered for all of them.

The Speaker (Hon. Kingi): Sen. Mungatana, please, proceed.

Sen. Mungatana, MGH: Mr. Speaker, Sir, Rule 23 of the Third Schedule of our Standing Orders allows me to ask questions to the counsel. So, this is not to the witness. It is just a clarification.

Counsel Thiankolu gave an allegory where he talked about the monarch of Russia. He said that before Nicholas I passed the execution, he asked the person who was bringing the order whether the convicted person said anything. I want a clarification from him because he said that in Russia, it seems like they cannot do even the rope properly. Suggesting that they cannot do anything properly.

He then juxtaposed that allegory to the trial that was conducted by the Senate here. I was listening carefully. I want him to clarify, did he mean that the Senate was behaving like Russia, it could not do a proper job; it could not do a rope? Can he clarify? We did not take it very kindly.

The Speaker (Hon. Kingi): Counsel, please proceed.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, what I meant in that allegory was that Kondraty Ryleyev, having miraculously escaped execution, would have saved his life by stopping the very act that they had condemned him to death in the first place; which was subversive utterances against the monarch. What I meant is that Hon. Mwangaza, having survived the first impeachment which was based on specified allegations, would have been expected to refrain from the acts and omissions that triggered that impeachment Motion, which she has not.

Secondly, it would have been expected that Hon. Mwangaza's part of the verification would not have gone belittling this House. When we get there, we will play a video for you when Hon. Mwangaza asks, 'when they took me to the Senate, what happened? *Kaende kaende.*' That is why we said this time, we urge you to repeat the execution of Hon. Mwangaza we see whether the rope will break again.

The Speaker (Hon. Kingi): I hope that explanation is adequate to the issue raised by Sen. Mungatana.

Sen. Sifuna, please proceed.

Sen. Sifuna: Mr. Speaker, Sir, I direct my question to counsel for the County Assembly who unfortunately is my former classmate. I want to understand the propriety of basing an impeachment proceeding on a matter that you have confirmed yourselves is still live in court. We here in the Senate are prevented from discussing matters that are live before the courts before a decision is made. What is the propriety of you basing a claim of breach of the law and misconduct on a matter that is still live before a court of law that was coming for a decision today?

The Speaker (Hon. Kingi): Counsel, please proceed.

Dr. Muthomi Thiankolu: The question of contempt of court is not pending in court. We have a conviction, an order and a sentencing before you. As we speak, that

order has not been set aside by a higher court. As a matter of fact, the room for challenging that order in a higher court expired a long time ago because you have only 14 days to appeal.

The second answer, which is very specific to this process before you is that the Governor went to court when this Motion was tabled. She went before the High Court in Meru County in Petition No.--- I am sorry, I do not seem to recall the number. She went before Justice Cherere to stop this process on that very ground that it was sub *judice*. The court refused. She again returned to the court, the court refused.

She went to the Court of Appeal in Nyeri County to stop the process before you claiming that impeachment cannot be based on matters that are before court. Again, the Court of Appeal refused.

Lastly, when we were in the Court of Appeal, one of the questions we asked is how can a convict whose conviction has not been set aside and has been disobeying a court order for a year, be the one telling us about court orders?

The Speaker (Hon. Kingi): Sen. Chute, please proceed.

Sen. Chute: Mr. Speaker, Sir, my question will go to the witness. Will I be wrong if I tell you that you belong to Kamiti Maximum Prison? This is because you have admitted before this House that you have been receiving money for months illegally.

Mr. Paul Mwaki Arimi: You will not be telling the truth because we have made numerous efforts to be allowed back to office and serve, even through the court, but we were not allowed. The person culpable is the one paying us for service not rendered.

The Speaker (Hon. Kingi): Sen. Osotsi, please, proceed.

Sen. Osotsi: Mr. Speaker, Sir, this is to the witness. Looking at the application for this case and even the ruling, the Governor is listed as respondent number three. That is after the County Secretary and the Meru County Public Service Board. Is this an admission that the Governor is not directly involved in matters of Human Resource (HR); recruitment and appointment?

Mr. Paul Mwaki Arimi: It is not an admission.

The Speaker (Hon. Kingi): Sen. Ali Roba, please proceed.

Sen. Ali Roba: Mr. Speaker, Sir, I ask the same question, but phrased differently. Mr. Paul Mwaki Arimi is appearing as a key witness on behalf of the county assembly. He is here to give witness on what he found extremely wrong of receiving salary for work not done. He has admitted that as being wrong.

If your convictions are through, should it not have bothered you enough for you to have considered refunding or refusing the acceptance that money. Accepting the money for this long and appearing as a witness to admit that, why did you not consider not accepting if you thought it was wrong?

Mr. Paul Mwaki Arimi: Thank you. It is illegal to receive pay for service not rendered or work not done.

As victims of this, we have sought legal redress for a full year. From last year up to now, we have been seeking to be allowed to get back to work yet we have not been terminated from work. What we have been given is a mandatory indefinite leave without any reason.

There would be no reason for refunding money without any clear structures of how this should be done. So, we have been in court, struggling to be allowed to work. The person culpable is this one who sent us on a compulsory indefinite leave with even a rider that we will be paid for all the services while at home. It is indeed depressing.

The Speaker (Hon. Kingi): Witness, just to be clear. You have indicated that you have been receiving these salaries on the question from the Senator?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): You have indicated that you ought not to have received this money because it is taxpayers' money?

Mr. Paul Mwaki Arimi: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): So, the question that the Senator poses then is: Did you make any effort to either refuse or refund the money?

Mr. Paul Mwaki Arimi: We did not make efforts to refund, but to get back to work.

The Speaker (Hon. Kingi): Very well. Proceed, Sen. Okiya Omtatah.

Sen. Okiya Omtatah: Mr. Speaker, Sir, my question goes to Counsel for the County Assembly. On trial is the Governor of Meru and one of the grounds is contempt of court. In the evidence that you have laid before this court, are you able to point out to me specifically where the Governor is convicted of that contempt?

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, if you open page 440 of our volume two, the court order as you note and has been pointed out previously; this was a case filed against the Governor together with two other officials. Every reference to the respondents in this order is a reference to the three persons, including the Governor.

Therefore, the court as you find on page 441 paragraph says-

"The respondents", who we agree include the Governor, "are hereby cited for the contempt of this court order issued on 7th October, 2022 by failing to allow the applicants back to their offices."

Unless the Governor says she was not one of the respondents who are condemned here, then she is one of the people who are condemned. She does not need to be specifically mentioned when they have been found jointly and severally culpable. That is the legal language.

The Speaker (Hon. Kingi): Proceed, Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. Mine is a very quick clarification or guidance from the Counsel for the Governor. When you look under Article 183 on the functions of the County Executive, which encompasses county governor, county deputy governor, and Chief Executive Committees (CECs), I invite him to give me an interpretation of Article 183(c).

Mr. Speaker, Sir, allow me to read. It says-

"A county executive committee shall-

(c) manage and coordinate the functions of the county administration and its department."

So, I want to get clarification and guidance from the Counsel on the part of the interpretation and the role of the county executive or the county committee member.

The Speaker (Hon. Kingi): Counsel, did you get the question with clarity?

Mr. Elisha Ongoya: Mr. Speaker, Sir, sadly, I did not get the question with clarity. If the Senator could clarify the particular aspect of Article 183 that he desires my clarification on. I will gladly do that.

The Speaker (Hon. Kingi): Sen. Cherarkey, clarification must relate to what the Counsel handled during the cross-examination. You cannot pick something totally out of that space and seek his clarification. He should clarify what he said.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I needed an interpretation of Article 183(1)(c) on the role of the county executive *vis-à-vis* because, in cross-examination, he had indicated that the County Secretary should be the one being impeached instead of the Governor. That is why I am inviting him to clarify under Article 183(1)(c) on the functions of the county executive.

The Speaker (Hon. Kingi): Proceed, Counsel.

Mr. Elisha Ongoya: Thank you, so much, Mr. Speaker, Sir. Very briefly, the government, either the national or the county level is a complex pole. Our constitutional and legal order recognizes that Government works through the agency of state and public officers. Wrongdoing in law is individual and not collective.

It is in that respect that we beseech the County Assembly to give us a case that shows the individual wrongdoing of the Governor or the imputability of the acts of any other functionary in the county government to the Governor. The Governor is here on trial. You try people for their wrongdoing. That is my humble view.

The Speaker (Hon. Kingi): Proceed, Sen. Mumma.

Sen. Mumma: Thank you, Mr. Speaker, Sir. Counsel for the County Assembly, in respect of the clip that was played here, is it your view that a leader takes responsibility for the utterances of their spouse?

Dr. Muthomi Thiankolu: If it is strictly a legal question, of course, the law was changed a long time ago. Spouses do not take responsibility for the actions of the others. However, that is as far as the legalese and the splitting of hairs is concerned.

The matter before you is not about criminal or civil liability in the court of law. It is about accountability and the values in our Constitution. The Governor perpetually provides the forum through which a spouse is making inflammatory utterances, that could easily lead to violence as we showed you. These functions are hosted by the Governor and on each occasion, she does not disown those statements.

In the case of musical performances, we will show the Governor even dancing and enjoying the music, demonstrating to the huge crowds “*Wenye wivu wajinyonge*.”

That is why when you read the Motion before you, it is not talking just about specific acts of the Governor, but also complicity and condoning. If we were in a court of law, we would call it aiding and abetting. Since it is not a court of law, we are choosing a language complicity and connivance in things. First of all, it is a program; a session held by the Governor.

In a court of law and our laws on ethics and integrity, there is a provision for acting through others. In this case, we suggest to you that the Governor was acting, as was the case before when we were here, through her husband.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I would like the counsel for the County Assembly to help me. I am happy to be reminded that he teaches law to our children.

The country has heard and seen that the Governor of Meru County was not in that video. Her voice was not heard in that video. So, what I would like you to help me, teacher of law, is the legal high standard of fishing expedition.

Would you like to stand down from that video? This is purely because your witness has confirmed to this Senate and the whole Republic that the Governor was not there and her voice was not heard. If you do not want to stand down the evidence, do you want to teach students at the university that they can edify something that lacks moral and intellectual instruction to a counsel?

Dr. Muthomi Thiankolu: Mr. Speaker Sir, I have now found the volume citing the relevant law. It is volume three of the County Assembly's document in the answer to the question by the Hon. Sen. (Dr.) Khalwale on page 37.

On page 37 of the Assembly's volume three, we have produced Section 24 of the Public Officer Ethics Act. It is clear from that section, for purposes of compliance with Chapter Six, one can take responsibility for acting through others. In this case, we humbly submit that the Governor has been acting through her husband.

Secondly, this is how you know the Governor was acting through her husband. In October, 2022, the husband is seen on the video saying this officer shall never return to office, court order or no court order.

True to his utterances, the Governor ensures that they do not return for a full 365 days. While at it, in any event, I keep repeating that there is a conviction as I speak which is *res judicata*. That is to say, that matter is closed as the legal question because it has not been appealed to a higher court within the time required by law. So, as I speak right now, the Governor is a convict. Those are not my words. It is a court order to that effect.

The Speaker (Hon. Kingi): Hon. Senators, we have six more witnesses to call. If you read the programme, we are supposed to stretch it to 7.00 p.m. Therefore, I will take one clarification from this side and another one here. Most of these clarifications you will pick them as we hear the witnesses.

Sen. Faki?

Sen. Faki: Mr. Speaker, Sir, mine is to both the counsel for the County Assembly and the witness. There were proceedings before the High Court in Meru where the County Secretary, according to the ruling, was found guilty of contempt and the matter is still ongoing. The punishment has not been meted.

Is that not subjecting the Governor to a double jeopardy because the proceedings before the court in Meru are still alive? The counsel for the Governor said earlier that they were in court this morning. Here, you want us to impeach the Governor based on the same set of facts. Is this not a double jeopardy, which in law is not allowed?

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, that is a legal question. I heard it was addressed to both me and the witness. I do not know whether the witness is able to answer.

The Speaker (Hon. Kingi): Proceed. He belongs to your side. You can answer for him.

Dr. Muthomi Thiankolu: First of all, Mr. Speaker, Sir, it is not correct to say that the Governor is in court because she is guilty of contempt. What is in court is sentencing. The liability is settled. The only other thing that is in court is the question of purging the contempt. So, there is no question of double jeopardy. As a matter of fact, the rule of double jeopardy does not apply to proceedings of impeachment.

There are several rulings by the Supreme Court. I can quote Gov. Sonko case and Gov. Martin Nyaga Wambora's case. The rulings that impeachment is not about civil or criminal liability. It is about political accountability. It is about ethics and the type of leadership and persons we want to hold certain offices.

That is why Article 181 talks about a Governor may be removed from the office on gross misconduct, which need not be a criminal or civil offence. It can be anything that attracts serious moral censure.

It talks of gross violations of the Constitution or other laws. In short, the Supreme Court has already answered this question of double jeopardy. That is why even the Court of Appeal and the High Court in Meru guided by the Supreme Court refused to stop this Senate from sitting on these charges and making whatever decision it would make.

This is because the courts have already confirmed it is not about legalese and splitting legal hairs, civil or criminal liability. It is the question of whether the Governor, accused of the things we are accusing her of, which will prove, is the type of Governor we want to see holding a public office within the meaning of Chapter Six of our Constitution. It is not a legal matter.

Lastly, I am told if this can be let to happen, then all I need is to always avoid impeachment, which is what the Governor tried to do at the High Court and the Court of Appeal where she failed. As a Governor, to ensure Article 81 is dead, whenever I breach the Constitution, I would ensure there is a court case, like it happened in this matter, where proxies were obtained to file various suits in court so that they can come under the pretext.

Mr. Speaker, Sir, in your own Standing Orders, as well as those of the County Assembly, you note that the mere fact that the matter is in court does not stop the Senate or even the National Assembly.

You can take notice that as I speak, there has been a matter in Shakahola, which is in various criminal courts. However, I have seen Committees of Parliament examining the same persons who are facing, not just employment courts, but criminal courts and nothing has stopped either the Senate or the National Assembly.

Consequently, even your Standing Orders give you, the Speaker, the latitude to decide whether a matter that is in court should nonetheless be deliberated upon and the decision made by Parliament, in this case the Senate, as the representative of the public conscience.

The Speaker (Hon. Kingi): Lastly, let us hear from Sen. Veronica Maina.

Sen. Veronica Maina: Thank you, Mr Speaker, Sir. Just a clarification from the Counsel for Meru County Assembly. We have seen this judgment or is it a ruling? The one that you are relying on, on the contempt proceedings.

Rule 37(c), I think you know where it is, talks about the respondents not having the audience of the courts until the contempt is purged. The witness has confirmed that he is now being paid and that they have been reinstated. I hope that is the correct position.

Counsel, do you treat that as a purge to that contempt, now that those offenses are no longer taking place and they have been reinstated? Additionally, I know that the sentencing is awaiting before the court. If the sentencing is awaiting, would you still say the matter is not pending before court?

Dr. Muthomi Thiankolu: Mr Speaker, Sir, them being denied audience is part of the standard rules that govern contempt of court. If you are convicted like the Governor has been, you are denied audience until you purge the contempt.

The Governor has, of course, attempted to purge this contempt as I speak. I use the word “attempted” because the witness told you the letters appointing his replacements have not been receded. So, as I speak, we have the witness here and his three colleagues who are the substantive office holders; and then we have the other persons who are also in acting capacity.

The purging of a contempt is something in the realm of mitigation of sentence. That is why you are denied audience until you purge it. The fact that someone has purged their contempt, does not undo the conviction. The conviction still remains. Even if she purges, apologizes and recites whatever prayer about it, it will always remain in the record of the court that she was convicted and that conviction has not been set aside.

The Speaker (Hon. Kingi): This witness examination ends at that. Now, as we prepare to usher in the second witness, pursuant to Rule 23 of the Third Schedule of the Standing Orders of the Senate, as a Speaker, I do not have that latitude to ask for any clarification or questions. However, if the integrity of the institution of the Senate is at stake, then as the Speaker, I need to guard it.

Counsel for the County Assembly, your allegory, the Russian allegory, that when the man was asked to say something, he said Russia does not know how to do things and that is why he was alive. In its ordinary meaning, that statement could be understood – and, indeed, it was understood and that is why Sen. Mungatana rose to ask a question – to mean that the Senate did not do a good job in the first impeachment. Counsel for the County Assembly, I do not know whether you still want to have that allegory as part of your record or you want to take it away from the record at this juncture.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, my allegory was not a slur on the Senate. As I said, it was about a person who was lucky to escape certain fate. Instead of refraining from utterances that had placed him in that fate, he continued to do it after the rope breaks. I was clear in my allegory that even in Russia, this was understood to be an act of providence; that the man in question was lucky.

It is our submission that if Gov. Kawira Mwangaza was lucky to be acquitted of certain allegations, the least anyone would expect of her is to refrain from the behaviour.

Mr. Speaker, Sir, I did not mean in any way to slur the Senate. In the event that I am misunderstood as criticising the Senate decision, then I offer an unqualified apology and I am open to even the expunction of the relevant allegory. Since, it seems to have caused too many issues and I seem to have been misunderstood, I beg that it be expunged.

The Speaker (Hon. Kingi): Kindly, usher in the second witness.

(The Witness for Meru County Assembly (Hon. Mawira Evans Kaaria) was ushered into the Chamber)

Kindly, proceed to swear in the witness.

*(The Witness for Meru County Assembly
(Hon. Evans Kaaria Mawira) took the Oath)*

Dr. Muthomi Thiankolu: Sir, please tell the Senate your full name and what you do for a living. That is for purposes of your identity on the record.

Hon. Evans Mawira Kaaria: Thank you. Mr. Speaker, Sir, my name is Evans Mawira Kaaria. Currently, I am the Member of County Assembly (MCA) for Mitunguu Ward, that is in Imenti South Sub-county, in Meru County.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, perhaps I could beg we be given a small table where I can place my bundles. Otherwise, I will be constrained to keep picking things from the Floor.

The Speaker (Hon. Kingi): Serjeant-at-Arms, kindly help the counsel. Make him as comfortable as you can.

Dr. Muthomi Thiankolu: Sir, as we wait for that table, can you confirm that you were the Mover of the Motion before this Senate?

Hon. Evans Mawira Kaaria: I confirm.

Dr. Muthomi Thiankolu: Can you also confirm that you swore the affidavit?

Hon. Evans Mawira Kaaria: I confirm.

Dr. Muthomi Thiankolu: On which page can we find your affidavit, Sir? Let me take you to page No.33 of Volume I.

Hon. Evans Mawira Kaaria: The sworn affidavit is on page 33 to 36 of Volume I.

Dr. Muthomi Thiankolu: Is the signature on page 36 yours?

Hon. Evans Mawira Kaaria: Yes, I confirm.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, let us go straight to the allegations you have made in this Impeachment Motion. We will begin at paragraph 10(a) of the Impeachment Motion. It is at volume one.

In that paragraph, you accuse the Governor of irregularly withdrawing county funds through her relatives. Which relatives have you mentioned?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I have mentioned the Governor's sister Rose Kinyua Guantai and the brother, Kenneth Guantai Murangiri. There is also Nephath Kinyua who is the brother-in-law and Henry Mutuma Murangiri who is a nephew to the governor's spouse.

Dr. Muthomi Thiankolu: Why do you say Nephath Kinyua is the brother-in-law of the governor?

Hon. Evans Mawira Kaaria: It is in public knowledge. We have seen pictures circulating of Nephath Kinyua and the Governor's sister Miriam Guantai displaying affection.

Dr. Muthomi Thiankolu: Have you placed any evidence before the Senate to support the allegation that the Governor's relatives were withdrawing funds from the county government irregularly?

Hon. Evans Mawira Kaaria: Yes, I have annexed all the evidence there in volume two.

Dr. Muthomi Thiankolu: Which page of volume two?

Hon. Evans Mawira Kaaria: From page 1 to 29 of volume two.

Dr. Muthomi Thiankolu: Let us begin at page 17 of volume two. To the best of your knowledge, are Government agencies allowed to pay for goods not supplied or services not rendered?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is against the Public Finance Management (PFM) Act.

Dr. Muthomi Thiankolu: Are Government entities allowed to make advance payments from public funds?

Hon. Evans Mawira Kaaria: It is not allowed.

Dr. Muthomi Thiankolu: What is this document at page 17?

Hon. Evans Mawira Kaaria: It is an Integrated Financial Management Information Systems (IFMIS) extract for Vote 3562, Meru, Office of the Governor, payment details between 1st July 2022 and 7th July 2023.

Dr. Muthomi Thiankolu: Does it have items on the third column described as pre-payment.

Hon. Evans Mawira Kaaria: Under the column sub-item description, we have several entries indicated as prepayment.

Dr. Muthomi Thiankolu: Does it show against several pre-payments in the next page?

Hon. Evans Mawira Kaaria: Yes, it does.

Dr. Muthomi Thiankolu: Would I be right to say that most payments there are actually pre-payments?

Hon. Evans Mawira Kaaria: Most of the 171 entries are pre-payments.

Dr. Muthomi Thiankolu: Are there any payments on this document shown to any of the governor's relatives?

Hon. Evans Mawira Kaaria: Yes, there are several pre-payments made to the relatives of the governor.

Dr. Muthomi Thiankolu: I will show a few for illustrative purposes. At page 20, are there payments to Nephath Kinyua somewhere below and around the middle?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, we have one.

Dr. Muthomi Thiankolu: At page 21, are there several payments payable to Rose Kinyua Guantai?

Hon. Evans Mawira Kaaria: Yes. We have one at No. 66525 paid to Rose Kinyua Guantai.

Dr. Muthomi Thiankolu: You will confirm that because we are constrained for time that we have hundreds of payments indicated as prepayments to the relatives of the governor between page 17 and 29.

Hon. Evans Mawira Kaaria: I confirm and for purposes of record, one Rose Kinya Guantia appears 31 times, indicated as pre-payments was paid a total of Kshs3,144,228. Kenneth Guantai Murangiri, the brother to the governor also appears 31 times having received prepayments totalling Kshs545,500 and Nephath Kinyua Meme, the in-law appears 34 times, having received a total payment of Kshs2,897,000. There are also several others who are not relatives to the governor, but are---

Dr. Muthomi Thiankolu: Let us stick to the Governor's relatives for now. Under this IFMIS extract, what is the total amount paid to the governor's relatives as pre-payments?

Hon. Evans Mawira Kaaria: I have stated Rose Kinya Guantai was paid a total amount of Kshs3,144,228. Kenneth Guantai Murangiri, the brother to the Governor has been paid 31 times, a total amount of Kshs545,500 and Nephath Kinyua Meme, the in-law has been paid 34 times, a total amount of Kshs2,897,000.

Dr. Muthomi Thiankolu: What is the total amount paid to Kenneth, Nephath and Kinya Guantai as per that IFMIS extract?

Hon. Evans Mawira Kaaria: I have not calculated the totals, but the round figure is around six million.

Dr. Muthomi Thiankolu: Let us forget the Governor's relatives for now. We are still on the IFMIS extract. Does it indicate pre-payments to an officer called Kathure Rukaria?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir, it indicates.

Dr. Muthomi Thiankolu: Can you point the page where Kathure Rukaria was given an advance payment?

Hon. Evans Mawira Kaaria: On page 23, volume two, there is a pre-payment paid to Kathure Rukaria Catherine of Kshs340,000. On the same page also, Kathure Rukaria received Kshs107,500. There are other several entries.

Dr. Muthomi Thiankolu: Who is Kathure Rukaria?

Hon. Evans Mawira Kaaria: She is the secretary to the Chief of Staff.

Dr. Muthomi Thiankolu: Who is the Governor's Chief of Staff?

Hon. Evans Mawira Kaaria: He is known as Nchamba Mbithii.

Dr. Muthomi Thiankolu: Is the office of the chief of staff an office in the Governor's office?

Hon. Evans Mawira Kaaria: Yes, it is established under the office of the Governor.

Dr. Muthomi Thiankolu: Does Kathure Rukaria work in the office of the Governor?

Hon. Evans Mawira Kaaria: Yes, I confirm that, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: According to this IFMIS printout, how much money has been irregularly paid as pre-payment to Kathure Rukaria who is the secretary to the chief of staff of the Governor?

Hon. Evans Mawira Kaaria: It is a total of Kshs21,868,944.

Dr. Muthomi Thiankolu: Let us go to another officer who not a relative of the Governor. She is Lydia Nkatha. Do you know this officer?

Hon. Evans Mawira Kaaria: Yes, I know her.

Dr. Muthomi Thiankolu: Who is she?

Hon. Evans Mawira Kaaria: She works in the office of the Governor and is an administrator in the office of the chief of staff. There are also allegations that she is the girlfriend to the chief of staff.

Dr. Muthomi Thiankolu: Let us forget those allegations for now. Is she indicated on the IFMIS as receiving advance payments?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, she has received pre-payments totalling Kshs3,606,400.

Dr. Muthomi Thiankolu: Are you able to show us one or two so that we do not make sweeping allegations that she received payments? Can you point a page where her name appears?

Hon. Evans Mawira Kaaria: Yes, page 27, Voucher No. 69901, she has received Kshs500,000. Voucher No. 59902, she received Kshs340,000. Voucher No. 69900 she received a payment---

Dr. Muthomi Thiankolu: That is enough, Sir. There are several entries, but we just need to confirm that when you say she has received payment it is not just a blanket allegation. How much in total has she been paid irregularly?

Hon. Evans Mawira Kaaria: A total of Kshs3,606,400.

Dr. Muthomi Thiankolu: Let us go to another officer, Ms. Jane Karimi Kaithia. Do you know this officer?

Hon. Evans Mawira Kaaria: Yes, I know her.

Dr. Muthomi Thiankolu: Does she work in the Governor's office?

Hon. Evans Mawira Kaaria: Yes, she does.

Dr. Muthomi Thiankolu: In what capacity? In what capacity does Ms. Jane Karimi work in the governors' office?

Hon. Evans Mawira Kaaria: She works under the office of the chief of staff.

Dr. Muthomi Thiankolu: Okay. What is the relationship between the chief of staff and the Governor in the county administration?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, the chief of staff is the Authority of Incurring Expenditure (AIE) holder for the office of the Governor. Therefore, he authorizes all payments related to the office of the Governor.

Dr. Muthomi Thiankolu: As a matter of fact, the chief of staff is one of those political appointees that governors are allowed leeway to choose the person they can work with, correct?

Hon. Evans Mawira Kaaria: Yes, it is true.

Dr. Muthomi Thiankolu: The persons we have so far mentioned: Jane Karimi, Rose Kinya and Kenneth Guantai, all these people work in the Governors' office? From the IFMIS, how much amount of money have they received as pre-payment in total?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, they have received pre-payments amounting to Kshs78,110,086 in total.

Dr. Muthomi Thiankolu: We will later on come to the answer the Governor has given for this irregular payment. For now, let us go to the next allegation on paragraph 10 (d). Sir, to the best of your knowledge, what is the allegation or complaint at paragraph 10(d)?

Hon. Evans Mawira Kaaria: Paragraph 10(c) or (d)?

Dr. Muthomi Thiankolu: Paragraph 10 (d).

Hon. Evans Mawira Kaaria: The diversion and misuse of county resources, including funds and motor vehicles to run the Governor's private charity due to *Okolea* despite a previous promise to the Senate - in the previous impeachment proceedings - to refrain conflicting official county operations and *Okolea* operations.

Dr. Muthomi Thiankolu: To the best of your knowledge, was the question of the relationship between *Okolea* and the official functions of the Governor an issue in the previous impeachment?

Hon. Evans Mawira Kaaria: Yes, it was.

Dr. Muthomi Thiankolu: Was there an issue as to whether in the previous impeachment if the Governor should co-mingle, conflict or mix her official functions with those of *Okolea*?

Hon. Evans Mawira Kaaria: Pardon, come again?

Dr. Muthomi Thiankolu: Was there an issue as to whether the Governor could properly mix her official duties with those of the private charity she runs?

Hon. Evans Mawira Kaaria: Yes, it was an issue.

Dr. Muthomi Thiankolu: Hon. Mawira, have you placed any evidence to show the Governor has been co-mingling her official functions with the *Okolea* functions and specifically diverting county resources to *Okolea*?

Hon. Evans Mawira Kaaria: Yes, I have adduced evidence on volume two, pages 42, 43, 48, 49, 50 and 51. There is also a video in support.

Dr. Muthomi Thiankolu: Let us go to page 42. What is that document?

Hon. Evans Mawira Kaaria: This is a miscellaneous criminal application No.025 of 2023, in the matter of application for custodial orders.

Dr. Muthomi Thiankolu: Let us go to page 43 of the same volume two. What does paragraph three say?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, paragraph three states that-

"On the 17th September, 2023, the Governor of Meru County, Hon. Bishop Kawira Mwangaza convened an *Okolea* meeting at Bridge International Preparatory School at Makiri area within Maua municipality".

Dr. Muthomi Thiankolu: Where is Makiri?

Hon. Evans Mawira Kaaria: Makiri is in Maua just adjacent to the deputy governor's home.

Dr. Muthomi Thiankolu: So, this rally was held adjacent to the deputy governor's home.

Hon. Evans Mawira Kaaria: Yes, it was.

Dr. Muthomi Thiankolu: Do you believe it was a genuine charity that was being held adjacent to the deputy governor's home?

Hon. Evans Mawira Kaaria: I do not believe so because I watched the proceedings and I also saw the Governor castigating the deputy governor. In fact, she was praying that some wrath can visit his family.

Dr. Muthomi Thiankolu: She said what again?

Hon. Evans Mawira Kaaria: During the rally, I watched the proceedings and it was a rally convened to disparage the deputy governor because I saw the Governor kneeling down, praying and asking the congregants in the rally to pray so that wrath can visit the deputy governor's family.

Dr. Muthomi Thiankolu: Okay. Let us go to paragraph eight.

Mr. Speaker, Sir, I will later show you why it was important to provide that context. What does the paragraph eight say?

Hon. Evans Mawira Kaaria: It states that the respondents and their group damaged several motor vehicles belonging to the Meru County Government and for some individuals that is registration number KAX 574V and KCV 845F using stones and other crude weapons. This act culminated in a cow belonging to the Governor being stolen and killed which is prejudicial to public order and the security of the county.

Dr. Muthomi Thiankolu: We were told in the opening statement that we were mispresenting the ownership of the motor vehicles. Is that paragraph clear that the specific motor vehicles named are private?

Hon. Evans Mawira Kaaria: It is clear because, it adds for some individuals.

Dr. Muthomi Thiankolu: It adds for some individuals and it indicates the registration plates given are for the individual vehicles, is it not?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Does it also indicate that several motor vehicles belonging to the county government were damaged?

Hon. Evans Mawira Kaaria: Yes, it does

Dr. Muthomi Thiankolu: Should motor vehicles belonging to the county government be present in a *Okolea* function; which the Senate was previously told is a private charity?

Hon. Evans Mawira Kaaria: They should not because we have been told previously it was a private charity.

Dr. Muthomi Thiankolu: But who is the applicant of this application you have produced on page 42?

Hon. Evans Mawira Kaaria: The applicant is the Republic through the Director of Criminal Investigation (DCI), Igembe South.

Dr. Muthomi Thiankolu: It is the Republic of Kenya through the DCI.

Hon. Evans Mawira Kaaria: Yes, and the DCI officer's name is Police Constable (PC) Kelvin Wafula, No. 113748.

Dr. Muthomi Thiankolu: Police Constable Wafula, is it not?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Would you in the ordinary course of events expect a police officer to make such allegations frivolously?

Hon. Evans Mawira Kaaria: No, since they were also made in front of a competent court of law.

Dr. Muthomi Thiankolu: As a matter of fact, has that police officer sworn an affidavit in support of this allegation?

Hon. Evans Mawira Kaaria: Yes, he has sworn an affidavit.

Dr. Muthomi Thiankolu: Where is that affidavit, Sir?

Hon. Evans Mawira Kaaria: It is on pages 45, 46 and 47 of volume two.

Dr. Muthomi Thiankolu: Again, can you confirm that the affidavit mentions on page 43, I believe, paragraph three and eight the same motor vehicles and allegations that we read is it not?

Hon. Evans Mawira Kaaria: Sorry.

Dr. Muthomi Thiankolu: Can you confirm that paragraphs three and eight of the affidavits mentioned Governor Kawira Mwangaza and the county motor vehicles that were damaged?

Hon. Evans Mawira Kaaria: Yes, it does.

Dr. Muthomi Thiankolu: What evidence have you placed before the Senate to show that county officials were involved in this 'Okolea rally' and in the mayhem that ensued?

Hon. Evans Mawira Kaaria: I have placed two charge sheets before the Senate and the pay slips for the persons who were charged to show they are county employees.

Dr. Muthomi Thiankolu: Where are those documents to be found?

Hon. Evans Mawira Kaaria: On pages 48, 49, 50, and 51 of volume two.

Dr. Muthomi Thiankolu: Let us confirm. Who is the county official charged by the Office of the Director of Public Prosecution on page 48?

Hon. Evans Mawira Kaaria: He is called Mr. Salesi Munene Kanga alias Samaritan.

Dr. Muthomi Thiankolu: Have you placed the pay slip to show this gentleman is an official of the county?

Hon. Evans Mawira Kaaria: Yes, on page 50.

Dr. Muthomi Thiankolu: I now request that we play videos in support of count two. They are brief and we can have them played. Sorry, let us play videos in support of count one. I do not know whether we are having technical challenges, it should be audible.

The Speaker (Hon. Kingi): Can the person playing the video restart it?

(A video clip evidence was played)

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, in the interest of time, kindly let us proceed to the next video.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, the transcript of what is happening in the video is on pages 52 and 53 of volume two.

Dr. Muthomi Thiankolu: In that video, have we seen the Governor addressing the crowd?

Hon. Evans Mawira Kaaria: I have seen her.

Dr. Muthomi Thiankolu: Was the crowd initially peaceful as the Governor addressed it?

Hon. Evans Mawira Kaaria: Yes, it was.

Dr. Muthomi Thiankolu: Did the crowd turn violent?

Hon. Evans Mawira Kaaria: Yes, they turned violent.

Dr. Muthomi Thiankolu: Would you attribute the violence we have seen to the utterances that the Governor made?

Hon. Evans Mawira Kaaria: It can be attributed to the utterances of the Governor.

Dr. Muthomi Thiankolu: Why?

Hon. Evans Mawira Kaaria: Because she castigated the deputy governor. It is around the deputy governor's home. Therefore, the crowd turned violent after the deputy governor was attacked by the Governor.

Dr. Muthomi Thiankolu: Mr. Mawira, politicians attack each other all the time and perhaps we cannot read much into that. Do you consider it normal even within the rules of politics for a governor to take a vilification rally right to the home adjacent to that of her deputy?

Hon. Evans Mawira Kaaria: It is not normal. This was after the deputy governor had come out and said he was mistreated. Therefore, the Governor had taken a rally near his home so that she could castigate him more. This is why the crowd turned violent and protested against the mistreatment of the deputy governor. It was the last stroke that broke the camel's neck.

Dr. Muthomi Thiankolu: Is the violence we have seen in that video consistent with your charge that county motor vehicles were damaged?

Hon. Evans Mawira Kaaria: Yes. We can see vehicles being stoned and a police officer swore an affidavit that county government vehicles were destroyed during that rally. Meaning, they were present at the rally.

Dr. Muthomi Thiankolu: Let us proceed to count two of your Impeachment Motion, specifically paragraph 12(a) where you accuse the Governor of misrepresenting relatives as the technical team to benchmark cancer treatment equipment. Have you provided any evidence to show that the Governor misrepresented her relatives as technical people for purposes of cancer management?

Hon. Evans Mawira Kaaria: I have presented evidence in volume two; pages 58, 60, 68, 76, 77 and 86. There are two videos to support the allegation.

Dr. Muthomi Thiankolu: Is there a county in the Republic of Kenya with an incidence of cancer comparable to Meru?

Hon. Evans Mawira Kaaria: None. Studies have shown that Meru County has the highest incidence of cancer in the Republic of Kenya.

Dr. Muthomi Thiankolu: Is there any other place in the world with a higher incidence of cancer per square kilometre than Meru County?

Hon. Evans Mawira Kaaria: From studies, Meru County has the highest incidences of cancer per square kilometre.

Dr. Muthomi Thiankolu: Will I be wrong to say that Meru County is the world headquarters when it comes to this very debilitating disease?

Hon. Evans Mawira Kaaria: You are right. You have described it.

Dr. Muthomi Thiankolu: Would one expect the Governor, given the opportunity to deal with the disease affecting her county more than any other place in the world, to send the qualified people for purposes of that cancer management equipment and setting up the Cancer treatment center?

Hon. Evans Mawira Kaaria: It will be unexpected.

Dr. Muthomi Thiankolu: In a county that has the leading incidences per square kilometer in the world on cancer, would you expect the Governor to see this invitation to China as an opportunity for her relatives to go on safari?

Hon. Evans Mawira Kaaria: It would be unexpected.

Dr. Muthomi Thiankolu: Would a Governor who behaves like that be in gross violation of the Constitution?

Hon. Evans Mawira Kaaria: Definitely, he or she will be in gross violation of the Constitution.

Dr. Muthomi Thiankolu: Would they be in breach of their oath of office?

Hon. Evans Mawira Kaaria: Of course, yes.

Dr. Muthomi Thiankolu: Let us go to Page 58 that you mentioned. At Paragraph four, does the Governor admit that at least two of these people we are talking about are her relatives?

Hon. Evans Mawira Kaaria: Yes, she has admitted by indicating that one is her security personnel and the other one, her sister, is a personal assistant.

[The Speaker (Hon. Kingi) left the Chair]

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

Dr. Muthomi Thiankolu: Sorry Madam Temporary Speaker, I am a short-sighted man. That document you just read begins at Page 57. Right?

Hon. Evans Mawira Kaaria: Yes, it starts at Page 57.

Dr. Muthomi Thiankolu: At the top, what office does it say it is coming from?

Hon. Evans Mawira Kaaria: The County Government of Meru, Office of the Governor.

Dr. Muthomi Thiankolu: This is a letter from the Office of the Governor?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: To whom is it addressed?

Hon. Evans Mawira Kaaria: The Chief Executive Officer, Ethics and Anti-Corruption Commission, Integrity Center.

Dr. Muthomi Thiankolu: What is the date of this letter?

Hon. Evans Mawira Kaaria: 26th October, 2022.

Dr. Muthomi Thiankolu: You confirm that as at 26th October, 2022, there were already issues about the Governor's relatives and nepotism involvement in the County?

Hon. Evans Mawira Kaaria: I confirm.

Dr. Muthomi Thiankolu: Let us go to Page 60. What is that document?

Hon. Evans Mawira Kaaria: It is a letter addressed to the Governor of Meru, H.E. Kawira Mwangaza from the Beijing League Tech Company Limited.

Dr. Muthomi Thiankolu: Who is Beijing League Tech Company Limited?

Hon. Evans Mawira Kaaria: From the letter, it is a company in China that specialises in linear accelerator machines designed to treat cancer.

Dr. Muthomi Thiankolu: What does paragraph one of that letter say?

Hon. Evans Mawira Kaaria: It says-

“We are delighted to invite you and your distinguished members to visit us in China for you to witness and benchmark our state of art linear accelerator machines designed and manufactured in China in reference to our planned Cancer treatment centre in Meru, Kenya”.

Dr. Muthomi Thiankolu: This company planned to set up a Cancer treatment centre in Meru?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: In Paragraph two, what type of equipment do they say the Governor and her distinguished team should go and benchmark?

Hon. Evans Mawira Kaaria: They indicate that they will also have an opportunity to visit other medical equipment manufacturer that produces digital radiography, X-ray equipment and mobile C Arm that they plan to manufacture and assemble in Kenya, preferably in a designated special economic zone.

Dr. Muthomi Thiankolu: Let us go to Page 76. What is that document, Sir?

Hon. Evans Mawira Kaaria: It is a letter from the Office of the Deputy President, State Department for Devolution, addressed to the Principal Secretary from the Human Resource Management (HRM) and DO1.

Dr. Muthomi Thiankolu: What is this letter requesting? What is it about?

Hon. Evans Mawira Kaaria: It is about travel clearance to China.

Dr. Muthomi Thiankolu: What does it say?

Hon. Evans Mawira Kaaria: “The County Government of Meru has requested for clearance from its county officials to travel to China for a study tour. Beijing League Tech Company will meet all the expenses pertaining this trip.”

Then, it indicates-

“recommended for travel and also forwarded herewith, please find letters on the above subject for your consideration and signature.”

Dr. Muthomi Thiankolu: Where does the letter at Page 77 emanate from?

Hon. Evans Mawira Kaaria: It is a letter from the Office of the County Secretary and Head of Public Service.

Dr. Muthomi Thiankolu: Addressed to who?

Hon. Evans Mawira Kaaria: To the Principal Secretary, State Department of Devolution.

Dr. Muthomi Thiankolu: Who are the persons indicated as the ones to make this travel to benchmark the Cancer equipment?

Hon. Evans Mawira Kaaria: They are indicated as Dr. George Mungania, who is the County Executive Committee Member (CECM) for Health, Ms. Miriam Keith Guantai, who is the Personal Assistant (PA) to the Governor, Mr. Nephat Kinyua Meeme, who is the Director External Linkages and Mr. Murangiri Kenneth, who is indicated works under the department of administration.

Dr. Muthomi Thiankolu: To the best of your knowledge, is Dr. George Mungania an Oncologist?

Hon. Evans Mawira Kaaria: No, he is a pharmacist.

Dr. Muthomi Thiankolu: To the best of your knowledge, were there people in the county better qualified than this person to go on this trip dealing with the problem threatening the existence of Meru County?

Hon. Evans Mawira Kaaria: Yes, because the County Government of Meru has employed an oncologist and also radiographers.

Dr. Muthomi Thiankolu: Let us go to the next one; Miriam Keith Guantai. To the best of your knowledge, does that person hold any medical qualifications?

Hon. Evans Mawira Kaaria: None whatsoever.

Dr. Muthomi Thiankolu: Any certificate level?

Hon. Evans Mawira Kaaria: None whatsoever.

Dr. Muthomi Thiankolu: Diploma level?

Hon. Evans Mawira Kaaria: None.

Dr. Muthomi Thiankolu: Degree level?

Hon. Evans Mawira Kaaria: None.

Dr. Muthomi Thiankolu: Any other level?

Hon. Evans Mawira Kaaria: None that is known.

Dr. Muthomi Thiankolu: Let us go to Nephat Kinyua Meeme. What are his qualifications?

Hon. Evans Mawira Kaaria: When he was employed, he was employed as a pharmaceutical technologist; a diploma holder,

Dr. Muthomi Thiankolu: To the best of your knowledge, is this a person who would have any knowledge relevant to management of Cancer?

Hon. Evans Mawira Kaaria: None.

Dr. Muthomi Thiankolu: Is this the same gentleman we saw receiving money irregularly?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Is it the same gentleman you claim is the brother-in-law to the Governor?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Lets us go to Murangiri Kenneth. Does he hold any training qualifications even in form of the management of Cancer?

Hon. Evans Mawira Kaaria: None whatsoever.

Dr. Muthomi Thiankolu: Let us go to the letter at Page 78 of volume two. Is this the letter from the County Government of Meru?

Hon. Evans Mawira Kaaria: Yes, from the office of the County Secretary and Head of Public Service.

Dr. Muthomi Thiankolu: Addressed to who?

Hon. Evans Mawira Kaaria: The Principal Secretary, State Department of Devolution.

Dr. Muthomi Thiankolu: Can you read the first paragraph.

Hon. Evans Mawira Kaaria: “Following the invitation of the Governor of Meru County by Beijing League Tech Company Limited of Beijing City, the following technical team is hereby released from 7th June to 17th June 2023, to prepare and guide on the following.”

Dr. Muthomi Thiankolu: We can skip towards the bottom. What does the line just before the names say?

Hon. Evans Mawira Kaaria: The Technical team is as follows, and four participants are listed.

Dr. Muthomi Thiankolu: These are the Governor’s sister?

Hon. Evans Mawira Kaaria: Yes

Dr. Muthomi Thiankolu: Brother-in-Law?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Nephew to the husband?

Hon. Evans Mawira Kaaria: Yes, and the brother to the Governor.

Dr. Muthomi Thiankolu: In that letter, it is clear that the officers are described as the technical team.

Hon. Evans Mawira Kaaria: It is clearly stated.

Dr. Muthomi Thiankolu: To the best of your knowledge, would this people with the qualifications you just told us, even using the most elastic sense of the phrase, be a technical team for purposes of Cancer management?

Hon. Evans Mawira Kaaria: They cannot be.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, I beg we play the videos 2(a) and (b) in support of count two.

(A video clip was played)

Dr. Muthomi Thiankolu: We play the next one so that we take the questions together.

(A video clip was played)

Dr. Muthomi Thiankolu: Did you see the Governor's relatives that we have mentioned in those two videos?

Hon. Evans Mawira Kaaria: Yes, I can see them.

Dr. Muthomi Thiankolu: Did you see in those videos what on the face appears like highly sophisticated Cancer management equipment?

Hon. Evans Mawira Kaaria: Yes, I have seen one.

Dr. Muthomi Thiankolu: Would you expect people of the qualifications that the Governor sent on this trip to know what type of equipment they are and whether they are good for the management of Cancer?

Hon. Evans Mawira Kaaria: I do not expect them to know.

Dr. Muthomi Thiankolu: With all your qualifications, looking at those machines, would you have the capacity to advise the Government of Meru on whether they are good cancer management equipment?

Hon. Evans Mawira Kaaria: Madam Temporary Speaker, I have no ability to do that.

Dr. Muthomi Thiankolu: To the best of your knowledge, even a lawyer like me, with all the books that we have read would not be able to form any informed opinion as to whether that is good or bad equipment for managing Cancer?

Hon. Evans Mawira Kaaria: I do not believe so.

Dr. Muthomi Thiankolu: Do you know any reason other than the fact that these officials chosen to attend this trip are the Governor's relatives?

Hon. Evans Mawira Kaaria: I do not know any other reason.

Dr. Muthomi Thiankolu: On 12(b) of your Impeachment Motion, you accused the Governor of appointing Mr. Edwin Mutuma Murangiri as Chief Executive Officer (CEO) of Meru Youth Service and Ag. Chief Officer of the Department of Finance?

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

[The Speaker (Hon. Kingi) resumed the Chair]

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: What did you say are Mr. Edwin Mutuma's qualifications?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, from the records that I have, Mr. Edwin Mutuma Murangiri was employed as the authority's auditor.

Dr. Muthomi Thiankolu: Would such a person be qualified under the laws and policy documents of the Meru County Government to be appointed as an acting Chief Officer?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, according to the law, he does not meet the qualifications

Dr. Muthomi Thiankolu: Why does he not meet the qualifications?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, he was never employed or vetted and approved by the County Assembly as the Chief Officer, therefore, he cannot act in the capacity of a CEO.

Dr. Muthomi Thiankolu: Does he have the qualification to be CEO of Meru Youth Service?

Hon. Evans Mawira Kaaria: He does not have because he was not employed by the Board.

Dr. Muthomi Thiankolu: Okay. What is your evidence that this person was appointed to these offices? I keep asking where is the evidence because we were told that evidence is not counted, it is weighed and so, we will weigh it at the end.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, the evidence is on Pages 92 of our Volume II, 386 ---

Dr. Muthomi Thiankolu: Go to Page 92. Please, confirm that, that is an instrument from the Office of the Governor. What does it read at the top? Where does this document emanate from?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, from the Office of the Governor.

Dr. Muthomi Thiankolu: Does it emanate from the Office of the County Secretary, so that we will be told that it was not me?

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir. But the County Secretary has signed on behalf of the Her Excellency the Governor.

Dr. Muthomi Thiankolu: Item two, Mr. Edwim Mutuma Murangiri; what is the nature of the appointment?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, he has been moved from Meru Youth Service to the Department of Finance and Economic Planning to perform the functions of the Chief Officer for Finance, awaiting a substantive Chief Officer.

Dr. Muthomi Thiankolu: What happened to the substantive CEO, so that Mr. Murangiri, who is a relative of the Governor, will be appointed to act?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, he was arbitrarily moved after the IFMIS extracts that we are using to charge the Governor leaked to the public.

Dr. Muthomi Thiankolu: So, after the IFMIS extracts that we are relying upon leaked, that was when he was sacked.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, he was moved to another department.

Dr. Muthomi Thiankolu: Oh! He was moved to another department?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: Let us go to Pages 386-389 that you mentioned. What is that document?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is an Internal Memo from the Secretary of the County Public Service Board to Her Excellency the Governor of Meru County.

Dr. Muthomi Thiankolu: What does it address?

Hon. Evans Mawira Kaaria: Submission of nomination list of candidates interviewed for the post of Chief Officers in the County.

Dr. Muthomi Thiankolu: What is the date of this document?

Hon. Evans Mawira Kaaria: Mr. Chairman, Sir, it is dated 11th November, 2022.

Dr. Muthomi Thiankolu: Is Mr. Edwin Murangiri, whom we have just seen being designated as Ag. Chief Officer, shortlisted for that position?

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: As a matter of fact, did he even apply for it?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I believe he did not because, he did not appear in the longlist and in the shortlist.

Dr. Muthomi Thiankolu: Would the reason why he did not apply be that he was not qualified in the first place?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I believe so.

Dr. Muthomi Thiankolu: You just told us that the documents on Page 92 that the substantive Chief Officer was moved after the IFMIS report became public. Is that right?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: Before this matter was escalated to impeachment, did the County Assembly allow the Governor to explain the payments to these people?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir. He was given an opportunity.

Dr. Muthomi Thiankolu: Did she submit those documents to the County Assembly? Let us go to Pages 30 and 31

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, they declined to submit the documents on the basis that there was an ongoing audit.

Dr. Muthomi Thiankolu: Let us go to the letter on Page 30. What is that letter?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is a letter from the Clerk of the County Assembly addressed to the CECM for Finance, Economic Planning, and ICT requesting certified IFMIS extracts Statement for the Executive Arm of the County Government of Meru for the 2022/2023 Financial Year.

Dr. Muthomi Thiankolu: Is the County Government legally and constitutionally obliged to submit such documents to enable the County Assembly exercise its oversight function?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir. They are obligated by the law.

Dr. Muthomi Thiankolu: They are obligated by the law?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: Did they comply with the law requiring them to submit these documents?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, they declined to comply.

Dr. Muthomi Thiankolu: What reason did they give on Page 31?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, let me read.

Dr. Muthomi Thiankolu: Yes, you can read the first paragraph.

Hon. Evans Mawira Kaaria: The CECM for Finance states that the Public Finance Management (PFM) Act, under Section 164, makes provisions for the County Treasury of the county government to prepare and submit to the Auditor General the annual financial statements in respect of county government in a format to be prescribed by the Accounting Standards Board.

This statement shall include the services for which the appropriated money was spent, the amounts spent on each service, the status of each vote compared with the appropriation for the vote, a statement explaining any variation between the actual expenditure, the sum voted and any other information specified by the county treasury.

At the last paragraph, she continues to state that as at the moment, the county has prepared and submitted the financial statements to the Auditor-General and the Auditor-General is in the process of auditing the financial statements, which form part of our response to your request. As shown in the attached---

Dr. Muthomi Thiankolu: Let us leave it there for the sake of time. Were you asking for financial statements from the Governor's office?

Hon. Evans Mawira Kaaria: No. The Integrated Financial Management Information System (IFMIS) extracts for the financial year.

Dr. Muthomi Thiankolu: In the opening statement, we heard someone setting their own question and answering. Did the Assembly ask for financial statements, so that this document could be a valid answer?

Hon. Evans Mawira Kaaria: No.

Dr. Muthomi Thiankolu: Would you, therefore, consider this a valid reason for the failure to submit the documents?

Hon. Evans Mawira Kaaria: It is a reason that cannot hold water.

Dr. Muthomi Thiankolu: Mr. Mawira, if the Assembly asks the Governor's office to submit documents and they refuse, can someone blame the assembly for escalating the matter to impeachment?

Hon. Evans Mawira Kaaria: Nobody should do that.

Dr. Muthomi Thiankolu: Let us go to Count No.3 about the Deputy Governor (DG). Paragraph 14 (a) of the impeachment motion, you accuse the Governor of excluding the DG from County Executive Committee meetings. Under our law and Constitution, is the DG a substantive member of the Executive committee?

Hon. Evans Mawira Kaaria: Yes. This is because it is clearly stated under the law and the Constitution.

Dr. Muthomi Thiankolu: As a matter of fact, would that committee be validly constituted in a situation where the DG is excluded deliberately?

Hon. Evans Mawira Kaaria: They cannot.

Dr. Muthomi Thiankolu: Have you produced any evidence to show that the DG was excluded from the meeting of the County Executive Committee?

Hon. Evans Mawira Kaaria: Yes. In volume two, Pages 101-103, 226, 231, 233, 234, 235 and 236.

Dr. Muthomi Thiankolu: Let us go to the document on Page 101. What type of document is that?

Hon. Evans Mawira Kaaria: A record of the County Assembly of Meru of evidence taken before the Committee on Justice, Legal Affairs and Cohesion at the County Assembly of Meru Chambers.

Dr. Muthomi Thiankolu: Was this evidence given on oath?

Hon. Evans Mawira Kaaria: Yes, it was.

Dr. Muthomi Thiankolu: As a matter of fact, on Page 101, it indicates the oath was administered to the witness. Who was the witness that was appearing before the county assembly?

Hon. Evans Mawira Kaaria: The DG.

Dr. Muthomi Thiankolu: What are the complaints the DG told the county assembly at Page 102?

Hon. Evans Mawira Kaaria: The DG complained of lack of facilitation for his office, failure to be invited to the Meru County Executive Committee cabinet meetings or any other official functions.

Dr. Muthomi Thiankolu: At the bottom of Page 102, when does he say he was last invited?

Hon. Evans Mawira Kaaria: On 29th May, 2023.

Dr. Muthomi Thiankolu: Let us go to Page 226. What is that document?

Hon. Evans Mawira Kaaria: It is a letter from the DG to the County Secretary inquiring if there was any cabinet meeting that has been held because the last one he attended was on 29th May, 2023, when he was invited through a *WhatsApp* page.

Dr. Muthomi Thiankolu: Is that document received by the relevant office?

Hon. Evans Mawira Kaaria: It was received by the office of the County Secretary at the end of public service on 25th August, 2023.

Dr. Muthomi Thiankolu: To the best of your knowledge, did the DG receive any response to this request?

Hon. Evans Mawira Kaaria: None whatsoever.

Dr. Muthomi Thiankolu: Let us go to Page 231. What is that document?

Hon. Evans Mawira Kaaria: It is a letter from the Office of the DG addressed to the Speaker of Meru County Assembly on failure to be invited for Meru County Executive cabinet meetings or any other official events.

Dr. Muthomi Thiankolu: Page 233.

Hon. Evans Mawira Kaaria: A letter from the Office of the DG addressed to His Excellency Rigathi Gachagua, the Deputy President of the Republic of Kenya, requesting for reconciliation.

Dr. Muthomi Thiankolu: Page 234.

Hon. Evans Mawira Kaaria: A letter from the Office of the DG addressed to the Clerk of the Senate on failure to be invited to the Meru County Executive cabinet meetings or any other official functions and events, lack of facilitation and withdrawal of staff from the Office of the DG since April 2023.

Dr. Muthomi Thiankolu: The one on Pages 235 and 236, what are they?

Hon. Evans Mawira Kaaria: Letters from the Office of the DG addressed to the Chairperson Council of Governors (CoG); request for reconciliation. The one on Page 236 is still a letter from the DG addressed to the County Secretary following up on cabinet meetings.

Dr. Muthomi Thiankolu: From these documents, you confirm the problem in Meru County has been referred to the Assembly, the CoG, the Deputy President and the Senate. Right?

Hon. Evans Mawira Kaaria: Yes, I confirm.

Dr. Muthomi Thiankolu: To the best of your knowledge, has the solution been found even after roping in the good offices of all these agencies of the State?

Hon. Evans Mawira Kaaria: There has not been any solution found to the problem.

Dr. Muthomi Thiankolu: Let us go to Paragraph 14 (b) and (d) about bullying, undermining, insulting and demeaning the DG through *WhatsApp* groups. At this point, I request we play a video by the Governor in which the Deputy is accused of chanting. The video was played in the opening statement, where the DG is seen with some rowdy youths apparently singing fairly unfortunate songs against the Governor. Perhaps Mr. Mutuma can tell us the number of the video, so that we move quickly.

I am told it is KMV15 from the Governor's videos.

(A video clip was played)

Mr. Speaker, Sir, we can pause it there. *Bw.* Mawira, to the best of your knowledge---

(There was a technical hitch)

You can give even an estimated date. It does not have to be an exact date.

Hon. Evans Mawira Kaaria: On or about the 20th of September.

Dr. Muthomi Thiankolu: That is roughly one month ago. Is that not it?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: The Governor's defence to the Count 14(b) and (c) and (d) is that this procession is the one that triggered the nasty *WhatsApp* group messages that we are about to go through. Is that correct?

Hon. Evans Mawira Kaaria: No. That is a misrepresentation of the sequence of events.

Dr. Muthomi Thiankolu: Let us interrogate that claim that it is a misrepresentation of the sequence of events by opening Page 149 of Volume II. When did you say was the procession occurred, the one we just saw on the video that is said to be the justification for the *WhatsApp* messages?

Hon. Evans Mawira Kaaria: On or about the 20th of September.

Dr. Muthomi Thiankolu: Barely a month ago. Is that not it?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: On Page 149, we start looking at the *WhatsApp* messages. What is the timestamp on that *WhatsApp* message at Page 149 at the top and the date stamp?

Hon. Evans Mawira Kaaria: It is dated May 20th, 2023 at around 1833 hours.

Dr. Muthomi Thiankolu: Would I be correct that, therefore, the vilification through *WhatsApp* groups actually occurred about four months before the event the Governor said was the trigger?

Hon. Evans Mawira Kaaria: Yes, I confirm.

Dr. Muthomi Thiankolu: The Governor in her defence confirms this *WhatsApp* group has Members who include county officials. Correct?

Hon. Evans Mawira Kaaria: Yes, she confirms.

Dr. Muthomi Thiankolu: She also confirms that it has members of the public.

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: She also confirms it has Chief Executive Committees (CECs) and other county officials.

Hon. Evans Mawira Kaaria: Yes, she does.

Dr. Muthomi Thiankolu: Would that diverse composition of this group require an element of discretion and discernment from a responsible Governor before posting nasty messages about her Deputy there?

Hon. Evans Mawira Kaaria: It requires.

Dr. Muthomi Thiankolu: If the Governor is posting nasty messages about the Deputy Governor in a platform that, by her own words, includes both county officials and members of the public, would that trigger violence of the type we saw at Makiri?

Hon. Evans Mawira Kaaria: It clearly can.

Dr. Muthomi Thiankolu: Let us examine the messages themselves. On Page 149 where we are, it reads “*Nchamba Mbithi* removed you.” Who was removed?

Hon. Evans Mawira Kaaria: The Deputy Governor.

Dr. Muthomi Thiankolu: Is *Nchamba Mbithi* a junior officer or a superior of the Deputy Governor?

Hon. Evans Mawira Kaaria: A junior officer to the Deputy Governor.

Dr. Muthomi Thiankolu: Would you expect a junior officer in the ordinary course of an event to have the temerity to remove the Deputy Governor from a *WhatsApp* group?

Hon. Evans Mawira Kaaria: No, unless instructed by higher powers or someone senior than the Deputy Governor.

Dr. Muthomi Thiankolu: Before we go to Page 152, let us go to Page 155 at the bottom. It shows again that the Deputy Governor was again removed from this group by who?

Hon. Evans Mawira Kaaria: Hon. Mutia.

Dr. Muthomi Thiankolu: Who is Hon. Mutia?

Hon. Evans Mawira Kaaria: He is a Chief Officer in the County Government of Meru.

Dr. Muthomi Thiankolu: In a functional county government, would you expect an ordinary Chief Officer to have the guts to remove a whole Deputy Governor from the group, unless acting on the powers of someone above the Deputy Governor?

Hon. Evans Mawira Kaaria: No.

Dr. Muthomi Thiankolu: What is the date stamp at the top?

Hon. Evans Mawira Kaaria: May 27th, 2023.

Dr. Muthomi Thiankolu: This was again four months before the rally that is alleged to have triggered these nasty messages. Is that not it?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Let us go to Page 148; a post there by Kiambi Atheru. Who is Kiambi Atheru in the middle of the page?

Hon. Evans Mawira Kaaria: The County Secretary to the county Government of Meru.

Dr. Muthomi Thiankolu: After the Deputy Governor is removed, some sought of gossip begins between the Governor and the County officials and the Members of the Public. What does Kiambi Atheru tell the people in the group about this nasty gossip of the Deputy Governor?

Hon. Evans Mawira Kaaria: He states that, “confidentiality is of the essence here. There will be no point for us to converse here, then any among us send screenshots to our enemies. It will be too unethical.”

Dr. Muthomi Thiankolu: Who is Kiambi Atheru saying the screenshot should not be sent to, so that they can insult, gossip and chit-chat about the Deputy Governor freely?

Hon. Evans Mawira Kaaria: The Deputy Governor.

Dr. Muthomi Thiankolu: At the top of that page, there is a post by the Governor. Right?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: What is she saying?

Hon. Evans Mawira Kaaria: “I have fought many and serious battles. *Hiyo yao ni manyunyū. Nitawagaragasa kama kawaida.*”

Dr. Muthomi Thiankolu: So, here is the Governor announcing that she will fight the Deputy Governor and his people. Is this occurring before or after the event the Senate is being invited to believe was the trigger of these very unfortunate things?

Hon. Evans Mawira Kaaria: Way before the event.

Dr. Muthomi Thiankolu: There is Dayan there replying. Who is Dayan?

Hon. Evans Mawira Kaaria: I believe he is a public member because I do not know the position he holds.

Dr. Muthomi Thiankolu: Let us go to 160. There is a post there by the Governor herself. To the best of your knowledge, is the number given there, the number of the Governor?

Hon. Evans Mawira Kaaria: Yes, it is the Governor’s phone number.

Dr. Muthomi Thiankolu: What is the Governor telling her junior officers in relation to her Deputy Governor after they have removed him from the group?

Hon. Evans Mawira Kaaria: She states “CEO Mutia, *panga retreat ya sub-county and Ward Admins tuchome jeshi.*”

Dr. Muthomi Thiankolu: So, the Governor is recruiting Ward Admins in her war with the Deputy Governor?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Would you expect a Governor familiar with the dignity expected of that office to do that?

Hon. Evans Mawira Kaaria: It is not expected.

Dr. Muthomi Thiankolu: What does this junior officer tell the Governor after he has been told to mobilize the Ward Admins to fight the Deputy Governor?

Hon. Evans Mawira Kaaria: He states; “I am almost finalizing the plans, Her Excellency. *Jeshi iko chonjo.*”

Dr. Muthomi Thiankolu: Does the Governor organizing this *Jeshi* and the one we have seen on those videos at Makiri appear to you as a humble, vulnerable victim and a good polite lady, who is being harassed for no good cause? Is that the demeanor we saw in those videos?

Hon. Evans Mawira Kaaria: I do not think so.

Dr. Muthomi Thiankolu: The deportment that we can discern from this messages so far, is it of a dignified Governor who is a victim of some political witch-hunt? Did you see in this text the tone and language discernment of a dignified Governor?

Hon. Evans Mawira Kaaria: It is not.

Dr. Muthomi Thiankolu: At Page 162 the Governor says?

Hon. Evans Mawira Kaaria: “And DG mobilized few *walevi. Bamwe bagachwa ūrĩa bakamia mbila ya mbokandu ūkabaigua.*”

Dr. Muthomi Thiankolu: Please, tell the Senate this is the message the Governor has sent to a *WhatsApp* group that has junior officers, and members of the

public about her own Deputy Governor. Can you please tell the Senate the translation of what she is saying?

Hon. Evans Mawira Kaaria: The translation is on Page 446 of volume two. Chief Officer Mutia writes; “people are with us and I am so encouraged. Today, they used police to intimidate our *Jeshi*. Their darkness will not and cannot overcome our light.”

The Governor responds-

“And Deputy Governor mobilized few drunkards, *bamwe bagachwa ūrĩa bakamia mbila ya mbokandu ūkabaigua*,” which translates to “the Deputy Governor mobilized a few drunkards. Some people will have to find ways of defecating an avocado seed. You will hear them.”

Dr. Muthomi Thiankolu: Does this sound to you like a dignified message by a Governor that according to our Constitution and Chapter Six laws should bring honour and dignity both to her office and that of the Deputy Governor?

Hon. Evans Mawira Kaaria: It is not, especially considering that this was posted in a *WhatsApp* group with the junior officers to the Deputy Governor and Members of the public, of course.

Dr. Muthomi Thiankolu: Again, was this before or after the event now offered as an explanation for what triggered this very unfortunate message?

Hon. Evans Mawira Kaaria: It was way before around May of 2023.

Dr. Muthomi Thiankolu: Four months before?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Let us go to Page 163. There is a post there by a junior officer called Nkanata responding to the Governor’s very unfortunate message. What does Nkanata say?

Hon. Evans Mawira Kaaria: He states, “uuuwi! Phew! *Bakabwona baikune*”!

Dr. Muthomi Thiankolu: Again, what in your understanding was this junior saying about the Deputy Governor?

Hon. Evans Mawira Kaaria: He is exclaiming and saying that they will suffer the consequences.

Dr. Muthomi Thiankolu: Let us go to *Kabati, kabati, kaende, kaende* at Page 165. What does the Governor say in response to a junior officer called Nkanata?

Hon. Evans Mawira Kaaria: She states that “I have fought many and serious battles. *Hiyo yao ni manyunyū. Nitawagaragaza kama kawaida*. Just relax and watch the space and concentrate in development. *Kabati, kabati, kaende, kaende*. Back me with prayers and see the deliverance of our father. He has done it for me and the promise higher end is beautiful”

Dr. Muthomi Thiankolu: The Governor in her defence says that she is the foremost peacemaker in Meru. Is this message consistent with the person who is the foremost peacemaker in Meru?

Hon. Evans Mawira Kaaria: The tone and the language used does not depict someone who is a peacemaker.

Dr. Muthomi Thiankolu: Is any of the messages we have so far seen consistent with the Governor, who in her own words, ‘is the foremost peacemaker in Meru County?’

Hon. Evans Mawira Kaaria: They do not.

Dr. Muthomi Thiankolu: In Page 166, what does Governor Mwangaza write in response to a junior officer called Kiambia Theru? What does he say that the Governor is responding to at the top of Page 166?

Hon. Evans Mawira Kaaria: Kiambia Theru states that “our enemies misadvised him. Very unfortunate for him.” That is in reference to the Deputy Governor. Then the Governor responds by stating that “he thinks I am the type of a person who can be scared by useless, childish, mannerless, hopeless group of people with threats. *Kwanza nitafinya kieleweke.*”

Dr. Muthomi Thiankolu: “*Kwanza nitafinya kieleweke*”. Again, is this the language of a dignified peace loving Governor, who is the victim of male chauvinism and *Njuri Ncheke*? In all these things, she is saying, “it was not me. I am just a victim?”

Is this message consistent with a humble, meek and dignified Governor?

Hon. Evans Mawira Kaaria: It is not consistent.

Dr. Muthomi Thiankolu: Let us go to Page 167. What does the Governor say that her County Secretary junior officer, Dr. Kiambia Theru, say is responding to?

Hon. Evans Mawira Kaaria: The Governor states that, “They want him to recover what? Ntochiu invested heavily. *Kuweka jina kwa* ballot paper---

The message that Kiambia Theru is responding to is clearly captured on Page 170.

Dr. Muthomi Thiankolu: Let us go to Page 170 where it is.

Hon. Evans Mawira Kaaria: First of all, the Governor is responding to her CECM, Finance who had stated that “very true. They are using him and when done, they will dump him. Very unfortunate.”

Then the Governor states, “They want him to recover what?” Ntochiu invested heavily. *Kuweka jina kwa* ballot paper is what investment CEC, Finance surely?

“Ungratefulness is a curse. Results coming up soon.” Nduchu is the Former Deputy Governor. Then the County Secretary responds on Page 167 by saying, “I am a witness. He contributed nothing to the campaigns. Zero.”

Dr. Muthomi Thiankolu: Will you consider it in order for the Governor to be telling civil servants and junior officers that her Deputy contributed nothing? Even if we were to assume it is true for argument sake, would that be a proper message to be sent by Governor to a forum like this?

Hon. Evans Mawira Kaaria: It is not in order.

Dr. Muthomi Thiankolu: Is this consistent with our Chapter Six? Is this the type of messages Governors should be acquitted by the Senate, so that they can continue sending?

Hon. Evans Mawira Kaaria: It is not consistent with Chapter Six of the Constitution.

Dr. Muthomi Thiankolu: Let us go to Page 174. What is the Governor telling Monica Kathono, who is a junior officer and specifically the CECM for Finance?

Hon. Evans Mawira Kaaria: The Governor is telling the CECM Finance “*Eti Deputy Apewe Finance CECM. Laughable. Wamchukue 2027 wapee yeye Finance. Nkts.*”

Dr. Muthomi Thiankolu: Let us go to Page 176 first. There is a post there by the Governor. Can you read it to the Senate?

Hon. Evans Mawira Kaaria: “*Hawa wajinga tuwanyamazie until 2026. Mute completely, concentrate on development. They want to divert us from our agenda and join the madness. Kama ni kunyorosha, tukamatie chini, wapige nduru kabisa. I show you direction. Meanwhile, we are here at 10 bila brakes.*”

Dr. Muthomi Thiankolu: Is this message consistent with the narrative of a peaceful Governor, who is a victim of some evil scheme to ouster her out of office?

Hon. Evans Mawira Kaaria: It is inconsistent.

Dr. Muthomi Thiankolu: Who are the people she was referring to as ‘wajinga’ and who she says, ‘*nitawanyorosha na kuwakamatia chini?*’

Hon. Evans Mawira Kaaria: It is other leaders from the great Meru County.

Dr. Muthomi Thiankolu: For whatever reason, should the Governor be sending such messages to junior officers and the public, even if we were to assume for argument’s sake that she has a valid grievance against the other elected leaders?

Hon. Evans Mawira Kaaria: She should not.

Dr. Muthomi Thiankolu: Let us go to Page 179. What is the Governor saying at the top there?

Hon. Evans Mawira Kaaria: She states; “*I love this. Mwanaume ni kazi, sio kujivutavuta na kupigania tusimu twa fitina. Kazi iongee. Mtaka cha mvunguni---*” She leaves it at that then continues to state; “*The Bible says, lazy people should not eat and should be denied all benefits similar to eating. Ukisikia mtu analialia ni mzembe, wachana naye akufe.*”

Dr. Muthomi Thiankolu: Who are the people the Governor is calling lazy and who should not eat in the context of this message?

Hon. Evans Mawira Kaaria: It is in reference to the Deputy Governor.

Dr. Muthomi Thiankolu: Now, again, Mr. Mawira, because human beings disagree all the time, let us assume the Governor has a genuine grievance against her Deputy, should she be sending this type of message in this type of group?

Hon. Evans Mawira Kaaria: It is not expected of a person of the stature of a Governor.

Dr. Muthomi Thiankolu: What does Barii Nahashon say in response to the Governor?

Hon. Evans Mawira Kaaria: He says- “*Extremely true, your Excellency.*”

Dr. Muthomi Thiankolu: Let us go to Page 190. What is the Governor saying at Page 190?

Hon. Evans Mawira Kaaria: The Governor says; “*He is now claiming that pesa ya office of the Governor to be split into two. Laughable. Uju akaringwa ii Murungu Wengwa atitumene in Jesus Mighty name. May Jehovah God who sees the motive in every mouth, deal with our enemies speedily in Jesus’ Mighty name.*”

Dr. Muthomi Thiankolu: What does Nchamba Mbithi, the Governor’s Chief of Staff, say there, that the Governor is responding to? It is at Page 191.

Hon. Evans Mawira Kaaria: He says; “In my opinion, the issues going round the media are really fuelled by the Deputy Governor’s (DG’s) silence. We all know well there was no planned trip to the United States (US) that was cancelled. We all know there is no time that our DG's vehicle has ever being taken away. Our DG's silence is really making my people to believe the fake rumours. If the DG comes out and clears the air on fake rumours, the current politics will be a thing of the past. Why do we have to go through hard times and the solution is within us?”

Dr. Muthomi Thiankolu: Who is Nchamba Mbithi, the author of the post you just read?

Hon. Evans Mawira Kaaria: He is the Chief of Staff to the Governor.

Dr. Muthomi Thiankolu: Let us go to Page 181, where the same Nchamba Mbithi is again conversing with the Governor in this group. What does Nchamba Mbithi say?

Hon. Evans Mawira Kaaria: He says- “Blessed weekend Her Excellency. We are behind you 101 per cent. Anyone trying to fight you is fighting us and becomes our enemy immediately.”

Dr. Muthomi Thiankolu: In your understanding, and we have asked this question a million times because it is important, but would a junior officer be posting these things without the blessing of the Governor?

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: Especially when that junior officer is the Governor’s Chief of Staff?

Hon. Evans Mawira Kaaria: It is not expected.

Dr. Muthomi Thiankolu: Let us go to 194. What does the Governor say in that page?

Hon. Evans Kaaria Mawira: She states that-

“*Hii ni ujinga* sponsored by DG, am issuing last warning. I don’t entertain useless threats. My 15 years in politics have never such childishness and *ukumbafu*.”

Dr. Muthomi Thiankolu: The next message?

Hon. Evans Mawira Kaaria: “*Walinipea* 6k the entire constituency and DG *kituo yako*, I was the last. *Wanaongea nini sasa?*”

Dr. Muthomi Thiankolu: The next one.

Hon. Evans Mawira Kaaria: “You want to eat what you never laboured for; it’s a curse.”

Dr. Muthomi Thiankolu: The next one.

Hon. Evans Mawira Kaaria: “Sandi was from Imenti, Tony from Imenti, Jotham from Imenti and many others. *Mbona sikusikia* community issue? *Kuweka jina kwa ballot ni kazi? Watu wanatumiwa vibaya na hata wenye wanakumia vibaya hawawezi kukupea* even elected MCA.”

Dr. Muthomi Thiankolu: We could go on and on, but the point has been made. Mr. Speaker, Sir, I request we play a video in which Nchamba Mbithii is seen on Television (TV) saying some things about the Deputy Governor.

It is Video No.3A in support of Count 3. The translation of that video is in Page 447 of Volume 2.

(A video clip was played)

It can be paused so that I ask some questions. On the screen, which TV is airing this show?

Hon. Evans Mawira Kaaria: It is *Baite* TV.

Dr. Muthomi Thiankolu: Is that station associated with the Governor?

Hon. Evans Mawira Kaaria: Yes. It is owned by her proxies.

Dr. Muthomi Thiankolu: Does Nchamba Mbithii confirm that this TV has national viewership?

Hon. Evans Mawira Kaaria: Yes, he confirms that it is a national television.

Dr. Muthomi Thiankolu: Who is Nchamba Mbithii in that video?

Hon. Evans Mawira Kaaria: The Chief of Staff to the Governor.

Dr. Muthomi Thiankolu: From this video on whose side is he on?

The video can be re-run, so that I ask the question. I want you to identify to the Senate who is Nchamba Mbithii in this video. It can be now paused.

(A video clip was played)

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, that is the Chief of Staff.

Dr. Muthomi Thiankolu: That is the Chief of Staff on national TV and the transcript is at Page 447. What was he saying in summary about the Deputy Governor?

Hon. Evans Mawira Kaaria: In translation, he says that what Mutuma is doing is something I would not want to say here because I know *Baite* TV has a national audience. Mutuma is defecating on the plate from which he feeds on. Mutuma here is in reference to the Deputy Governor.

Dr. Muthomi Thiankolu: Confirm that this show happened after the previous impeachment Motion, which had a count of unnecessary aggression and vilification of other leaders.

Hon. Evans Mawira Kaaria: I confirm.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, let us play Video No.3B.

It is a fairly long video, but we will crave your leave to play it because it helps the Senate understand whether the Governor is this meek and humble person who is the foremost peace maker.

(A video clip was played)

Mr. Speaker, Sir, if you permit, I can put some of the questions as it plays.

The Speaker (Hon. Kingi): Unless they pause the video because we cannot concentrate.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, we are on Count three---

The Speaker (Hon. Kingi): Let them pause, then you proceed to put your questions.

Dr. Muthomi Thiankolu: Can the video be reversed a little? The transcript of this video is at page 251 and 252 of volume two. Who is the person dancing behind the guy with the guitar?

Hon. Evans Mawira Kaaria: It is the Governor of Meru County, Her Excellency Hon. Kawira Mwangaza.

Dr. Muthomi Thiankolu: Who is the person playing the guitar?

Hon. Evans Mawira Kaaria: That is the first gentleman of Meru County Government or simply put, the spouse of the Governor of Meru County.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, now the volume can be increased so that we hear the lyrics and then I can put my next series of questions.

(A video clip was played)

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, the volume is low. We might not hear the lyrics.

(A video clip was played)

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, the video can be paused so that I can put the questions. Mr. Mawira, from the screen, where is the rally being held?

Hon. Evans Mawira Kaaria: At Kiutine.

Dr. Muthomi Thiankolu: Where is Kiutine?

Hon. Evans Mawira Kaaria: Kiutine is in Igembe.

Dr. Muthomi Thiankolu: Is that near the deputy governor's home?

Hon. Evans Mawira Kaaria: Yes, near Maua

Dr. Muthomi Thiankolu: When was this event held?

Hon. Evans Mawira Kaaria: On the 28th of August, 2023.

Dr. Muthomi Thiankolu: Is that before or after the procession the Governor is offering to explain her belligerence towards the deputy governor and other leaders?

Hon. Evans Mawira Kaaria: This was before.

Dr. Muthomi Thiankolu: Does this explanation and the video we were shown earlier offer a valid answer to the charge of vilifying other leaders and the deputy governor?

Hon. Evans Mawira Kaaria: It does.

Dr. Muthomi Thiankolu: Who are the people described in that song as “*wenye wivu*”?

Hon. Evans Mawira Kaaria: This is the deputy governor and other elected leaders from Meru County.

Dr. Muthomi Thiankolu: Does that musical performance talk about the previous impeachment proceedings?

Hon. Evans Mawira Kaaria: It does.

Dr. Muthomi Thiankolu: Do the lyrics show a person who learned anything from the previous impeachment?

Hon. Evans Mawira Kaaria: It does not.

Dr. Muthomi Thiankolu: Do they show a recalcitrant or a repentant person as far as the previous impeachment is concerned?

Hon. Evans Mawira Kaaria: It does not.

Dr. Muthomi Thiankolu: Do the lyrics accuse other leaders of plotting to kill Governor Kawira Mwangaza?

Hon. Evans Mawira Kaaria: They do.

Dr. Muthomi Thiankolu: Would you expect this to be a potential breach of the peace when other leaders are being accused of plotting to kill the Governor?

Hon. Evans Mawira Kaaria: Of course, yes.

Dr. Muthomi Thiankolu: To the best of your knowledge, has the Governor ever reported any threats to her life in any police station?

Hon. Evans Mawira Kaaria: I am not aware of any.

Dr. Muthomi Thiankolu: Do those lyrics say that the other leaders want Governor Kawira to assist them to embezzle public funds?

Hon. Evans Mawira Kaaria: They do.

Dr. Muthomi Thiankolu: Is that a fair allegation to make of other elected leaders without good basis?

Hon. Evans Mawira Kaaria: It is not fair.

Dr. Muthomi Thiankolu: Does that video say that the other elected leaders do not want Hon. Kawira to assist the weak and vulnerable, described as *wanyonge* in the lyrics?

Hon. Evans Mawira Kaaria: They state so.

Dr. Muthomi Thiankolu: Please, confirm that this musical performance is happening in an *Okolea* rally.

Hon. Evans Mawira Kaaria: It is, I confirm.

Dr. Muthomi Thiankolu: The branding clearly indicates that.

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Does the Governor appear dancing to that music and even gesticulate “*wenye wivu wajinyonge*” “with her fingers showing how the other leaders should be beheaded or behead themselves?

Hon. Evans Mawira Kaaria: Yes, she does enjoy and dance to the music and also demonstrate how the *mwenye wivu* should *nyonga* themselves.

Dr. Muthomi Thiankolu: In your views, Sir, can the Governor honestly and in good conscience dissociate herself from this musical performance because there were utterances of her spouse?

Hon. Evans Mawira Kaaria: She cannot.

Dr. Muthomi Thiankolu: Should governors be allowed to vilify other leaders this way through their spouses so that if they are asked, they say it is not them but someone else?

Hon. Evans Mawira Kaaria: They should not.

Dr. Muthomi Thiankolu: Do the lyrics describe the other elected leaders as having *Shetani* or demons? Did we hear from the lyrics the other leaders being described as having *shetani*?

Hon. Evans Mawira Kaaria: Yes, we heard.

Dr. Muthomi Thiankolu: Sir, is this video consistent with the narrative of almost peacemakers in Meru County who cannot hurt a fly? To use her own words; she is the victim of some scheming by the Deputy Governor to take power through the back door?

Hon. Evans Mawira Kaaria: It is not consistent.

Dr. Muthomi Thiankolu: Does this video accuse other leaders of wanting to embezzle money meant for building roads in Meru?

Hon. Evans Mawira Kaaria: It does.

Dr. Muthomi Thiankolu: Bw. Mawira, you are on oath, do you know any reason that would entitle the Governor to hold this type of music performance?

Hon. Evans Mawira Kaaria: Sorry, come again.

Dr. Muthomi Thiankolu: Do you know any justification the Governor would have for vilifying other leaders in the manner we have seen in that musical performance?

Hon. Evans Mawira Kaaria: I would not know why the Governor would go to that extent of vilifying and inciting the public against other leaders from Meru County.

Dr. Muthomi Thiankolu: The crowd we saw in that video, is it a small or a big crowd?

Hon. Evans Mawira Kaaria: It is a big crowd.

Dr. Muthomi Thiankolu: To the best of your knowledge, how often does the Governor hold such rallies?

Hon. Evans Mawira Kaaria: They are held almost every Sunday under the disguise of helping the needy. However, I can confirm those rallies are held generally to vilify, demean and incite the public against other leaders in Meru.

Dr. Muthomi Thiankolu: Mr. Speaker Sir, I request that we play video No.3C in support of count three. The transcript of video No.3C which we are about to play is on page 448 of Volume 2

No, we do not have a transcript; this one is in Kiswahili. So, it does not require a transcript since Kiswahili is our national language. Let us play the video.

(A video clip was played)

Hon. Evans Mawira, to the best of your knowledge, what occasion was this when these utterances were made?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, this was a prayer rally attended by the President and the Deputy President of the Republic of Kenya at a rally which is in Igembe North.

Dr. Muthomi Thiankolu: So, to the best of your knowledge, why did the President and the Deputy President organise this trip to Meru?

Hon. Evans Mawira Kaaria: Sorry, come again.

Dr. Muthomi Thiankolu: Would you know the motivation why the President and the Deputy President travelled to Meru for this function?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it was a thanksgiving prayer rally and also to come and try to reconcile the leaders of Meru especially and Governor and the Deputy Governor.

Dr. Muthomi Thiankolu: Did this occasion occur before or after the previous impeachment?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it was after the previous impeachment process.

Dr. Muthomi Thiankolu: That is why the Deputy President and the President spearheaded the reconciliation effort. Is it not?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir, I can confirm.

Dr. Muthomi Thiankolu: So, you are confirming that the problem in Meru has been addressed at the Council of Governors, the Senate and all those people you have counted, including the President himself.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I confirm.

Dr. Muthomi Thiankolu: Have all these interventions restored sanity in Meru County?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, they have not. We have stagnated at one point.

Dr. Muthomi Thiankolu: Do you expect speakers in a presidential function to speak in a dignified way about other leaders?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir, it is expected.

Dr. Muthomi Thiankolu: Did we hear the Governor talk about ‘*cartel kumi*’ in this presidential function?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, she did.

Dr. Muthomi Thiankolu: In the understanding of the ordinary Meru citizen, who are the people she was calling ‘*cartel kumi*’?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, she was referring to the elected Members of Parliament (MPs.) and the Women Representative of Meru County.

Dr. Muthomi Thiankolu: Did you hear her call these people before the President of the Republic of Kenya “*Macartel*”?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, she did and stated that it is people who earn above Kshs500,000 and above and Kshs1 million.

Dr. Muthomi Thiankolu: Did she also say that these are people who only care about their stomachs?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir, she did.

Dr. Muthomi Thiankolu: Would those be utterances that connote the Governor who is peace-loving and who has learned from the previous impeachment process and is just a victim?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, they do not.

Dr. Muthomi Thiankolu: Let us play video No.3D

The Speaker (Hon. Kingi): Counsel, just to remind you that you have one hour to go. Bear in mind you have more witnesses to call. The time that is utilised by Senators cannot be part of the four hours. Out of the four hours, so far, you have one hour to go.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, does that include the time taken by my counterpart to cross-examine my witnesses? This is because they took more time cross-examining the other witness than we have.

The Speaker (Hon. Kingi): That is still within your four hours just like you would be doing when their time comes.

Dr. Muthomi Thiankolu: I will try to do my best, but I crave for your indulgence. It is because of my consciousness as to time that I am taking more time with this witness just in case I am not able to call all the six. Let us play video no. 3 (d). This is the video that inspired the allegory that was misunderstood.

The transcript of this video is on page 448 to 449 of Volume 2. Let us proceed.

(A video clip was played)

Mr. Mawira, what is the Governor talking about in that video?

Hon. Evans Mawira Kaaria: The previous impeachment process.

Dr. Muthomi Thiankolu: What is she saying about the previous impeachment process?

Hon. Evans Mawira Kaaria: That there is nothing that was done to her even after the county assembly impeached her and took her to the Senate.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, that is how my allegory was born. We can see the last video, 3 (e).

(A video clip was played)

In the interest of time, we can pause it. Mr. Mawira, what was the Governor doing as per this video?

Hon. Evans Mawira Kaaria: She was vilifying the elected Member of Parliament (MP) for South Imenti as well as other MPs from Meru.

Dr. Muthomi Thiankolu: To the best of your knowledge, Sir, is there any overlap between the duties of the Governor and those of MPs and the Senator so that the Governor is constantly inciting the public against? Is there any conflict of duty or interest? Do they not have very different duties?

Hon. Evans Mawira Kaaria: They are very different and clearly stipulated for every office holder.

Dr. Muthomi Thiankolu: As a matter of fact, where is the main work station of the nine MPs of Meru? Is it in Meru or here at the Parliament Buildings?

Hon. Evans Mawira Kaaria: It is here at the Parliament Buildings in Nairobi.

Dr. Muthomi Thiankolu: Do you know any reason why an MP in Meru while doing their duties say this Chamber or the other one, would suddenly hear that the Governor is saying nasty things about them in some rally in Meru?

Hon. Evans Mawira Kaaria: Sorry?

Dr. Muthomi Thiankolu: Do you know any reason why the Governor would be vilifying a person who is based in Nairobi while doing their duty in Nairobi?

Hon. Evans Mawira Kaaria: No. I am not aware.

Dr. Muthomi Thiankolu: Paragraph 16(a) count four, you accused the Governor of appointing Kenneth Mwiti Riungu as the Chief Officer without the approval of the County Assembly. Did you make such an accusation, Sir?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Have you provided any evidence for it?

Hon. Evans Mawira Kaaria: Yes, the evidence is in page 271, 295 to 296, 297, 299 and 301 of Vol.2

Dr. Muthomi Thiankolu: Let us go to page 271. Tuanze na page 296. The document begins at 295. Where does this document page 295 emanates from?

Hon. Evans Mawira Kaaria: Office of the Governor.

Dr. Muthomi Thiankolu: On the next page, do we have the appointment of this officer, Kenneth Muiti Riungu?

Hon. Evans Mawira Kaaria: Yes, paragraph 12.

Dr. Muthomi Thiankolu: Does that confirm that he was appointed as the chief officer?

Hon. Evans Mawira Kaaria: Yes, it does.

Dr. Muthomi Thiankolu: Is he appointed as the substantive or an acting chief officer based on that document?

Hon. Evans Mawira Kaaria: It is substantive since it is not stated that he is acting.

Dr. Muthomi Thiankolu: Do such appointments require approval of the County Assembly?

Hon. Evans Mawira Kaaria: Yes, as required by the law.

Dr. Muthomi Thiankolu: To the best of your knowledge, has the Governor placed any approval of the Assembly for this officer?

Hon. Evans Mawira Kaaria: None whatsoever.

Dr. Muthomi Thiankolu: Let us go to pages 296-297. What is the document there?

Hon. Evans Mawira Kaaria: It is a document from the Office of the Clerk addressed to the County Secretary Dr. Kiambi James Thambura Atheru in the matter of the Constitution of Kenya 2010, the County Government Act 2012, the County Assemblies Powers and Privileges Act 2017 at the County Assembly of Meru Standing Orders and in the inquiry of the Sectoral Committee on Labour, Public Services and Social Affairs summons.

Dr. Muthomi Thiankolu: Sir, have you provided sufficient evidence to show that this person was appointed without approval of the County Assembly?

Hon. Evans Mawira Kaaria: Yes, I have.

Dr. Muthomi Thiankolu: Let us go to paragraph 16(d) of your impeachment Motion. You accused the Governor of appointing unqualified persons namely Kenneth Mwiti Riungu, Edwin Mutuma Murangiri and Gitobu Nkanata as Chief Officers without competitive recruitment and recommendation of the County Public Service Board (CPSB). Have you provided any evidence to show this?

Hon. Evans Mawira Kaaria: Yes, I have.

Dr. Muthomi Thiankolu: What is that evidence, Sir?

Hon. Evans Mawira Kaaria: It is on pages from 295-296, 322, 325, 326 all the way to 327, 331, 332, 334, 335 and 386 to 389.

Dr. Muthomi Thiankolu: Let us go to the appointment of traffic marshals. Have you provided evidence of the appointment of these officers?

Hon. Evans Mawira Kaaria: Yes, I have.

Dr. Muthomi Thiankolu: The Governor responds by saying that this office was regularized. She says that it was a joke. That is her response in the County Assembly. Is that not true?

Hon. Evans Mawira Kaaria: Yes, they did.

Dr. Muthomi Thiankolu: Have we seen her in a video? We can play the brief video in support of count four.

(A video clip was played)

Do we see in that video the Governor flagging off traffic marshals?

Hon. Evans Mawira Kaaria: Yes, it is seen in the video.

Dr. Muthomi Thiankolu: Whose duty is it to establish this office?

Hon. Evans Mawira Kaaria: It is the duty of the County Public Service Board (CPSB) to create offices under the county government's structure.

Dr. Muthomi Thiankolu: Now, let us go to page 392 of volume two. What did the CPSB say about the existence of this office?

Hon. Evans Mawira Kaaria: In a letter addressed to the Clerk of the County Assembly in relation to the inquiry, the Secretary of the CEO of the Meru CPSB states that the Board has not employed any traffic marshals in the County Public Service.

Dr. Muthomi Thiankolu: On the ground in Meru, Mr. Kaaria, why was this a problem so that the Assembly got seized of it? What were the so-called traffic marshals doing that became of concern to the Assembly?

Hon. Evans Mawira Kaaria: After they were flagged off by the Governor, they went around Meru town arresting offenders and charging them fines irregularly. There was a Petition to the Assembly complaining about the creation of the office of the traffic marshals irregularly.

Dr. Muthomi Thiankolu: So, in summary, other than the video and the document that I have shown, what other pages can you refer to the Senate to prove this count?

Hon. Evans Mawira Kaaria: We have pages 394, 398, 409 to 412, and 413.

Dr. Muthomi Thiankolu: You have in paragraph 16(g) accused the Governor of having a bloated workforce. Have you provided evidence of this?

Hon. Evans Mawira Kaaria: Yes, on pages 282 to 293, 309, 345 to 352, 353, 357, 359 to 362 and 362 to 382.

Dr. Muthomi Thiankolu: Let us go to page 361 to 362 and speak about the particular cadre of staff in the office of the Governor. How many cleaners are shown there?

Hon. Evans Mawira Kaaria: From No. 73 to 93, that is roughly 20.

Dr. Muthomi Thiankolu: Page No. 73 to?

Hon. Evans Mawira Kaaria: Entry No. 73 to 111.

Dr. Muthomi Thiankolu: How many cleaners are those? Would I be right to say that they are 38?

Hon. Evans Mawira Kaaria: Yes, they are.

Dr. Muthomi Thiankolu: Let us see how some of these officers styled as cleaners are described on the payroll.

Let us pick officer No.111, Jamal Bundi. He has been described as a cleaner in the recruitment. Now, let us go to page 379 and see his payslip. What is his designation?

Hon. Evans Mawira Kaaria: He is recruited as a cleaner, but his designation is Senior Support Staff.

Dr. Muthomi Thiankolu: So, the payslip is that of a Senior Support Staff?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: The appointment is that of a cleaner?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Let us pick another one. At page 381 at the bottom, what is the name of the officer?

Hon. Evans Mawira Kaaria: Mr. Godfrey Mwenda Miriti.

Dr. Muthomi Thiankolu: So, this gentleman was also recruited as a cleaner but his payslip is for what cadre?

Hon. Evans Mawira Kaaria: Senior Support Staff.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, that officer is No.103 on page 362. At page 382, what is the name of the officer? There are actually two of them.

Hon. Evans Mawira Kaaria: Ms. Faith, Kendi Kithinji and Ms. Glory, Kinya Kinoti.

Dr. Muthomi Thiankolu: Would you consider it irregular for officers to be hired as cleaners then paid on the pay grade of Senior Support Staff?

Hon. Evans Mawira Kaaria: Sorry?

Dr. Muthomi Thiankolu: Is it an irregularity to employ persons as cleaners, then on the payroll pay them as Senior Support Staff?

Hon. Evans Mawira Kaaria: Yes, it is an illegality.

Dr. Muthomi Thiankolu: Would you know why this irregularity has been taking place in Meru?

Hon. Evans Mawira Kaaria: I believe it is for the Governor to reward her cronies.

Dr. Muthomi Thiankolu: To reward her cronies?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Let us go to count No.6; naming a public road after her husband. Do you have any evidence of this?

Hon. Evans Mawira Kaaria: Yes, I have.

Dr. Muthomi Thiankolu: Have you provided any evidence, Sir, to support count No.7?

Hon. Evans Mawira Kaaria: Yes, on pages 442 to 443 of our Volume 2.

Dr. Muthomi Thiankolu: Count No.21B, contemptuous letter to the Assembly in response to lawful summons. Do you have any evidence?

Hon. Evans Mawira Kaaria: Yes, on page 311.

Dr. Muthomi Thiankolu: I want us to see the letter that is said to be contemptuous. You earlier on told us that governors and their County Executive Committee Members (CECMs) are obliged to supply documents to the Assembly. Right?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: And to honour lawful summons?

Hon. Evans Mawira Kaaria: Yes, they should.

Dr. Muthomi Thiankolu: This letter at page 444 is indicated as emanating from what office?

Hon. Evans Mawira Kaaria: From the Office of the Governor.

Dr. Muthomi Thiankolu: Who is the author at page 445?

Hon. Evans Mawira Kaaria: The Chief of Staff/Governor's Private Secretary.

Dr. Muthomi Thiankolu: Read for us the last paragraph of that letter.

Hon. Evans Mawira Kaaria: It reads-

"We hope the above settles the issue and if you find the urge to summon the Governor to appear before the Committee is irresistible, we will respectively urge the Assembly to move to court for a constitutional interpretation in view of the foregoing."

Dr. Muthomi Thiankolu: The Assembly is being told "if it finds the urge to invite the Governor irresistible." Is that how a Chief of Staff should be responding to lawful summons and request for documents from the Assembly?

Hon. Evans Mawira Kaaria: No, it is not.

Dr. Muthomi Thiankolu: I want us to check the responses filed by the Governor. Please take the Governor's response. Governor Kawira says that some of the charges before the Senate were in the previous impeachment Motion. Does the law permit the County Assembly to re-introduce previous charges?

Hon. Evans Mawira Kaaria: According to Section 33 of the County Government's Act, it is allowed after three months.

Dr. Muthomi Thiankolu: If a governor persists in the very conduct that triggered the first impeachment, can the county assembly be faulted for bringing a second, third or even 10th if the misconduct does not cease?

Hon. Evans Mawira Kaaria: No, it cannot, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: The Governor has talked about a curse or a traditional oathing ritual at paragraph six of her response, administered by the Njuri Ncheke to compel the Assembly to impeach her. To the best of your knowledge, was there any traditional oathing ritual administered at the Njuri Ncheke Shrine as alleged by the Governor?

Hon. Evans Mawira Kaaria: No. I was at that event and it was a tree planting occasion led by the Cabinet Secretaries for Environment, Climate Change and Forestry and Agriculture and Livestock Development.

Dr. Muthomi Thiankolu: Was it a Njuri Ncheke event?

Hon. Evans Mawira Kaaria: It was not. It was an event spearheaded by the Ministry of Environment, Climate Change and Forestry.

Dr. Muthomi Thiankolu: Do the Njuri Ncheke administer oaths in the presence of non-members?

Hon. Evans Mawira Kaaria: It does not and I can attest to that because I am a member of Njuri Ncheke.

Dr. Muthomi Thiankolu: Do they administer oaths in the presence of children?

Hon. Evans Mawira Kaaria: No, because they are not members of that cultural association.

Dr. Muthomi Thiankolu: Were there children in this event that is alleged to be an oath-taking ceremony?

Hon. Evans Mawira Kaaria: The children were present.

Dr. Muthomi Thiankolu: Hon. Mawira, let us assume for argument's sake that the Njuri Ncheke got inter-meddled in this matter. Would you expect the Njuri Ncheke to be concerned if Meru is in a perpetual and insoluble crisis?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, they should because they are a highly respected council of elders and they are not prohibited from indulging in matters that affect the great people of Meru.

Dr. Muthomi Thiankolu: The Governor says that all the allegations against her are acts of other officials who should bear their own responsibility. What is your response to that? The Governor at page 4 of her response informs the Senate that this litany of complaints you have against her relate to acts and omissions committed by other county officials. Are they officials in the Governor's office?

Hon. Evans Mawira Kaaria: Yes, they are.

Dr. Muthomi Thiankolu: Are some of them the Governor's immediate siblings?

Hon. Evans Mawira Kaaria: Yes, they are.

Dr. Muthomi Thiankolu: Do governors always act in person or they act through junior officers?

Hon. Evans Mawira Kaaria: They act through junior officers appointed by governors and others through the Public Service Board.

Dr. Muthomi Thiankolu: If governors in practice do most of their work through delegation to county officials, is it a valid defence to say that it was not me?

Hon. Evans Mawira Kaaria: It is not a valid defense.

Dr. Muthomi Thiankolu: Do we have instances in her response where she relies on acts of county officials, but when it is not convenient, she says it was not me?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir, they are there.

She should have it both ways. The acts of the county officials should be considered and when they do not, they should not be considered. She cannot have it both ways

Dr. Muthomi Thiankolu: Can the Governor be heard saying that millions upon millions of county funds paid to her own sister and the secretary of her Chief of Staff in her own office, that she was somehow aloof and should not take responsibility for that?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, the Governor cannot allude to that.

Dr. Muthomi Thiankolu: The Governor says that the Members of County Assembly (MCAs) have no issue with her at paragraphs one, four, eight and 16 and that you and your colleagues are acting under internal-external influences and intimidation to facilitate a political scheme. Is that correct?

Hon. Evans Mawira Kaaria: That is not true.

Dr. Muthomi Thiankolu: Is she the foremost peacemaker in Meru County as she says in paragraph 17 of her defense?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it has been illustrated that she is not.

Dr. Muthomi Thiankolu: The Governor says the public participation was a sham. Has she identified any specific shortfall of that public participation?

Hon. Evans Mawira Kaaria: None

Dr. Muthomi Thiankolu: The Governor says she has been rated among the top 10 best performing governors in Kenya. What is your response?

Hon. Evans Mawira Kaaria: I think that is a report that has just been produced the other day and I believe it was tailor-made to suit this case because previously we have seen other independent bodies rate the governors like the timely survey that ranked the Governor at position 40 out of 47 in Kenya.

Dr. Muthomi Thiankolu: Did the Governor disclose that she was relying on this survey produced just after the impeachment that there was also another one ranking her at position 40 out of 47?

Hon. Evans Mawira Kaaria: No.

Dr. Muthomi Thiankolu: She is happy to have the survey ranking her highly considered, but not the one ranking her at the bottom?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, yes, that is true.

Dr. Muthomi Thiankolu: Hon. Mawira, let us assume for argument's sake that indeed the Governor was rated un-validly so as one of the best performing. Would that mean she did not commit any of the acts she is accused of?

Hon. Evans Mawira Kaaria: That is not evidence to adduce that she has not committed any crime.

Dr. Muthomi Thiankolu: If those acts are impeachable, would they cease to be impeachable because she is the best performing Governor?

Hon. Evans Mawira Kaaria: No way.

Dr. Muthomi Thiankolu: Let us go to the Governor's specific responses. She says that you have not adduced any evidence to support Count 1 on Misappropriation and Misuse of County Funds. What is your response?

Hon. Evans Mawira Kaaria: That is not true because we have adduced the evidence in volume two.

Dr. Muthomi Thiankolu: Is there anything else in Volume 2 other than evidence?

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir. It is the County Assembly's evidence.

Dr. Muthomi Thiankolu: The Governor states that Salesio Mutuma is misrepresenting and misreading the entries on the IFMIS report. To the best of your knowledge, did the Governor produce any other IFMIS report other than the one before the Senate?

Hon. Evans Mawira Kaaria: No.

Dr. Muthomi Thiankolu: In her defense, is the Governor relying on that same IFMIS report?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sirs, she is relying on the same IFMIS extracts.

Dr. Muthomi Thiankolu: Can she rely on the IFMIS report we have when it favors her but disown it when it does not?

Hon. Evans Mawira Kaaria: Pardon?

Dr. Muthomi Thiankolu: Can the Governor urge the Senate to accept the IFMIS report to the extent that it exonerates her but reject it to the extent that it shows wrongdoing on her part?

Hon. Evans Mawira Kaaria: As long as it is the same report she is relying on, she cannot.

Dr. Muthomi Thiankolu: The Governor says she did not use her relatives to embezzle public funds. Did we take the Senate through millions upon millions of shillings taken by her relatives as pre-payments?

Hon. Evans Mawira Kaaria: Yes, we have already taken the Senate through that part of the evidence.

Dr. Muthomi Thiankolu: The Governor says the matter is before the Ethics and Anti-Corruption Commission (EACC), another matter is in court, and another is in some other forum. To the best of your knowledge, does the pendency of any complaint or inquiry preclude the County Assembly or the Senate from impeaching a Governor if they are persuaded that the Governor has fallen short of the standards required under Chapter Six?

Hon. Evans Mawira Kaaria: No, because the county assembly oversight is not conditional on what the Ethics and Anti-Corruption Commission (EACC) is doing, and also, I believe the Senate's powers are independent.

Dr. Muthomi Thiankolu: Would you consider the Governor to be sufficiently proximate to all these persons who withdrew Kshs78 million from the county irregularly?

Hon. Evans Mawira Kaaria: These are people who are close to the Governor.

Dr. Muthomi Thiankolu: Why do you say they are close?

Hon. Evans Mawira Kaaria: Some are relatives and others work in the Office of the Governor.

Dr. Muthomi Thiankolu: A governor who is unaware that all the Kshs78 million has been siphoned from the county, would that strike you as a diligent governor?

Hon. Evans Mawira Kaaria: No.

Dr. Muthomi Thiankolu: Would that strike you as a competent governor?

Hon. Evans Mawira Kaaria: Of course, no.

Dr. Muthomi Thiankolu: How many times does the secretary to the Governor's chief of staff appear on the Integrated Financial Management Information System (IFMIS) report receiving prepayments contrary to Public Finance Management laws?

Hon. Evans Mawira Kaaria: She appears 87 times.

Dr. Muthomi Thiankolu: What is the total amount paid to her irregularly as per the IFMIS report whose authenticity is not an issue?

Hon. Evans Mawira Kaaria: Kshs21,868,944.

Dr. Muthomi Thiankolu: How many times does Lydia Nkatha appear, the one you have said she has an entanglement with the chief of staff?

Hon. Evans Mawira Kaaria: Eight times.

Dr. Muthomi Thiankolu: How much has she withdrawn?

Hon. Evans Mawira Kaaria: Kshs3,606,400.

Dr. Muthomi Thiankolu: The Governor has produced some vouchers and imprests. She answers that the payments to her sister were imprests she takes on behalf of other people. Is that a valid defense according to your understanding of these documents?

Hon. Evans Mawira Kaaria: It is not.

Dr. Muthomi Thiankolu: Are the imprests the Governor has submitted signed by the relevant offices?

Hon. Evans Mawira Kaaria: They are not supported or signed by the relevant officers like the director of accounts and the Chief Officer of Finance. The examiner has also not signed the relevant supporting documents she provided.

Dr. Muthomi Thiankolu: Incomplete as they are, out of the Kshs78 million, how much has the Governor accounted for?

Hon. Evans Mawira Kaaria: On average, it is Kshs2 million.

Dr. Muthomi Thiankolu: We are told that we misrepresent hospitality for the hospital. Does the Motion misrepresent hospitality payments as payment for hospital supplies?

Hon. Evans Mawira Kaaria: It does not.

Dr. Muthomi Thiankolu: Does the impeachment Motion mention 'hospital'?

Hon. Evans Mawira Kaaria: Nowhere does the impeachment Motion mention the hospital.

Dr. Muthomi Thiankolu: You have been accused of saying that Jane Karimi Kathia is a relative of the Governor. Is there any place we have said she is a relative of the Governor?

Hon. Evans Mawira Kaaria: Nowhere in the Motion.

Dr. Muthomi Thiankolu: This also applies to Catherine.

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Let us interrogate the defense of *per diems* and imprests. Will that explain the 107 irregular payments and styled prepayments on IFMIS?

Hon. Evans Mawira Kaaria: It does not.

Dr. Muthomi Thiankolu: The vouchers and imprests that the governor has produced. Do they explain the big payments to her sister and other relatives or do they focus on the petty payments?

Hon. Evans Kaaria Mawira: It does not because they conveniently focused on the small payments that account for only Kshs2 million out of the Kshs78 million that it is alleged they have misappropriated.

Dr. Muthomi Thiankolu: We are still interrogating whether these were imprests for *per diems*. Does the IFMIS report indicate payments that are *per diems*?

Hon. Evans Mawira Kaaria: Sorry.

Dr. Muthomi Thiankolu: Are there specific payments indicated on the IFMIS as accommodation and domestic travel?

Hon. Evans Mawira Kaaria: Yes, there are.

Dr. Muthomi Thiankolu: Like on what pages?

Hon. Evans Mawira Kaaria: Pages 17,21,22,27 and 28 of our volume two.

Dr. Muthomi Thiankolu: If there are specific entries for *per diems*, can the Governor be heard to say that the unexplained prepayments are also *per diems* when the system has a way of capturing *per diems*?

Hon. Evans Mawira Kaaria: No, they cannot.

Dr. Muthomi Thiankolu: To the best of your knowledge, can an officer hold more than one imprest at a time?

Hon. Evans Mawira Kaaria: Of course not, because it is against the PFM Regulations of 2015.

Dr. Muthomi Thiankolu: Which regulation in particular?

Hon. Evans Mawira Kaaria: Regulation 93, 4(b) and 8 of the PFM Act.

Dr. Muthomi Thiankolu: If an officer cannot hold more than one imprest at a time, what do we make of situations where we see the Governor's relatives receiving several prepayments on the same day? Would that mean they were holding several imprests on that day?

Hon. Evans Mawira Kaaria: Yes, they were.

Dr. Muthomi Thiankolu: As a matter of fact, can we see on the IFMIS instances where the Governor's relatives were paid six, eight and five times on the same day?

Hon. Evans Mawira Kaaria: Yes, and evidence is on page 17 to 29 of volume 2.

Dr. Muthomi Thiankolu: The imprest the Governor has submitted, are they all accompanied by signing sheets?

Hon. Evans Mawira Kaaria: Most of them are not.

Dr. Muthomi Thiankolu: The claim that an officer receives imprest on behalf of an entire delegation, would it require each member to sign the signing sheet even if one officer receives the money in its entirety?

Hon. Evans Mawira Kaaria: Yes, individually, they should.

Dr. Muthomi Thiankolu: Has that been shown?

Hon. Evans Mawira Kaaria: No.

Dr. Muthomi Thiankolu: Does the law permit use of imprest to make huge payments of money?

Hon. Evans Mawira Kaaria: It does not allow.

Dr. Muthomi Thiankolu: As a matter of fact, imprest is confined to small payments that are done routinely. Therefore, cannot be conveniently be paid through the ordinary payment system. Is it not?

Hon. Evans Mawira Kaaria: That is true.

Dr. Muthomi Thiankolu: Given the law on when imprest can be used, would it then be a valid answer, to be told that 107 pre-payments amounting to Kshs78 million were done by way of imprest that we have not even seen?

Hon. Evans Mawira Kaaria: No, that would be abuse of imprest.

Dr. Muthomi Thiankolu: Did the Governor produce the imprest she has now produced before the Senate, before the County Assembly?

Hon. Evans Mawira Kaaria: They blatantly refused.

Dr. Muthomi Thiankolu: She blatantly refused?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: You told us they are not signed. I want you to show us a few that are not signed by the validating officers. Please, show the Senate.

Hon. Evans Mawira Kaaria: Pages 93.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, we are referring to the Governor's bundle, the one with the blue pages.

Hon. Evans Mawira Kaaria: Page 93, on that particular payment voucher for Rose Kinya, who is the Governor's sister---

Dr. Muthomi Thiankolu: This is the payment to the Governor's sister.

Hon. Evans Mawira Kaaria: Amounting to Kshs25,400. The payment voucher has not been signed by the examiner, that is examination. The payment voucher has not been signed by the Director of Accounts or Chief Officer of Finance.

Dr. Muthomi Thiankolu: Let us go to the payment voucher at page 108. Is it signed by the examiner?

Hon. Evans Mawira Kaaria: No, it is not.

Dr. Muthomi Thiankolu: Who is it issued to?

Hon. Evans Mawira Kaaria: Rose Kinyaa, the Governor's sister.

Dr. Muthomi Thiankolu: Is it signed by the Accounting Officer?

Hon. Evans Mawira Kaaria: No, it is not.

Dr. Muthomi Thiankolu: Let us go to the one at page 131. Who is it issued to?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, page 108 is only signed by the AIE holder who is the COS indicating the Chief of Staff.

Dr. Muthomi Thiankolu: Okay. What about the one on page 131, who was it issued to?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it was issued to Ms. Rose Kinya, the Governor's sister.

Dr. Muthomi Thiankolu: Is it signed by the Director of Accounting or the Chief Finance Officer?

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir, it is not.

Dr. Muthomi Thiankolu: Let us go to the one on page 120. It shows voucher No.68458 was issued in the name of---

Hon. Evans Mawira Kaaria: Ms. Rose Kinya, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: That voucher, according to the IFMIS extract on page 23 of our Vol.2, was paid to?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it was paid to Ms. Kathure Lukaria Catherine.

Dr. Muthomi Thiankolu: Is that an irregularity where the Governor's sister is the one who surrenders the purported imprest but on IFMIS, the money is misrepresented as being paid to Ms. Catherine Kathure?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir, it is an irregularity

Dr. Muthomi Thiankolu: Does this show why even for people who are not the Governor's relatives, the Impeachment Motion still accuses the Governor?

Hon. Evans Mawira Kaaria: Sorry, come again.

Dr. Muthomi Thiankolu: Does this show the connection between the Governor's relatives and other irregular payments to third parties?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir, it does.

Dr. Muthomi Thiankolu: Still, let us stick to that payment to Ms. Catherine Lukaria. What amount is indicated on IFMIS?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, on the IFMIS extract, it is Kshs107,500

Dr. Muthomi Thiankolu: How about the one indicated on the Governor's voucher for that payment?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is indicated Kshs117,600.

Dr. Muthomi Thiankolu: There is a variance of over Kshs10,000. Is it not?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir, there is.

Dr. Muthomi Thiankolu: Would this constitute fraudulent accounting?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir, it does.

Dr. Muthomi Thiankolu: Let us come to the specific embezzlement. Let us look at the acceptance of the imprest of page 282 of the Governor's volume. The signing sheet was for a journey of how many days?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, two days.

Dr. Muthomi Thiankolu: Two days. The cover letter is on the previous page. Which page---

Hon. Evans Mawira Kaaria: Page 281

Dr. Muthomi Thiankolu: Okay, page 281. Who are the people going on this journey?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is Her Excellency. Bishop Kawira Mwangaza, the Governor; Ms. Miriam Gwathai, the Personal Assistant, who is also the sister to the Governor, Ms. Rose Kinya, a Security Officer to the Governor, who is also the sister to the Governor; Mr. Kenneth Murangiri, indicated as a driver and Moses Kumania indicated as---

Dr. Muthomi Thiankolu: Who is Mr. Kenneth Murangiri indicated there?

Hon. Evans Mawira Kaaria: He is the brother of the Governor.

Dr. Muthomi Thiankolu: So, let us now hold the thought that the journey is for two days; the signing sheet is for two days. Let us find out whether the Governor and her delegation went for two days on page 284. That is the work ticket that supports that imprest.

On that day, 7th February, where did the vehicle travel to and from?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it travelled from Meru to Nairobi and back.

Dr. Muthomi Thiankolu: Above there, it shows that vehicle was in Meru the previous day. Is it not?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: After that, it shows that the following day, it was also in Meru County. Correct?

Hon. Evans Mawira Kaaria: Yes. On 8th, the vehicle travelled from Meru County to Laare, which is in Meru County, and back.

Dr. Muthomi Thiankolu: So, if the Governor and her relatives signed imprest for two days for a one-day journey, by their own documents, would that be embezzlement of county funds?

Hon. Evans Mawira Kaaria: Yes, it is since they did not spend even a night in Nairobi City County. They travelled to Nairobi City County and back, then they claimed facilitation for two days.

Dr. Muthomi Thiankolu: Has the Governor submitted any supporting document for this unsurrendered imprest such as a hotel booking, boarding passes, receipts for vehicle fuel or any other document that would be required to validate an imprest?

Hon. Evans Mawira Kaaria: None.

Dr. Muthomi Thiankolu: Would that explain why her own officers have refused to validate that imprest?

Hon. Evans Mawira Kaaria: Yes, it explains why.

Dr. Muthomi Thiankolu: Let us look at the work ticket No.824574 at page 276 of the Governor's bundle. What is the serial number of that work ticket?

Hon. Evans Mawira Kaaria: 824574.

Dr. Muthomi Thiankolu: Which dates are appearing on the work ticket?

Hon. Evans Mawira Kaaria: From 1st January, 2023 all the way to 22nd January, 2023.

Dr. Muthomi Thiankolu: Let us go to page 118. Is the serial number the same as the one you have read?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: That same work ticket also appears at page 129, right?

Hon. Evans Mawira Kaaria: Yes, it does.

Dr. Muthomi Thiankolu: On both pages 118 and 129, the dates are in February. Right?

Hon. Evans Mawira Kaaria: The one on page 118 covers from 1st February to 19th February. The one on page 129 covers from 1st February to 20th February. Among the entries, there is entry on 16th, 18th and 19th. That is the one on page 129.

Dr. Muthomi Thiankolu: On 129, the entries are from?

Hon. Evans Mawira Kaaria: From 1st February to 20th February. However, along the entries, there is a single day that has not been indicated. They have only indicated 16th February, then jumped to 18th February, then 19th and then 20th.

Dr. Muthomi Thiankolu: On the second page, it goes to?

Hon. Evans Mawira Kaaria: It goes back to 17th.

Dr. Muthomi Thiankolu: Is that the natural chronology of events or this is an exposed falsification of this document?

Hon. Evans Mawira Kaaria: It is not. Maybe it is a forged document to try and support the irregularities.

Dr. Muthomi Thiankolu: Let us go to page 104 of the Governor's document and hold it together with page 204. Can you confirm it is the same work ticket no.824574?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: The dates are in which month?

Hon. Evans Mawira Kaaria: The dates on the work ticket on page 204 start from 1st of March to the 18th of March.

Dr. Muthomi Thiankolu: Let us now go to page 189 of the Governor's bundle. Is it the same work ticket?

Hon. Evans Mawira Kaaria: It is the same work ticket---

Dr. Muthomi Thiankolu: The dates are on which month?

Hon. Evans Mawira Kaaria: 1st of April to 23rd of April.

Dr. Muthomi Thiankolu: Mr. Mawira, we have seen the same work ticket being given to the Senate in the answer to the charge of misappropriating county funds. Is it possible for a vehicle as busy as the Governor's to use the same work ticket from January to February to the end of April? Is that something the Senate should seriously believe?

Hon. Evans Mawira Kaaria: The Senate should not believe that because considering how busy our Governor is, they cannot use the same work ticket for the whole month.

Dr. Muthomi Thiankolu: Sir, how many times and how many imprest have been justified using this single work ticket number 824574? How many times has it been used to explain different imprest by the Governor?

Hon. Evans Mawira Kaaria: They are used 17 times.

Dr. Muthomi Thiankolu: Can a single work ticket account for 17 different imprest running across four months?

Hon. Evans Mawira Kaaria: No, it cannot.

Dr. Muthomi Thiankolu: Can you tell the Senate very quickly the pages where you say it has been used 17 times? We do not have to go through each of them given the time.

Hon. Evans Mawira Kaaria: On the Governor's bundle, pages 104, 118, 129, 138, 150, 189 up to pages 337.

Dr. Muthomi Thiankolu: 17 times?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Let us look at the work ticket No.810977 at page 319 of the Governor's bundle. That work ticket has a column for signing by the authorizing officer, number and signature of the person authorizing the journey. Is any of those journeys authorized?

Hon. Evans Mawira Kaaria: None.

Dr. Muthomi Thiankolu: Is it fair to postulate the reason it is not signed by the authorizing officer is that this document is not genuine?

Hon. Evans Mawira Kaaria: It is true.

Dr. Muthomi Thiankolu: Who is the purported authorizing officer as per that page?

Hon. Evans Mawira Kaaria: Kenneth Murangiri who is the brother to the Governor.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, can I beg and plead that you give me at least 30 minutes? I said that this is my most critical witness. I can live with the inability to call the others but I crave that you give me 30 minutes to an hour. I will be eternally grateful to you.

The Speaker (Hon. Kingi): Are you, therefore, saying that if you are given 30 more minutes, you will conclude with this witness and forego the others?

Dr. Muthomi Thiankolu: I am not saying that. I know it is an impossible situation for everyone, unfortunately, the rules only provide a single day where it is not humanly possible on matters this serious to address it within those times. I beg if it finds favour with you, we can even push the hours and allow me to at least call one or two more witnesses.

I can clearly not call all six given that time is moving, but if you give me 30 minutes with this one and allow me to call at least two more, I will be more than grateful.

The Speaker (Hon. Kingi): How long do you intend to be with the remaining two, the ones you intend to call?

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, this one is the main witness. The other one will be speaking to very specific allegations. I do not see any of them taking--- If we go by the time we took the first witness, on our part. We took around 15 to 20 minutes with them. The only reason why their session ran into an hour is because the cross-examination was longer. We also took more sessions for interjections from the Senators.

The Speaker (Hon. Kingi): So, if I give you half an hour to conclude with these witnesses, and then 20 minutes within which to conclude with your remaining two witnesses, will that be fair?

Dr. Muthomi Thiankolu: If you give me 20 minutes for purposes of examination in chief for the two witnesses, it should be enough. However, I cannot take responsibility for how long the cross examination for each of them---

The Speaker (Hon. Kingi): Just speak for yourself. I will come to the---

Dr. Muthomi Thiankolu: I will take 20 each for the other two.

The Speaker (Hon. Kingi): Okay. So, the four-hour time period given to you has terminated at 7:13 p.m. So, I am going to grant you 30 minutes to conclude with this witness. We will deal with the Governor's lawyer when he is on his feet.

Dr. Muthomi Thiankolu: Much obliged, Mr. Speaker, Sir.

You have been told at paragraph 1.1.11 of the Governor's response that there is no evidence linking Kenneth Guantai to misuse of county funds and his name does not appear in the IFMIS extract. Is that defense of the Governor consistent with the evidence on record?

Hon. Evans Mawira Kaaria: No. This is because the evidence is there for all to see on pages 20, 22 and 24 of the IFMIS extract.

Dr. Muthomi Thiankolu: So, who again is Kenneth Guantai?

Hon. Evans Mawira Kaaria: He is the brother to the Governor.

Dr. Muthomi Thiankolu: So, when the Governor says he does not appear on the IFMIS as receiving money and it is there in black and white, is that a serious defense?

Hon. Evans Mawira Kaaria: It is not since it is a misrepresentation of facts.

Dr. Muthomi Thiankolu: It is said that you of all the people made a *Facebook* post defending the Governor that you are now asking the Senate to remove from office. What is your answer?

Hon. Evans Mawira Kaaria: Yes, I did, but my support does not give the Governor leeway to breach the law. Also, the support came in before I was seized of the facts before this Senate and the Assembly.

Dr. Muthomi Thiankolu: Did you have the benefit of these IFMIS extracts at the time you made this *Facebook* post?

Hon. Evans Mawira Kaaria: No.

Dr. Muthomi Thiankolu: Did you have the benefit of the documents down before the Senate when you made this *Facebook* post?

Hon. Evans Mawira Kaaria: No.

Dr. Muthomi Thiankolu: It is said that you, the Speaker and Hon. DMK, made contributions to *Okolea*. You contributed Kshs100. One of you gave a goat and here you are complaining about *Okolea*. What is your response?

Hon. Evans Mawira Kaaria: Even if it were true, it does not explain what county government vehicles were doing at an *Okolea* rally.

Dr. Muthomi Thiankolu: No. Let us begin. First of all, is it true that the Speaker and Hon. DMK made contributions to the *Okolea* kitty?

Hon. Evans Mawira Kaaria: I may not speak for the others but I did.

Dr. Muthomi Thiankolu: You did?

Hon. Evans Mawira Kaaria: Yes.

Dr. Muthomi Thiankolu: Would the fact that you made that contribution diminish the gravity of the offences the Governor is said to have committed in those rallies?

Hon. Evans Mawira Kaaria: It does not in any way.

Dr. Muthomi Thiankolu: The Governor says that she has a video in which she gives a disclaimer that *Okolea* is separate from official functions. Is that a valid answer to---

Hon. Evans Mawira Kaaria: No. It is inconsistent with the evidence that we have adduced.

Dr. Muthomi Thiankolu: She tells you if county officials attended the *Okolea* rally, they did so in their private capacities as members of Vaite Fellowship. Who runs this Vaite Fellowship?

Hon. Evans Mawira Kaaria: It is the Governor of Meru and her spouse.

Dr. Muthomi Thiankolu: So, the Governor and her spouse run a fellowship which is attended by county staff who attends *Okolea* rallies. Is that a valid defense?

Hon. Evans Mawira Kaaria: It is not valid

Dr. Muthomi Thiankolu: Does that actually confirm the involvement of County staff in *Okolea* operations contrary to the promises made by this Senate less than a year ago?

Hon. Evans Mawira Kaaria: Yes, it does.

Dr. Muthomi Thiankolu: The Governor says she did not misrepresent her relatives as a technical team. Does the evidence support her?

Hon. Evans Mawira Kaaria: It does not.

Dr. Muthomi Thiankolu: Does the records say in black and white that they are designated as a technical team?

Hon. Evans Mawira Kaaria: They were designated as a technical team by none other than the County Secretary of Meru County Government and the Head of Public Service.

Dr. Muthomi Thiankolu: The Governor says she did not make this China trip because the relatives she sent were an advance team who discovered the company was not linked to the Chinese Government. To the best of your knowledge, did the Governor seek any travel clearance?

Hon. Evans Mawira Kaaria: No, she did not.

Dr. Muthomi Thiankolu: Is that consistent with the Governor who actually intended there to travel in the first place?

Hon. Evans Mawira Kaaria: It is inconsistent because in the first place, the Governor should have been in the letter or list that was sent to seek for clearance to travel.

Dr. Muthomi Thiankolu: She tells you no public funds were lost on the trip to China. What is your response?

Hon. Evans Mawira Kaaria: In whatsoever case, if no money was lost, the county lost a great opportunity, considering that there are high incidences of cancer in Meru County. The county lost a great opportunity to address that problem for the great people of Meru County.

It is public knowledge that whenever you travel, the cost of the trips are covered by the company. Those who are traveling are paid a quarter *per diem*.

Dr. Muthomi Thiankolu: Would you consider the loss of opportunity greater than perhaps the loss of money or the incidence of cancer in Meru?

Hon. Evans Mawira Kaaria: Yes, I would.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, I will let my colleague exhaust the remaining bit. I have been standing for quite some time.

Mr. Boniface Mawira: Mr. Speaker, Sir, my name is Boniface Mawira and I will proceed with the exam in chief.

Mr. Evans Mawira, turn with me to page 347 of the Governor's bundle. Are you there? What letter do you see at page 347?

Hon. Evans Mawira Kaaria: It is a letter from the Office of the County Secretary when it comes to deployment of Nephath Kinyua Meme.

Mr. Boniface Mawira: Okay. Did the County Secretary have the powers to appoint Nephath Kinyua as Director, External Partnerships?

Hon. Evans Mawira Kaaria: No, unless the powers were delegated by the County Public Service Board (CPSB), which is not indicated.

Mr. Boniface Mawira: Has the Governor annexed any authority to show that these powers were delegated by the CPSB?

Hon. Evans Mawira Kaaria: None whatsoever.

Mr. Boniface Mawira: Is this the same Nephath who was in the Chinese trip?

Hon. Evans Mawira Kaaria: He is the same person.

Mr. Boniface Mawira: And the brother-in-law to the Governor?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: Turn with me to page 287 of our volume two. I think it begins at page 284, of our volume two. What document do you see there?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is an advert by the office of the County Public Service Board (CPSB).

Mr. Boniface Mawira: In which office?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, Office of the Governor.

Mr. Boniface Mawira: So, the advertisement is for recruitment in the Office of the Governor. Let us turn to page 287. You can see the advertisement for the recruitment of the director, external affairs. It is for which group?

Hon. Evans Mawira Kaaria: It is for job Group R.

Mr. Boniface Mawira: The requirements for the appointment were?

Hon. Evans Mawira Kaaria: Served in a comparable and relevant position for a minimum period of five years.

Mr. Boniface Mawira: There is also a university degree under (ii). Turn with me page 89, volume two. It begins at page 88. After that advertisement, there is a shortlist of officers in the Office of the Governor. At page 89, you can see the persons who are shortlisted for the position of director, external linkages and the name of Nephath is not among those names.

Hon. Evans Mawira Kaaria: It is not.

Mr. Boniface Mawira: What is the date on page 88 of that shortlist in our bundle?

Hon. Evans Mawira Kaaria: It is dated 6th September, 2023.

Mr. Boniface Mawira: There is a letter we saw on the Governor's bundle at page 347. I want you to clarify the date.

Hon. Evans Mawira Kaaria: It is dated 9th March, 2023.

Mr. Boniface Mawira: You also confirmed that the County Secretary did not have powers to appoint this director?

Hon. Evans Mawira Kaaria: Yes, I confirm.

Mr. Boniface Mawira: Is it your evidence that the County Secretary in so doing was usurping the powers of the CPSB?

Hon. Evans Mawira Kaaria: Yes, they did.

Mr. Boniface Mawira: At page 287 of our bundle, we have seen that the director is at job Group R. Turn with me to page 343 of the Governor's bundle. What document has the Governor produced in that bundle?

Hon. Evans Mawira Kaaria: It is an offer of appointment letter.

Mr. Boniface Mawira: Who is it addressed to?

Hon. Evans Mawira Kaaria: Nephath Kinyua Meme.

Mr. Boniface Mawira: In paragraph one, what is the job group of Nephath Kinyua Meme?

Hon. Evans Mawira Kaaria: He is employed in the position of Pharmaceutical Technologist, job group H.

Mr. Boniface Mawira: Could a person who was employed in Job Group H be appointed to act as a director in job Group R?

Hon. Evans Mawira Kaaria: That is an illegality.

Mr. Boniface Mawira: What is the possible explanation for this irregularity?

Hon. Evans Mawira Kaaria: You are not supposed to be appointed to act in any position that you are not qualified for.

Mr. Boniface Mawira: Would you say that the only reason why Nephat is clearly favoured and jumps from Job Group H to R is because he has a relationship with the Governor's sister?

Hon. Evans Mawira Kaaria: Yes, I can confirm.

Mr. Boniface Mawira: Okay. Turn to Page 384 of Volume 2. Let us begin at Page 295 and 296. What document is at these two pages?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is a notice of redeployment from the office of the governor.

Mr. Boniface Mawira: The notice has been issued by which office?

Hon. Evans Mawira Kaaria: Office of the governor.

Mr. Boniface Mawira: Is it actually a redeployment or appointment of Chief Officers (CO)?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is appointment.

Mr. Boniface Mawira: I remember during your examination-in-chief by learned senior Dr. Muthomi Thiankolu, you said that for the appointment of Chief Officers, the County Public Service Board (CPSB) must be involved.

Hon. Evans Mawira Kaaria: Yes, it must and also---

Mr. Boniface Mawira: It is actually the CPSB that recommends the appointments to the governor.

Hon. Evans Mawira Kaaria: It recommends and also creates those offices.

Mr. Boniface Mawira: It creates those offices, advertises, recruits and submit the names to the office of the governor for formal appointment.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, that is the procedure.

Mr. Boniface Mawira: At Page 296 the letter is signed by the County Secretary for the Governor. Could the governor through the County Secretary purport to appoint these Chief Officers without the involvement of the CPSB?

Hon. Evans Mawira Kaaria: No. That is illegal.

Mr. Boniface Mawira: Has the CPSB actually disowned those appointments?

Hon. Evans Mawira Kaaria: Yes, they have.

Mr. Boniface Mawira: Where is the evidence on that?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, the evidence is on page---

Mr. Boniface Mawira: Mr. Speaker, Sir, you can turn to Page 384, Volume II in the interest of time.

Hon. Evans Mawira Kaaria: The evidence is on Page 384; a letter addressed to the Clerk of the County Assembly.

Mr. Boniface Mawira: Who has written that letter? In whose letterhead is it issued?

Hon. Evans Mawira Kaaria: The office of the CPSB and signed by the Secretary of the Chief Executive Officer (CEO) of the Meru CPSB, who is the CPA Virginia Kawira.

Mr. Boniface Mawira: In Paragraph four of that letter, what does the CPSB say?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it states that the Board is the appointing authority according to Section 64 of the County Governments Act. However, the Board was not involved in the appointment of the acting Chief Officers as per the Act.

Mr. Boniface Mawira: The Board actually confirms that it was not involved in these appointments.

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Boniface Mawira: Is that an irregularity?

Hon. Evans Mawira Kaaria: It is an irregularity.

Mr. Boniface Mawira: Mr. Speaker, Sir, at Page 295 of Volume II. Specifically, No.18 on Page 296; the appointment of Mr. Kenneth Mwiti Riungu. Is he appointed in an acting capacity or a substantive appointment?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is a substantive appointment since it is not indicated if it is in an acting capacity.

Mr. Boniface Mawira: Would such a substantive appointment require the approval of the County Assembly?

Hon. Evans Mawira Kaaria: It requires one.

Mr. Boniface Mawira: Was that approval obtained?

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir.

Mr. Boniface Mawira: For argument's sake Hon. Mawira, the Governor has said in her response that the County Secretary is the one who made these appointments. As per the law; the County Government Act, can a County Secretary appoint Chief Officers?

Hon. Evans Mawira Kaaria: It is not possible and it is contrary to what we have because the letter is signed by the County Secretary for Her Excellency the Governor.

Mr. Boniface Mawira: Could the Governor lawfully - even if we are to assume she delegated this authority - delegate the mandate to appoint Chief Officers to a County Secretary?

Hon. Evans Mawira Kaaria: The law does not allow that or envisage the same.

Mr. Boniface Mawira: Is the statutory mandate to appoint Chief Officers not vested in the person of the governor?

Hon. Evans Mawira Kaaria: It is.

Mr. Boniface Mawira: Still on these two pages; Page 295 and 296, Volume 2, who is qualified to act as a Chief Officer? I want you to explain to the Speaker and Hon. Senators.

Hon. Evans Mawira Kaaria: According to?

Mr. Boniface Mawira: I am asking from the persons who have been appointed here as Chief Officers. For example, turn to Page 296 No. 17. You see Mr. Gitobu moving from Meru Municipality to the Department of Lands to perform the functions of a Chief Officer. Can a person who is not a Chief Officer be appointed to act as a Chief Officer in another department?

Hon. Evans Mawira Kaaria: No. It requires vetting and approval by the county assembly.

Mr. Boniface Mawira: It is your evidence that only a person who is already a Chief Officer can be appointed to act as a Chief Officer in another department. By corollary, in the national Government, only a Principal Secretary can be appointed to act in another state department. If you are not a Chief Officer having been vetted and approved by the county assembly, you cannot be appointed to act as a Chief Officer in another department.

Hon. Evans Mawira Kaaria: That is true.

Mr. Boniface Mawira: What would you say of the appointment of Gitombu Nkanata at No.17?

Hon. Evans Mawira Kaaria: It is an illegal appointment.

Mr. Boniface Mawira: No.15 of Christopher Wamugunda?

Hon. Evans Mawira Kaaria: It is also illegal.

Mr. Boniface Mawira: Number two, this is for the nephew Edwin Muragiri?

Hon. Evans Mawira Kaaria: It is in contravention of the law.

Mr. Boniface Mawira: Who is Edwin Muragiri? On Page 295.

Hon. Evans Mawira Kaaria: The nephew to the spouse of the governor.

Mr. Boniface Mawira: Is it regular for a person who is already in another department, that is Meru Youth Service, a Semi-Autonomous Government Agency (SAGA), to move from a SAGA to the public service and take over the role of acting Chief Officer?

Hon. Evans Mawira Kaaria: It is irregular.

Mr. Boniface Mawira: From the Governor's bundle on Page 348. This is an appointment letter for Mr. Edwin Muragiri in 2017.

Hon. Evans Mawira Kaaria: Yes, it is.

Mr. Boniface Mawira: He was in job group K.

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: Is it regular for a person in job group K – as we have seen in the case of Nephath in job group H – to jump the stairs or ladder and become a Chief Officer, which is the highest rank in the county public service? Is it regular?

Hon. Evans Mawira Kaaria: It is not.

Mr. Boniface Mawira: Mr. Speaker, Sir, and hon. Senators, turn with me to Page 360 of our volume two. Sorry, from Page 359. You have alleged that the Governor has appointed a bloated workforce specifically in her office.

Hon. Evans Mawira Kaaria: Yes, it is true.

Mr. Boniface Mawira: From Page 359, at the top of the page, what is the title of the document provided by the County Public Service Board?

Hon. Evans Mawira Kaaria: Summary of appointed persons in the office of the governor from August 2022 to date.

Mr. Boniface Mawira: These are persons appointed in the office of the governor from August 2022 when she took the oath of office to date. This is as of 9th October, 2023.

Hon. Evans Kaaria Mawira: Yes, because this was when the county Public Service Board gave us this list.

Mr. Boniface Mawira: When the County Public Service Board communicated to the assembly *vide* the letter appearing on Page 354 of our Volume II. The County Public Service Board attaches a list of all the appointed officers in the office of the governor. On Page 360, how many information officers can you count?

Hon. Evans Mawira Kaaria: They are 10 in number.

Mr. Boniface Mawira: Is it reasonable for a governor to have 10 information officers?

Hon. Evans Mawira Kaaria: It is not reasonable.

Mr. Boniface Mawira: I remember during examination in chief you said on Pages 361 and 362 there are 38 cleaners in the office of the Governor.

Hon. Evans Mawira Kaaria: Yes, they are.

Mr. Boniface Mawira: Mr. Speaker, Sir, turn to Pages 369 and 370 of our volume two. What documents are from Page 369 to 370?

Hon. Evans Mawira Kaaria: They are pay slips.

Mr. Boniface Mawira: Pay slips for what job designations?

Hon. Evans Mawira Kaaria: Public communications officer.

Mr. Boniface Mawira: The job designation is public communications officer?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: How many are they?

Hon. Evans Mawira Kaaria: They are six in number.

Mr. Boniface Mawira: Mr. Speaker, Sir, turn to Page 261 of our volume two. That is a notice for shortlist and interview schedule. Correct?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: At Page 268, how many positions are advertised for the shortlist for public communications officers II and III?

Hon. Evans Mawira Kaaria: The ones who are shortlisted are 19 in number.

Mr. Boniface Mawira: Turn to Page 293 of our volume two. The document begins at Page 284. It is advertisement for recruitment to the Office of the Governor. At Page 293, how many positions have been advertised?

Hon. Evans Mawira Kaaria: Only three positions.

Mr. Boniface Mawira: What is the job designation?

Hon. Evans Mawira Kaaria: Public Communications Officer II and III.

Mr. Boniface Mawira: For Publication Communications Officer II and III, only three vacancies were available.

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: At Page 268 of our volume two, we have seen that 19 persons were shortlisted.

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: Turn to Page 361 of our volume two. I want you to count the public communication officers appearing on that page. That is Nos. 60, 67, 68 and 69. How many are they?

Hon. Evans Mawira Kaaria: They are four

Mr. Boniface Mawira: They are four officers, right?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: The four officers were recruited as per this summary provided by the County Public Service Board for all the staff in the office of the Governor from August last year to date.

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: There were three vacancies, you will agree with me from Page 293. There were only three vacancies and 19 were shortlisted on Page 268.

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: Four have been recruited.

Hon. Evans Mawira Kaaria: Yes, four have been recruited.

Mr. Boniface Mawira: As per the summary by the County Public Service Board.

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: That means that one extra person was recruited over and above the vacancies that were available.

Hon. Evans Mawira Kaaria: That is true.

Mr. Boniface Mawira: Of the four, how many appear in that shortlist? On Page 361 of our Volume two, there is Mr. Kaberia Andrew Bundi, Mr. Samuel Mureithi, Mr. Muchobu Dominic Muriki, and Mr. Kiambi Cristus Manyara. How many appear in the shortlist at Page 268? To save time, it is only one person.

Hon. Evans Mawira Kaaria: Mr. Kaberia Andrew Bundi

Mr. Boniface Mawira: Mr. Kaberia Andrew Bundi is the only Public Communications Officer who was shortlisted and recruited?

Hon. Evans Mawira Kaaria: That is true.

Mr. Boniface Mawira: So, the other three who have been hired were not even shortlisted?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: We now move to Pages 369 and 370 and you will see the payslips. How many payslips can you count for Public Communications Officers? On Page 369, there is one for Mr. Andrew Kaberia Bundi, Mr. Tony Mburugo, Ms. Purity Kajuju, Mr. Erick Gikunda, Ms. Frida Kinoti, Ms. Naomi Kinya.

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: So, six persons are being paid yet there were only three vacancies, and of the 19 who were shortlisted, only one was hired?

Hon. Evans Mawira Kaaria: That is true

Mr. Boniface Mawira: Is that not a glaring irregularity?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is a glaring irregularity on the part of the Office of the Governor.

Mr. Boniface Mawira: Okay

The Speaker (Hon. Kingi): Counsel, your time is up so, wind up?

Mr. Boniface Mawira: Thank you, Mr. Speaker, Sir, for your indulgence. I will not take more than three minutes. In the interest of time, I am not going to the specific page, you have been told that the Deputy Governor has been absent in only two out of the nine Cabinet meetings yet, they say that the Deputy Governor had abdicated his

responsibility. Are those two defences compatible or are they not consistent with each other?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, they contradict each other and the Deputy Governor has been absent from the Cabinet meeting since May as per the affidavit and the evidence that she gave under oath to the County Assembly.

Mr. Boniface Mawira: Okay. We took you through the screen shots of *WhatsApp* groups and your allegation as per the Motion was that the governor condoned insubordination by demeaning the Deputy Governor in front of his junior staff.

Hon. Evans Mawira Kaaria: That is true, Mr. Speaker, Sir.

Mr. Boniface Mawira: The Governor in her defence says that this group was not just for junior officers, who were the admins, sub-county admins, and chief officers but also members of the public. Is that correct?

Hon. Evans Mawira Kaaria: That is correct, Mr. Speaker, Sir.

Mr. Boniface Mawira: What is your comment on that?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, that makes the matter worse because if the Governor can use such words on a deputy governor in front of the members of the public, then it is very unfortunate.

Mr. Boniface Mawira: So, it aggravates the situation, it makes an already bad situation worse.

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Boniface Mawira: In summation, your closing remark, what would you like to say or what would you want the Senate to do to the people of Meru County?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I pray to this Senate to listen and interrogate the evidence that the Assembly has submitted and make their decision based on the evidence that they have adduced. Last time on the report of the Senate, the County Assembly was told that we did not prove our case and, therefore, I ask the Senate to save the people of Meru County from the problems that they are facing.

Mr. Boniface Mawira: Do you confirm that you have evidence running into 448 pages in our volume two?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir, I confirm.

Mr. Boniface Mawira: Very well. That is all for the examination, Mr. Speaker, Sir. Thank you for your indulgence, we appreciate it.

The Speaker (Hon. Kingi): Thank you. Counsel for the Governor, you may now proceed to do your cross-examination. However, before you start, by indication, how much time do you think you will require to do the cross-examination?

The Speaker (Hon. Kingi): How much time do you think you would require to do the cross-examination?

Mr. Elias Mutuma: Mr. Speaker, Sir, for record purposes, my name is Elias Mutuma, Counsel representing the governor.

I note that the witness that has just left the stand has taken close to four hours in examination in chief. For parity of arms and to ensure that I impeach each and every allegation and also have time to play some of the videos that are going to disagree with some of the assertions, I will not need less than two and a half hours to do my cross

examination. It is only fair that the governor is given a chance to defend herself through cross-examination. It is what she came here to do.

The Speaker (Hon. Kingi): You have two hours. Please, proceed.

Mr. Elias Mutuma: Thank you, Mr. Speaker, Sir. Mr. Mawira, good evening?

Hon. Evans Mawira Kaaria: Good evening, counsel.

Mr. Elias Mutuma: You are the mover of this Motion that saw the governor get impeached at the county assembly.

Hon. Evans Mawira Kaaria: Yes, I am.

Mr. Elias Mutuma: You have accused the Governor of misappropriation and misuse of county resources. Specifically, you accused the Governor of among other things, embezzling county funds through her sisters, namely; Rose Guantai and Miriam Guantai, brother Kenneth Guantai Murangeri, brother in law, Nephat Kinyua and the nephew to the governor's husband that is Edwin Mutuma Murangeri. Those you call the 'governor's relatives.' Is that your position?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Confirm that in your Notice of Motion for impeachment, at no time did you term Kathure Rukaria and Jane Karimi as the Governor's relatives.

Hon. Evans Mawira Kaaria: I did not.

Mr. Elias Mutuma: I will come back to Rose, Kenneth and Miriam. Let us go to Nephat Kinyua. Was your assertion that Nephat is a relative to the governor?

Hon. Evans Mawira Kaaria: Yes. In relation to that, they have an affair with the governor's sister.

Mr. Elias Mutuma: I want you to read Page six, volume one of your Notice of Motion. How do you describe Nephat Kinyua?

Hon. Evans Mawira Kaaria: Brother-in-law.

Mr. Elias Mutuma: What would that mean? That Nephat is married to one of the governor's sisters?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Is that still your position?

Hon. Evans Mawira Kaaria: It is.

Mr. Elias Mutuma: What is the evidence you brought before the county assembly and this Senate to confirm that Nephat Kinyua is married to Miriam?

Hon. Evans Mawira Kaaria: I said it is in public knowledge. It is also alleged that when they travelled to China, they spent in one room.

Mr. Elias Mutuma: So, there are two sources of information. What you call public knowledge---

Hon. Evans Mawira Kaaria: Public knowledge and pictures circulating on social media.

Mr. Elias Mutuma: Have you brought the photos that are circulating on social media?

Hon. Evans Mawira Kaaria: I have them, but unfortunately, they were not---

Mr. Elias Mutuma: You did not. Have you brought this other source called public domain, to the Senate for the Senate to confirm that part?

Hon. Evans Mawira Kaaria: Anyone in Meru knows that you can confirm its true.

Mr. Elias Mutuma: Anyone in Meru, but do the Senators here know that Nephath is the husband is to Miriam?

Hon. Evans Mawira Kaaria: I will share the photos that I have with the Senators.

Mr. Elias Mutuma: So, you have no evidence whatsoever before the Senate neither did you produce any evidence at the County Assembly to prove that fact. Yes or no?

Hon. Evans Mawira Kaaria: Sorry?

Mr. Elias Mutuma: You did not produce any piece of evidence to confirm that Nephath is married to Miriam. Either at the Senate or at the County Assembly. Yes, or no?

Hon. Evans Mawira Kaaria: There is none that is adduced to the evidence.

Mr. Elias Mutuma: So then, that assertion remains unsubstantiated.

Hon. Evans Mawira Kaaria: It is substantiated from my knowledge and public knowledge.

Mr. Elias Mutuma: Let us look at Page 342 of the governor's bundle of documents. It is the big blue book. What is it that you find at Page 342?

Hon. Evans Mawira Kaaria: It is a certificate of marriage.

Mr. Elias Mutuma: Who are the parties to the marriage? Nephath Kinyua and Winfred Kinya. To the best of your knowledge, is that a monogamous or a polygamous marriage?

Hon. Evans Mawira Kaaria: It is a monogamous marriage.

Mr. Elias Mutuma: Are you alleging that Nephath is divorced?

Hon. Evans Mawira Kaaria: I have not alleged so.

Mr. Elias Mutuma: So, in the wake of that marriage certificate, which is a Government confirmation and your public domain and rumours on social media, do you still want to stand by your position that Nephath is married to Miriam?

Hon. Evans Mawira Kaaria: They are both valid.

Mr. Elias Mutuma: Between the two, which one do you want the Senate to take? Evidentially material and your rumours?

Hon. Evans Mawira Kaaria: No rumours but I will leave that to the discretion of the hon. Senators.

Mr. Elias Mutuma: Mr. Mawira, I want to put it to you that you lied to have the governor impeached by purporting that Nephath is married to one of her sisters. What do you say?

Hon. Evans Mawira Kaaria: It is not true.

Mr. Elias Mutuma: Let us go to Edwin Mutuma Murangiri. Again, you alleged that this gentleman is related to the governor. How are they related?

Hon. Evans Mawira Kaaria: He is a nephew to the spouse of the governor.

Mr. Elias Mutuma: Nephew to the spouse of the governor and the spouse to the governor is one Murega Baichu. Correct?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: When you talk of a nephew, you then purport that Edwin Mutuma is a son to either Murega Baichu's sister or brother. Is that my understanding?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Who is the mother to Edwin Mutuma Murangiri?

Hon. Evans Mawira Kaaria: I cannot confirm the name.

Mr. Elias Mutuma: Who is the father to Edwin Mutuma Murangiri?

Hon. Evans Mawira Kaaria: I can still not confirm their names, but I know them physically.

Mr. Elias Mutuma: How is this Senate supposed to know their relationship if you cannot even tell the brother or the sister who is the parent to Edwin Mutuma? Is there a way of telling from your evidence?

Hon. Evans Mawira Kaaria: Of course, I can tell because I know them physically.

Mr. Elias Mutuma: Did you produce evidence at the County Assembly to support your allegation? Even mentioning by name alone, the parents to Edwin Mutuma who are siblings to the first gentleman?

Hon. Evans Mawira Kaaria: No, I did not.

Mr. Elias Mutuma: Again, that allegation was false and unsubstantiated. You would agree with me.

Hon. Evans Mawira Kaaria: No.

Mr. Elias Mutuma: Have you looked at the affidavit filed by Edwin Mutuma Murangiri appearing on Page 81 of the governor's bundle of documents?

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, please approach the Chair. Proceed.

Mr. Elias Mutuma: Thank you, Mr. Speaker, Sir. Whose affidavit is appearing at Page 81 of the Governor's response; the smaller blue booklet.

Hon. Evans Mawira Kaaria: It is the affidavit of Edwin Mutuma Murangiri.

Mr. Elias Mutuma: Mutuma Murangiri confirms that he is not related by blood or by any other familial relationship with the first gentleman. Is that what is averred in that affidavit?

Hon. Evans Mawira Kaaria: In which paragraph?

Mr. Elias Mutuma: Paragraph 3, specifically. Can you read for us Paragraph three of that affidavit?

Hon. Evans Mawira Kaaria: That, I hereby depone that I have no familial ties with Her Excellency, Hon. governor Kawira Mwangaza. Neither am I a nephew and or related in any other manner to the governor's husband Murega Baichu as alleged in the impeachment Motion.

Mr. Elias Mutuma: Have you filed a counter affidavit to dispute what appears on oath by one Edwin Mutuma?

Hon. Evans Mawira Kaaria: No.

Mr. Elias Mutuma: You have not. Do you know when Edwin Mutuma was employed by the county government of Meru?

Hon. Evans Mawira Kaaria: From your response, I saw he was employed in 2017.

Mr. Elias Mutuma: Was hon. Kawira the Governor in 2017?

Hon. Evans Mawira Kaaria: No.

Mr. Elias Mutuma: So, the governor could not have influenced the employment of this gentleman?

Hon. Evans Mawira Kaaria: The allegation is not in regard to the employment of Edwin as an auditor but as the Acting CEO of FMIS and the Chief Officer of finance.

Mr. Elias Mutuma: But you called him a relative to the governor?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Let us go back to Nephath Kinyua whom we have confirmed is not the husband to Mirriam employed by the County Government of Meru. When was he employed?

Hon. Evans Mawira Kaaria: Take me to the relevant page.

Mr. Elias Mutuma: It is your work. Look at Page 343 of the governor's exhibit of documents. When was Nephath employed as per that letter of employment?

Hon. Evans Mawira Kaaria: On 4th May 2016.

Mr. Elias Mutuma: Was hon. Kawira the governor then?

Hon. Evans Mawira Kaaria: No.

Mr. Elias Mutuma: Could she have caused the employment of Nephath Kinyua so that she could benefit from a relative?

Hon. Evans Mawira Kaaria: The allegation is still not related to the employment as a pharmaceutical technologist but as the Acting Director of external linkages.

Mr. Elias Mutuma: We will get to that, but could the governor have employed him in 2017?

Hon. Evans Mawira Kaaria: No.

Mr. Elias Mutuma: You have caused a lot of motions and distortion on the governor's sisters. One, Rose Wantai. Is Rose Wantai an employee of Meru county government to the best of your knowledge?

Hon. Evans Mawira Kaaria: No, but she has been seconded to the Office of the Governor.

Mr. Elias Mutuma: Is she an employee of the county government?

Hon. Evans Mawira Kaaria: She is seconded.

Mr. Elias Mutuma: Does she draw any salary or remuneration from the county government?

Hon. Evans Mawira Kaaria: No, but she draws some benefits.

Mr. Elias Mutuma: She does not.

Hon. Evans Mawira Kaaria: But she draws some benefits.

Mr. Elias Mutuma: Are you aware that Rose has been the Governor's Personal Assistant (PA), since her time at the National Assembly?

Hon. Evans Mawira Kaaria: No.

Mr. Elias Mutuma: Would it shock you to know that Rose has been the Governor's security since her days at the National Assembly?

Hon. Evans Mawira Kaaria: You said she is the PA?

Mr. Elias Mutuma: Yes, Rose.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I am confused because the counsel indicated that Rose is the PA and now he is also indicating---

Mr. Elias Mutuma: Sorry, I am talking about Miriam.

The Speaker (Hon. Kingi): Counsel, just repeat the question.

Mr. Elias Mutuma: Yes, Mr. Speaker, Sir. Would it shock you to know that Miriam Guantai, has been the governor's PA since her days at the National Assembly?

Hon. Evans Mawira Kaaria: It would not.

Mr. Elias Mutuma: Do you know that for a fact?

Hon. Evans Mawira Kaaria: I am not aware but I know that she is currently the PA, to the Governor.

Mr. Elias Mutuma: I refer you to Page one of our bundle of documents. Do you see a document appearing therein? They run all through from Page No.1 to No.6. Do they concern the issue of appointment of Miriam as the governor's PA? Confirm that they do.

Hon. Evans Mawira Kaaria: Yes, they do.

Mr. Elias Mutuma: Thank you. Let us go to Page 18. There is a document in the letterhead of the Kenya Police Service (KPS). What is that document?

Hon. Evans Mawira Kaaria: Request for security, Hon. Kawira Mwangaza, MB, Meru County.

Mr. Elias Mutuma: Do you confirm that the contents of that letter indicate that Rose is an officer employed by the Kenya Police Service?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: You do?

Hon. Evans Mawira Kaaria: Yes, I do.

Mr. Elias Mutuma: So, it is then not right to try and distort facts and purport that the governor has employed her sisters in the County Government.

Hon. Evans Mawira Kaaria: There is nowhere in the motion that I have indicated the Governor has employed Rose in Meru County Government?

Mr. Elias Mutuma: Does the governor have a right to have a bodyguard of her choice?

Hon. Evans Mawira Kaaria: Yes, she has.

Mr. Elias Mutuma: Does the governor have a right to have a PA of her choice?

Hon. Evans Mawira Kaaria: Yes, she does.

Mr. Elias Mutuma: So, there is nothing wrong with the governor having two of her sisters serving as a governor and a security. That is what you are confirming.

Hon. Evans Mawira Kaaria: Of which I have not alleged so.

Mr. Elias Mutuma: You have no problem with that?

Hon. Evans Mawira Kaaria: I have no problem with that.

Mr. Elias Mutuma: Thank you. So then, if these two officers, who you have no problem with them serving in their capacities, are seen to do duties that are done by other PA's or security officers, would you have a problem?

Hon. Evans Mawira Kaaria: None whatsoever.

Mr. Elias Mutuma: Thank you. You have sensationally claimed that funds have been embezzled by the governor through her sisters and relatives. In your Notice of

Motion for Impeachment, is there anywhere where one Edwin Mutuma Murangeri, is seen to receive money for and on behalf of the governor?

Hon. Evans Mawira Kaaria: No.

Mr. Elias Mutuma: So, when you said that the governor was embezzling funds through one of her relatives called Edwin Mutuma Murangeri, you lied?

Hon. Evans Mawira Kaaria: Edwin Mutuma Murangeri is not a relative in isolation. There are other relatives who have been there.

Mr. Elias Mutuma: I am specifically asking about one relative, Edwin Mutuma. Is there anywhere in the IFMIS or in your evidence where Edwin Mutuma receives money?

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir.

Mr. Elias Mutuma: You lied when you said that this gentleman was firstly, related to the governor and secondly, he was used to embezzle funds.

Hon. Evans Mawira Kaaria: No, I did not lie.

Mr. Elias Mutuma: Let us go to Nephath Kinyua. In which office is Nephath who we have confirmed is not the husband to Miriam serve?

Hon. Evans Mawira Kaaria: He was designated to serve in the Office of the Deputy Governor and then later on, appointed in an acting capacity as the director, external linkages.

Mr. Elias Mutuma: You confirm that the letter appearing at Page 345 of our documents shows that the position which Mr. Nephath Kinyua serves.

Hon. Evans Mawira Kaaria: Yes, I do.

Mr. Elias Mutuma: Which position is he offered in the Office of the Deputy Governor?

Hon. Evans Mawira Kaaria: As at 8th September, 2022, he was offered the position of an administrator in the Office of the governor.

Mr. Elias Mutuma: Before we go to your evidence, you do not have a background in finance.

Hon. Evans Mawira Kaaria: No, I do not.

Mr. Elias Mutuma: You have also not trained in auditing or accounting?

Hon. Evans Mawira Kaaria: Yes, I have not.

Mr. Elias Mutuma: Then we agree that your interpretation and application of figures and finances is that of an amateur, just like me. It is not the opinion of an expert.

Hon. Evans Mawira Kaaria: It is not, but for this Motion, we consulted our finance experts in the Assembly.

Mr. Elias Mutuma: Have your finance experts filed a report?

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir.

Mr. Elias Mutuma: As a matter of fact, you have a finance committee. Did they generate a report touching on the usage of funds that you have talked about today?

Hon. Evans Mawira Kaaria: They sought a clarification from the County Executive Committee Member (CECM) Finance who declined to avail the same to the Assembly.

Mr. Elias Mutuma: Mr. Speaker, Sir, hon. Mawira has provided an extract of IFMIS. That is what you have relied on to show that the governor has embezzled funds.

Hon. Evans Mawira Kaaria: Yes, because there was no alternative source of information since the CECM Finance refused a request from the Assembly to give a clarification.

Mr. Elias Mutuma: Are you impeaching the governor because you did not get a clarification or because you are convinced the governor embezzled funds?

Hon. Evans Mawira Kaaria: If we are aware you hold information that is helpful to this matter and in the contrary you decline to give the same information, then we infer that whatever we have is true.

Mr. Elias Mutuma: So, you inferred and there was no conclusive determination that there was embezzlement of funds? We should be clear on that.

Hon. Evans Mawira Kaaria: There was never a contrary opinion from the Governor's office.

Mr. Elias Mutuma: Neither was there any confirmation?

Hon. Evans Mawira Kaaria: From who?

Mr. Elias Mutuma: From an expert, a committee of the House or from the Office of the Auditor-General (OAG).

Hon. Evans Mawira Kaaria: The Committee requested for information so that they can make a conclusion from the CECM Finance who declined to give that information they have with them.

Mr. Elias Mutuma: Thank you. Has the Controller of Budget (CoB) flagged any of the entries as inappropriate?

Hon. Evans Mawira Kaaria: It is not the duty of the CoB?

Mr. Elias Mutuma: To the best of your knowledge, has the CoB flagged any of those entries? There is a report that came out last week. Was any of the expenditures flagged out?

Hon. Evans Mawira Kaaria: Flagged out on what?

Mr. Elias Mutuma: On misappropriation of funds.

Hon. Evans Mawira Kaaria: The COB does not flag out misappropriation.

Mr. Elias Mutuma: Was there flagging of any expenditure as misappropriated?

Hon. Evans Mawira Kaaria: I am saying that the CoB does not flag the misappropriation of funds.

The Speaker (Hon. Kingi): Hon. Mawira, kindly proceed to answer the question as asked.

Hon. Evans Mawira Kaaria: I am well guided, Mr. Speaker, Sir.

Mr. Elias Mutuma: Thank you, Mr. Speaker, Sir. Hon. Mawira, I want you to confirm that the basis of your claim for embezzlement and withdrawal of county funds is based on a complaint by Salesio Mutuma. You have relied heavily on that complaint.

Hon. Evans Mawira Kaaria: Yes, because the complaint was addressed to the County Assembly in the form of a petition.

Mr. Elias Mutuma: Was it addressed to the Assembly or the Ethics and Anti-Corruption Commission (EACC)?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it was addressed to different bodies even this Senate has a copy and another was sent to the assembly.

Mr. Elias Mutuma: Can we look at the document appearing at Page one of your own exhibits. Volume II, Hon. Senators. To whom is that complaint addressed?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, the Chief Executive Officer of EACC.

Mr. Elias Mutuma: Is that the body by Statute and Constitution mandated to investigate corruption?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: Has there been any report or response to the best of your knowledge to that complaint?

Hon. Evans Mawira Kaaria: I am not aware of any.

Mr. Elias Mutuma: Is a complaint in itself conclusive as evidence of misappropriation and embezzlement of funds?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, there was not contrary information given to us---

Mr. Elias Mutuma: Is it conclusive evidence of misappropriation?

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir.

Mr. Elias Mutuma: When was that complaint raised?

Hon. Evans Mawira Kaaria: On 11th August.

Mr. Elias Mutuma: Hon. Mawira that date is very crucial. Let us go specifically to funds received by the so-called governors relatives. I want you to go to Page 52 of our bundle of exhibits. Let us move to Page 54; there is a letter there. That letter is by whom?

Hon. Evans Mawira Kaaria: It is by Mr. Nchamba Mbithi Harrison Gitonga.

Mr. Elias Mutuma: The letter requests facilitation for who?

Hon. Evans Mawira Kaaria: My copy is not clear, but I can see from the names that have been indicated we have His Excellency Rev. Isaac Mutuma, Hon. Kinyua, Mr. Francis Mukira and Mr. Christopher Gitonga.

Mr. Elias Mutuma: You can confirm that the facilitation requested in that letter has nothing to do with the governor. In fact, it was to facilitate a trip by His Excellency the Deputy Governor.

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: That is what you flagged out at Page 19 to 25 of your complaint. Kindly confirm that is the position.

Hon. Evans Mawira Kaaria: Page?

Mr. Elias Mutuma: Are we together? This is on Page 19 to 25.

Hon. Evans Mawira Kaaria: Those pages are for which bundle?

Mr. Elias Mutuma: Your bundle, proceed to Page 12

Hon. Evans Mawira Kaaria: I am on Page 12.

Mr. Elias Mutuma: Let us go back to Page 55. What appears on Page 55 of our documents?

Hon. Evans Mawira Kaaria: We have a list of names, money and amount paid.

Mr. Elias Mutuma: Who was paid?

Hon. Evans Mawira Kaaria: Isaac Mutuma, Nephath Kinyua, Francis Mukire and Christopher Gitonga.

Mr. Elias Mutuma: You have specifically flagged out invoice number 69/116, in your extract of Integrated financial management information systems (IFMIS).

Hon. Evans Mawira Kaaria: This is on which page?

Mr. Elias Mutuma: I need time to reorganize my thoughts on that. Let me proceed to the issue of the *Okolea* programme. You have accused the governor of using county funds and resources for the *Okolea* programme.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Have you produced any evidence before the Senate to show that indeed funds and other county resources have been used to promote *Okolea* programmes?

Hon. Evans Mawira Kaaria: Yes, we have done that by playing a video and going through a charge sheet for employees of the county government.

Mr. Elias Mutuma: Let us look at the video again. What was the name of the video you played?

Hon. Evans Mawira Kaaria: This is a video in support of count one.

Mr. Elias Mutuma: Kindly, play the video.

(A video clip was played)

Mr. Elias Mutuma: This is the video you claim as evidence of the use of county funds resources.

Hon. Evans Mawira Kaaria: Yes.

(A video clip was played)

Mr. Elias Mutuma: Mr. Mawira, we watched this video, I do not want to use all my time watching it again. What did you pick from that video of evidence specifically, as use of county resources and funds?

Hon. Evans Mawira Kaaria: The video is in support of the sworn affidavit by a police officer before a competent court of law that, there were County Government officers that were stoned during the aftermath of that rally.

Mr. Elias Mutuma: I have asked you a very specific question. You have produced a video before this Senate as confirmation of use of county resources and funds. In that video, what is it that you pick up that supports the claim of use of public funds?

Hon. Evans Mawira Kaaria: Stoning of vehicles, which are part of county resources.

Mr. Elias Mutuma: Wait, I am struggling to understand.

Hon. Evans Mawira Kaaria: Towards the end, the video can play.

Mr. Elias Mutuma: Hon. Mawira, this is your evidence. You want the Senate to rely on that clip as evidence of use of public funds. I am asking a simple question. In that video, is there anywhere or anything that proves use of public funds? It is a yes or no question.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, that cannot be a yes or no question because it is not an isolated evidence.

Mr. Elias Mutuma: Let us look at the much relied upon affidavit by the investigating officer. That is the one appearing at Page 45 of your bundle of documents, Volume II. Is that the one?

Hon. Evans Mawira Kaaria: Page 45, yes.

Mr. Elias Mutuma: Specifically, paragraph 8 of that affidavit.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: What does that paragraph read?

Hon. Evans Mawira Kaaria: That-

“The respondents and their group damaged several motor vehicles belonging to the County Government of Meru and for some individuals. Registration numbers KAX 574- I do not know if that is V or Y-and KCB845F”.

Mr. Elias Mutuma: This is an event that was covered by media, right?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Is there any single video or picture or a photo of a government vehicle in that function.

Hon. Evans Mawira Kaaria: We have seen vehicles being stoned in that video.

Mr. Elias Mutuma: Is there any photo of a government vehicle?

Hon. Evans Mawira Kaaria: Under the circumstances, it might have been hard to capture a government vehicle exactly. However, we have seen from clip vehicles being stoned and some in the form of government vehicles that are used by the county government of Meru.

Mr. Elias Mutuma: The simple answer is that there is no evidence to support that assertion that government vehicles were present. Yes or no?

Hon. Evans Mawira Kaaria: From the video?

Mr. Elias Mutuma: From your evidence, hon. Mawira, you are the one who seeks the ---

Hon. Evans Mawira Kaaria: The sworn affidavit here has clearly indicated that county government vehicles were destroyed during the mayhem.

Mr. Elias Mutuma: What county motor vehicles were destroyed?

Hon. Evans Mawira Kaaria: They are not captured by the affidavit that we are relying on that was made by a competent police officer.

Mr. Elias Mutuma: Kindly, go to Page 352 and 353 of our bundles of documents. Are you there?

Hon. Evans Mawira Kaaria: Yes, I am there.

Mr. Elias Mutuma: There is an official search from the registrar of motor vehicles. Am I right?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: To whom is the motor vehicle KAX 574Y registered?

Hon. Evans Mawira Kaaria: It is registered under the name Wallah Ngula.

Mr. Elias Mutuma: That is an individual, a private citizen.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: To whom is motor vehicle KCB 845F registered, at Page 353?

Hon. Evans Mawira Kaaria: The Lewa Wildlife conservancy.

Mr. Elias Mutuma: Again, that is not the County Government of Meru.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I have not alleged so.

Mr. Elias Mutuma: Mr. Mawira, you have been part and parcel of the *Okolea* Programme, am I right?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, only once.

Mr. Elias Mutuma: Only once?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

(Laughter)

Mr. Elias Mutuma: Which date was that?

Hon. Evans Mawira Kaaria: When it came to my ward.

Mr. Elias Mutuma: When the governor came to your ward?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: This was on 2nd August, 2023.

Hon. Evans Mawira Kaaria: Around that date

Mr. Elias Mutuma: Kindly play the video KMV2 in our index of videos. Sorry, that is not the one.

(A video clip was played)

You can pause there. I want to combine that video with Video 1C in our list of videos. Kindly play 1C

(A video clip was played)

Mr. Elias Mutuma: Mr. Mawira, clearly, you were present in that function. We can see you in the video.

Hon. Evans Mawira Kaaria: Yes, I was present.

Mr. Elias Mutuma: One of the Members of County Assembly (MCAs) is speaking in that video. What is the name of that MCA?

Hon. Evans Mawira Kaaria: Hon. Dennis Kiogora.

Mr. Elias Mutuma: An MCA from which ward?

Hon. Evans Mawira Kaaria: Abogeta West.

Mr. Elias Mutuma: Hon. Kiogora raised his pertinent issues about *Okolea* and the leaders of Meru County; the threats that the governor is facing in respect of *Okolea* and her programmes. Is that true or false?

Hon. Evans Mawira Kaaria: Hon. Kiogora is only indicating that there is no problem with the governor continuing with the *Okolea* programme at that moment.

Mr. Elias Mutuma: Let us go to KMV20 of our documents.

(A video clip was played)

Okay, we can pause it there, Mr. Speaker, Sir. Mr. Mawira, that was as recent as 13th of August, 2023. Correct?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Confirm that you were hosting.

Hon. Evans Mawira Kaaria: Yes, it was in my ward.

Mr. Elias Mutuma: The Governor says that you woke her up with a donation of Kshs100,000 to support the *Okolea* programme to fuel her vehicles and to buy the donations. Is that what she says?

Hon. Evans Mawira Kaaria: Yes, the programme was coming to my ward, so I opted to support it.

Mr. Elias Mutuma: Also, in your speech, I heard you saying that it is the County Assembly that passes the budget and there is no budget allocation that has been given for the *Okolea* program. Is that right?

Hon. Evans Mawira Kaaria: That is true.

Mr. Elias Mutuma: Is that still your position today that no county funds have been budgeted for or used by the *Okolea* program?

Hon. Evans Mawira Kaaria: What we have alleged in the Motion is that county government resources were used. There is no specific money or budgetary allocation for government vehicles to go for *Okolea* rallies and for employees to participate in private charities. That is my allegation.

Mr. Elias Mutuma: You are also a public officer to my understanding. So, were you then wrong to have participated in that charity organization programme?

Hon. Evans Mawira Kaaria: I participated because it was in my ward. I was hosting the governor of Meru. I am not prohibited from her company. They are not profiting from a company.

At that point, it is when we were seeking peace so that we can forge a working relationship with the Governor. Therefore, that is what needs to be there and I supported in my personal capacity.

Mr. Elias Mutuma: So, if the programme goes to another ward and not your ward you have a problem? If it comes to your ward, you can support it. If it goes to another ward, it is ---

Hon. Evans Mawira Kaaria: I have not indicated so.

Mr. Elias Mutuma: There is a reason that I wanted that video to be played first. Again, the governor was visiting your ward.

Hon. Evans Mawira Kaaria: Yes. She was there to commission a bridge that had been constructed using funds budgeted for in the previous regime.

Mr. Elias Mutuma: Confirm that was on 2nd August, 2023.

Hon. Evans Mawira Kaaria: There about.

Mr. Elias Mutuma: Confirm that in your speech you said that the governor is facing threats and fights from other leaders and that you are going to protect her because she is a performer.

Hon. Evans Mawira Kaaria: I indicated that the oversight role should be reduced to play politics. That is what I indicated in the video. I said that it is the role of the County Assembly to oversight the County Government of Meru. That is what I said.

Mr. Elias Mutuma: You are also on record praising the governor for the numerous projects in your ward.

Hon. Evans Mawira Kaaria: Yes. I read a list of projects that have been brought to my ward through the governor or the support of the governor of that day.

Mr. Elias Mutuma: So, Mr. Mawira, what problem do you have with the governor in terms of her okolea programme specifically?

Hon. Evans Mawira Kaaria: Conflicting, usage of Government resources and private charity. That was subject to the previous impeachment process in this House.

Mr. Elias Mutuma: Government resources that you are unable to produce any evidence in support of?

Hon. Evans Mawira Kaaria: I have indicated the evidence in my---

Mr. Elias Mutuma: My last question, all okolea programmes are done on Sundays. Is that right?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Sunday is not a working day.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: There is no Government employee who works on Sunday.

Hon. Evans Mawira Kaaria: That is true.

Mr. Elias Mutuma: So, if someone chooses to participate in a charitable organization on a Sunday, would that be wrong despite them being Government officers?

Hon. Evans Mawira Kaaria: It would be wrong.

Mr. Elias Mutuma: You have seen politicians go to churches on Sunday and make their donations

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Is there anything wrong with that?

Hon. Evans Mawira Kaaria: Nothing wrong.

Mr. Elias Mutuma: Thank you. You have also accused the Governor of nepotism and related practices. To support that charge, you have accused the Governor of fraudulently misrepresenting her relatives as a technical team. I am talking about the China trip.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: You confirmed to this House that Mirriam is the governor's Personal Assistant (PA).

Hon. Evans Mawira Kaaria: Yes, and also her sister.

Mr. Elias Mutuma: You also confirmed that Rose is the Governor's bodyguard.

Hon. Evans Mawira Kaaria: Yes, and also her sister.

Mr. Elias Mutuma: Do you confirm that these two officers by virtue of their offices travel with the Governor?

Hon. Evans Mawira Kaaria: Outside the country?

Mr. Elias Mutuma: Do you confirm that the Governor is supposed to be accompanied by the PA and a bodyguard when she travels in and outside the country?

Hon. Evans Mawira Kaaria: Yes, but Rose is not the only bodyguard to the Governor.

Mr. Elias Mutuma: Rose is the security to the governor?

Hon. Evans Mawira Kaaria: Not the only one.

Mr. Elias Mutuma: Rose is a security attached to the Governor? Whether a bodyguard or not?

Hon. Evans Mawira Kaaria: Yes, but not the only one.

Mr. Elias Mutuma: So, you confirm that there is nothing wrong with the governor's security and the PA accompanying her on any trip either local or foreign.

Hon. Evans Mawira Kaaria: Yes, I confirm.

Mr. Elias Mutuma: Let us go to the impugned letter of invitation. The one that appears on volume two, Page 68 of your own document. Are you there?

Hon. Evans Mawira Kaaria: Yes, I am

Mr. Elias Mutuma: Thank you. The invitation is to the Governor. Correct?

Hon. Evans Mawira Kaaria: Correct.

Mr. Elias Mutuma: That letter does not dictate who the governor travels with. Does it?

Hon. Evans Mawira Kaaria: It does not.

Mr. Elias Mutuma: That letter also confirms, at the second last paragraph, that all the expenses relating to the trip will be covered by the company making the invitation.

Hon. Evans Mawira Kaaria: Yes, it is indicated.

Mr. Elias Mutuma: Including accommodation and tickets. Yes?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: You also confirm that with the best of your knowledge, no per diems were paid by Meru County Government to facilitate this trip.

Hon. Evans Mawira Kaaria: I cannot confirm neither allege.

Mr. Elias Mutuma: You have no evidence to show that any of the persons who travelled were paid per diems by the county government?

Hon. Evans Mawira Kaaria: Yes, because I have not alleged so.

Mr. Elias Mutuma: Your main issue is that the Governor misrepresented her relatives as the technical team.

Hon. Evans Mawira Kaaria: That is true.

Mr. Elias Mutuma: By that, you are relying on the letter appearing at Page 68 of your document.

Hon. Evans Mawira Kaaria: A letter from the County Secretary and the Head of Public Service?

Mr. Elias Mutuma: Yes. So, we first confirm that it is not the governor who wrote that letter?

Hon. Evans Mawira Kaaria: It is the County Secretary of Meru County Government.

Mr. Elias Mutuma: It is not the Governor who wrote that letter?

Hon. Evans Mawira Kaaria: The invitation letter was addressed to the Governor.

Mr. Elias Mutuma: It is not the Governor who wrote that letter, Mr. Mawira?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Thank you.

Hon. Evans Mawira Kaaria: I am saying yes but the invitation letter ---

Mr. Elias Mutuma: The simple answer is, it is not the governor, Mr. Mawira. It is the County Secretary who describes the following persons as the technical team?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: The four people, Dr. George Mungania.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Miriam Guantai.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Nephat Kinyua.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Mr. Morangeri.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: First of all, we have confirmed Mr. Nephat is not a relative to the governor. He is not married to the sister.

Hon. Evans Mawira Kaaria: I have not confirmed that.

Mr. Elias Mutuma: There is no evidence. In fact, we have proved that he is not. There is no evidence to counter that, is it? Yes, or no, Mr. Mawira?

Hon. Evans Mawira Kaaria: I said it is in the public domain. It is public knowledge.

Mr. Elias Mutuma: Thank you.

The Speaker (Hon. Kingi): Hon. Members, let me just remind you that you are under oath and you swore to speak the truth, nothing but the truth.

Hon. Evans Mawira Kaaria: Obligated, Mr. Speaker, Sir.

Mr. Elias Mutuma: Mr. Mawira, the first paragraph of that letter appearing at Page 68, speaks of the object of this trip. Let me read for you;

“Following the invitation of the Governor of Meru by Beijing League Tech Co-Limited of Beijing City, the following technical team is hereby released from 7th June to 17th June, 2023, to prepare and guide on the following.”

Is it your understanding that this team was only meant to visit, prepare and guide on the visit? This was actually not the actual visit, Mr. Mawira. Is that letter clear on what the County Secretary is communicating?

Hon. Evans Mawira Kaaria: Come again.

Mr. Elias Mutuma: I am asking you, the letter appearing at Page 68, the first paragraph confirms the purpose for which these four people were traveling to prepare and guide on the following.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: So, this then was an advance team to prepare for the visit.

Hon. Evans Mawira Kaaria: It is not indicated so.

Mr. Elias Mutuma: Read the last line in that paragraph one, where it begins; “The following technical team---” What does it say?

Hon. Evans Mawira Kaaria: It says; “To prepare and guide on the following---” It then goes ahead to list the specifics.

Mr. Elias Mutuma: Proceed to read the letter as it is. Do not rewrite the letter Hon. Mawira. What does it say? The following technical team is hereby ---

Hon. Evans Mawira Kaaria: Released from 7th to 17th June, 2023 to prepare and guide on the following.

Mr. Elias Mutuma: “To prepare and guide, Hon. Mawira”.

Hon. Evans Mawira Kaaria: Yes, those are the words.

Mr. Elias Mutuma: You have accused the Governor of misrepresenting the capacities under which these people were travelling. Look at the letter on Page 77, but first, what is the date of the letter on Page 68?

Hon. Evans Mawira Kaaria: It is dated 26th May.

Mr. Elias Mutuma: There is another letter dated at Page 77 of the same documents. What is the date of that letter?

Hon. Evans Mawira Kaaria: 6th June.

Mr. Elias Mutuma: That letter comes after the first letter. We have the same people again described and their capacity under which they are travelling stated in that table. You can see that.

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: What is the designation and definition of Dr. George Mungania?

Hon. Evans Mawira Kaaria: The CECM Health.

Mr. Elias Mutuma: Is Dr. Mungania the CECM Health?

Hon. Evans Mawira Kaaria: Yes, he is.

Mr. Elias Mutuma: Is there any misrepresentation by the County Secretary towards that individual?

Hon. Evans Mawira Kaaria: None.

Mr. Elias Mutuma: The second individual is Ms. Miriam K. Guantai. She is described in what capacity?

Hon. Evans Mawira Kaaria: As the Personal Assistant (PA) to the Governor.

Mr. Elias Mutuma: Again, is Miriam the PA to the governor?

Hon. Evans Mawira Kaaria: Yes, she is.

Mr. Elias Mutuma: Is there any misrepresentation in their definition?

Hon. Evans Mawira Kaaria: There is none in their title designation.

Mr. Elias Mutuma: Mr. Nephath Kinyua Meme is the Director of External Linkages, true or false?

Hon. Evans Mawira Kaaria: At that point, he was the Acting Director of External Linkages.

Mr. Elias Mutuma: Is there any misrepresentation of the capacity under which he was travelling?

Hon. Evans Mawira Kaaria: For his designation, no.

Mr. Elias Mutuma: Mr. Murangiri Kenneth is said to be in administration. He is part of the security of the governor. True or false?

Hon. Evans Mawira Kaaria: Yes, he is.

Mr. Elias Mutuma: So, when he is described as part of the administration, is there any misrepresentation?

Hon. Evans Mawira Kaaria: Yes, he is a security officer.

Mr. Elias Mutuma: Mr. Murangiri is an administration police officer employed by the Administration Police (AP).

Hon. Evans Mawira Kaaria: It ought to have been clearly stated administration police.

Mr. Elias Mutuma: Let me rephrase my question. You said that the Governor's relatives were misrepresented as a technical team on matters health. Is there anywhere in this letter where they are described as otherwise?

Hon. Evans Mawira Kaaria: They are not technical personnel in matters relating to cancer.

Mr. Elias Mutuma: Show me in any of the letters in respect of the China trip where any of these four individuals apart from the first person, Dr. George Murangiri are described as a medical person or misrepresented as people with health qualifications.

Hon. Evans Mawira Kaaria: On Page 68, the letter from the County Secretary to the Principal Secretary, State Department of Devolution, the County Secretary designates them as a technical to visit Lunac Oncology Plant for the manufacture of radiologic unit for cancer treatment. Also, D X-ray unit assembly plants and C-arm units.

Low cost affordable housing company with a capacity of 10,000 units in line with the Meru County Government plan for low economic housing. Futong guided agricultural machinery development and value addition tools as noted in University to be visited and what international cooperation of ZHONGNONFUTONO can offer Kenya.

Then they are designated as a technical team whereas none has a background knowledge in either cancer treatment, construction or agriculture.

Mr. Elias Mutuma: Hon. Mawira, the letter dated 6th June has confirmed the use and the meaning of the word "technical". They have been defined---

Hon. Evans Mawira Kaaria: Which letter?

Mr. Elias Mutuma: The letter dated 6th June. We have just gone through it.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: You have also told this Senate that the Governor did not seek clearance for this trip, therefore, she had no intention of travelling. Is that still your position?

Hon. Evans Mawira Kaaria: Yes. There is no where it is indicated so.

Mr. Elias Mutuma: Let us go straight to page 86 of your own documents. There is a letter there dated 5th June, 2023. Are we there?

Hon. Evans Mawira Kaaria: Yes, I am there.

Mr. Elias Mutuma: To whom is the letter addressed?

Hon. Evans Mawira Kaaria: The Principal Secretary, Ministry of Foreign Affairs.

Mr. Elias Mutuma: What is the reference of that letter?

Hon. Evans Mawira Kaaria: "Facilitation to Travel to China, County Government of Meru."

Mr. Elias Mutuma: Who are the persons whose clearance is sought from the Department of Devolution? There is a table there. Who is number one?

Hon. Evans Mawira Kaaria: Her Excellency, Governor Kawira Mwangaza.

Mr. Elias Mutuma: Number two?

Hon. Evans Mawira Kaaria: Dr. George Mungania.

Mr. Elias Mutuma: His capacity?

Hon. Evans Mawira Kaaria: The County Executive Committee Member (CECM) Health.

Mr. Elias Mutuma: Number three?

Hon. Evans Mawira Kaaria: Ms. Miriam K. Guantai, the Personal Assistant to the Governor.

Mr. Elias Mutuma: Number four?

Hon. Evans Mawira Kaaria: Mr. Nephat Kinyua Meme, Director External Linkages.

Mr. Elias Mutuma: Number five?

Hon. Evans Mawira Kaaria: Mr. Murangiri Kenneth in administration.

Mr. Elias Mutuma: So, then you lied to the Senate when you said that the Governor had not sought clearance. Is this seeking clearance to the best of your understanding and knowledge?

Hon. Evans Mawira Kaaria: Pardon?

Mr. Elias Mutuma: Does this letter seek clearance for the Governor's travel to China?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, in that letter that came from the office of the Principal Secretary, State Department of Devolution, but from the letter on page 77---

Mr. Elias Mutuma: Hon. Mawira, I am interested in the letter appearing on page 86. Does the Governor seek clearance for the China trip?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, she is in that list.

Mr. Elias Mutuma: Does she seek clearance? 'Yes' or 'no.'

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, let me read the contents of the letter. It is about Facilitation to Travel to China, County Government of Meru.

"We have received a request from the County Government of Meru via the letter dated 26th May."

If I refer to the letter that is dated 26th May. There is nowhere that the Governor is included in the list of the members to travel.

Mr. Elias Mutuma: Hon. Mawira, we can all read and understand. I am asking a simple question. Does that letter dated 5th June, 2023 seek the Governor's clearance to travel?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, the letter was about facilitation of issuance of visas not clearance to travel.

Mr. Elias Mutuma: For a trip to China?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Thank you. Have you read the affidavit of George Gikunda Mungania appearing on page 100 of our response; the small blue booklet? Are you there?

Hon. Evans Mawira Kaaria: I am there.

Mr. Elias Mutuma: Confirm that George Gikunda Mungania is the CECM Health.

Hon. Evans Mawira Kaaria: I confirm.

Mr. Elias Mutuma: Confirm that he is part of the team that travelled to China.

Hon. Evans Mawira Kaaria: I confirm.

Mr. Elias Mutuma: Confirm that in that affidavit he is deponing facts in respect of the China trip.

Hon. Evans Mawira Kaaria: I believe so.

Mr. Elias Mutuma: Have you read that response?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: At paragraph four, he states-

“I was among a team that was invited to China by Beijing Lead Tech Company Limited vide a letter dated--- The team comprised of seven individuals, namely---” and he listed them.

I will jump straight to page 102---

Hon. Evans Mawira Kaaria: Paragraph 14?

Mr. Elias Mutuma: In fact, I would love you to read that paragraph for the Senate.

Hon. Evans Mawira Kaaria: It says-

“That we further made a peculiar discovery that Beijing Lead Tech Company Limited was not affiliated to the Chinese Government nor did it have any physical registered offices in China.

Further, while in China, we were taken on a tour by officials of Xing Tech Company Limited to several manufacturing plants as follows---

He has listed Huawei.

Mr. Elias Mutuma: Can we proceed to paragraph 17 appearing on 103?

Hon. Evans Mawira Kaaria: These discoveries were made in the course of our reconnaissance mission in China.

Mr. Elias Mutuma: Mr. Mawira, this is a person who travelled to China and made their investigations and discovery. They confirm that the people who invited them do not manufacture or have a physical address in China.

Hon. Evans Mawira Kaaria: This is according to the sworn affidavit.

Mr. Elias Mutuma: Do you have any other evidence to the contrary?

Hon. Evans Mawira Kaaria: Any other evidence of what happened in China would be the videos that we played. It shows they visited different manufacturing plants in China.

Mr. Elias Mutuma: The gentleman who travelled and had the benefit of meeting the individuals in China confirms that these people have no affiliation with the Chinese Government.

Hon. Evans Mawira Kaaria: I said this is according to the sworn affidavit.

Mr. Elias Mutuma: Whereas they represented themselves as people who were affiliated with the Government, they did not even manufacture or own the equipment. Is this in the affidavit?

Hon. Evans Mawira Kaaria: I do not know whether they misrepresented themselves. According to the invitation letter, there is nowhere they have indicated they are from a Government agency.

Mr. Elias Mutuma: This letter is there and we will address it during our submissions. I want you to read paragraph 18 by a person who travelled to China on why they travelled. Read this paragraph to the Senate.

Hon. Evans Mawira Kaaria: It says-

“That the invitation letter did not in any way describe the invitees as a technical team. Therefore, they cannot be described as such. In furtherance to this, the team that was selected to make the pre-visit was an advance team tasked with the sole responsibility of assessing the situation on the ground in China before the governor’s visit.”

Mr. Elias Mutuma: Does this confirm the letter by the County Assembly that this was an advance team?

Hon. Evans Mawira Kaaria: The letter by who?

Mr. Elias Mutuma: The County Secretary that this was an advance team to assess and prepare for the visit.

Hon. Evans Mawira Kaaria: The County Secretary described them in the letter as a technical team. There is nowhere he has indicated he is an advance team.

Mr. Elias Mutuma: Mr. Mawira, we have discussed a lot on the China trip. Let us proceed to something else. In a related charge, you have accused the Governor of assigning her relatives diplomatic duties.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Which relatives are we talking about?

Hon. Evans Mawira Kaaria: Her sister who is a personal assistant and another sister to the Governor who is a security personnel.

Mr. Elias Mutuma: Based on this accusation, you have attached a *Facebook* extract from the Governor’s official page. Is that the only evidence you have attached? For ease of reference, this is on page 94 of your document.

Hon. Evans Mawira Kaaria: Yes, it is there.

Mr. Elias Mutuma: I do not want to belabour on this point. I would like you to read the Governor’s message on *Facebook* that you seek to rely on to impeach her because she assigned her sisters diplomatic roles. Kindly read that post.

Hon. Evans Mawira Kaaria: It says-

“The County Secretary delivered a message of well wishes from the Governor of Meru County. They discussed various areas of the development partnership, the Embassy of Slovak agreeing to partner with Meru County to promote food security, environmental conservation, women empowerment, trade, and economic empowerment.

In the coming days, Meru County will receive a donation of 30 computers to promote Information, Communications Technology (ICT) in Vocational Training Collages (VTC). The farmers will get market linkages for coffee and tea in Slovak. The County will partner with Slovak in promotion of trade, investment and tourism between the two governments.

They agreed to strengthen bilateral partnerships between the two governments for the benefit of the people of Meru. This will see Meru receive more development aid from Slovak Republic in the coming years enhancing partnership; *Maendeleo Kabati Kabati, Serikali ya Mama Iko Imara* and Team Governor ni *Mama* doing excellent.”

Then, there are pictures for the County Secretary and the Slovak Embassy officers and the sisters.

Mr. Elias Mutuma: Have you read and understood the Governor's message on *Facebook*?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Does she at any point assign her sisters any diplomatic roles?

Hon. Evans Mawira Kaaria: They were part of the meeting.

Mr. Elias Mutuma: I am asking, from her post and message, has she assigned any of her sisters any diplomatic roles?

Hon. Evans Mawira Kaaria: From the post no.

Mr. Elias Mutuma: The only person who is said to have engaged the Ambassador is the county secretary.

Hon. Evans Mawira Kaaria: From the pictures it is ---

Mr. Elias Mutuma: From the message, the only person to have ---

Hon. Evans Mawira Kaaria: From the *Facebook* post yes.

Mr. Elias Mutuma: Is there anything wrong with the County Secretary engaging such a person for and on behalf of the governor?

Hon. Evans Mawira Kaaria: Nothing wrong.

Mr. Elias Mutuma: The only issue you have is because there are photos of the Governor's PA and security?

Hon. Evans Mawira Kaaria: The photos there depict the discussions as they were ongoing where the two sisters are involved.

Mr. Elias Mutuma: Hon. Mawira, you are not part of those discussions. Were you?

Hon. Evans Mawira Kaaria: The message that I am getting from the photos.

Mr. Elias Mutuma: How about the message you are getting from the Governor's post? Does that mean anything, Hon. Mawira?

Hon. Evans Mawira Kaaria: It means something because it also highlights the agreements between the County Governments of Meru and the Slovak Embassy.

Mr. Elias Mutuma: Hon. Mawira, have you read the governor's affidavit in explanation to why the PA and the security were there?

Hon. Evans Mawira Kaaria: Yes, I read it.

Mr. Elias Mutuma: What does the governor say?

Hon. Evans Mawira Kaaria: She was heading there and then she got a call, I do not remember if it is the office of the President or the Deputy President, then, she designated this team to go ahead and engage the Slovak Embassy.

Mr. Elias Mutuma: If the Governor was supposed to attend to this meeting and she is re-routed to State House and sends her PA and security who company her, is there anything wrong with them appearing at the Embassy with the county secretary?

Hon. Evans Mawira Kaaria: There is no evidence adduced that she was rerouted to the State House or the Deputy President's residency.

Mr. Elias Mutuma: There is also no evidence also to confirm that these two were engaged in diplomatic duties.

Hon. Evans Mawira Kaaria: The pictures are there.

Mr. Elias Mutuma: Indeed, Hon. Mawira, when you talk of diplomatic duties, what exactly do you have in mind?

Hon. Evans Mawira Kaaria: Engaging in discussions that will lead to partnership between the County Government of Meru and the Slovak Republic.

Mr. Elias Mutuma: Is international relations a county government function?

Hon. Evans Mawira Kaaria: Not expressly so.

Mr. Elias Mutuma: Thank you.

Let us go to the other issue of vilification of leaders. Hon. Mawira, you will confirm that you were not part of those leaders that are alleged to have been vilified by the Governor.

Hon. Evans Mawira Kaaria: I have not alleged so.

Mr. Elias Mutuma: You make a very good case for the Deputy Governor of Meru County showing that he has been a victim of vilification and demeaning by the governor. Is that your case?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: The Deputy Governor of Meru is not a witness before this Senate. Is he?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, he has a sworn affidavit and the report from the Sectorial Committee on Justice and Legal Affairs that invited him to the Assembly after he wrote a letter, complaining that he had been excluded from Cabinet meetings.

Mr. Elias Mutuma: Let us talk about that letter that he wrote. When was that letter written?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, there are two letters addressed to the Speaker.

Mr. Elias Mutuma: What is the date of those letters?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is dated 30th August, 2023.

Mr. Elias Mutuma: On what page of your list of documents does that letter appear?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it is on pages 230 and 231.

Mr. Elias Mutuma: Yes. When did the Sectorial Committee meet the Deputy Governor?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it was on Friday 29th September, 2023.

Mr. Elias Mutuma: Friday, September, 2023. So, it is just days to the Impeachment Motion.

Hon. Evans Mawira Kaaria: Approximately 30 days after the letter was received by the Speaker.

Mr. Elias Mutuma: I thank you. You have relied so much on *WhatsApp* messages.

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: In a group called Third Government 012?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: You are not a member of that group. Are you?

Hon. Evans Mawira Kaaria: I am not.

Mr. Elias Mutuma: So, you are not privy to anything that happens in that group?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, this was evidence placed before the County Assembly---

Mr. Elias Mutuma: That was not my question, Mr. Mawira. You are not privy to what transpires in that group?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir I am privy because we were given these screenshots---

Mr. Elias Mutuma: Mr. Mawira, privy means that you have personal knowledge of what happens in that group. So, do you have personal knowledge of what happens in that group?

Hon. Evans Mawira Kaaria: I have personal knowledge depending on the screenshots that we received from the Deputy Governor.

Mr. Elias Mutuma: Do you have first-hand information of what transpired in this---

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir.

Mr. Elias Mutuma: You have none?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: You have accused Mr. Jamba Mbithi of removing the Deputy Governor from this group and I am looking at a *WhatsApp* extract appearing on page 149 of your bundle of documents. Are we there, Mr. Mawira?

Hon. Evans Mawira Kaaria: Which page?

Mr. Elias Mutuma: Page 149

Hon. Evans Mawira Kaaria: Yes, I am there

Mr. Elias Mutuma: There is a notification there saying that Jamba Mbithi removed you.

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: Who is the “you” referred to in that notification?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, according to the evidence brought by the Deputy Governor to the county assembly, it was the Deputy Governor.

Mr. Elias Mutuma: According to you, Hon. Evans Kaaria Mawira, who is the “you” that was removed?

Hon. Evans Mawira Kaaria: It is the Deputy Governor, Mr. Speaker, Sir.

Mr. Elias Mutuma: Where is that evidence to show that it was the Deputy Governor who was removed? Does his number appear in that notification?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, we are---

Mr. Elias Mutuma: Just answer the question as it is. Does his number appear in that notification?

Hon. Evans Mawira Kaaria: When you are removed from a *WhatsApp* group---

Mr. Elias Mutuma: Does his number appear?

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir.

Mr. Elias Mutuma: Does his name appear?

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir.

Mr. Elias Mutuma: Hon. Evans Kaaria Mawira, the next notification is also a communication on that *WhatsApp* group, what is the next notification?

Hon. Evans Mawira Kaaria: From that Jamba Mbithi.

Mr. Elias Mutuma: No, there is one that you are deliberately ignoring. After removal, what comes next?

Hon. Evans Mawira Kaaria: You were added

Mr. Elias Mutuma: You were added?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: So, there is immediate removal and immediate adding.

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: Have you read the affidavit of Jamba Mbithi explaining what transpired?

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: What has he said?

Hon. Evans Mawira Kaaria: He said it was mistakenly removed.

Mr. Elias Mutuma: Does adding him immediately confirm that, indeed, it could have been a mistake, which was realised and rectified immediately?

Hon. Evans Mawira Kaaria: Through the Speaker, if you allow me, I can explain. We have---

The Speaker (Hon. Kingi): Hon. Mawira, kindly proceed to answer those questions. Do not engage the Chair. You are there to be cross-examined. So, listen to the questions and respond to them appropriately.

Hon. Evans Mawira Kaaria: Please come again.

Mr. Elias Mutuma: Does the notification indicating you were added immediately after removal confirm the assertion by Mr. Nchamba Mbithi that the removal was by mistake?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: I want us to again play two videos. The video your advocate played, I believe it is KMV15.

The Speaker (Hon. Kingi): Counsel, just to remind you, you have 30 minutes to go.

Mr. Elias Mutuma: Thank you, Mr. Speaker, Sir. There is that video that was played with the deputy governor chanting.

(A video clip was played)

Could we kindly have more volume on that video.

(A video clip was played)

Mr. Mawira, you confirm that in that video is the Deputy Governor of Meru County?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: You confirm that he is leading some youths chanting very nasty words against the Governor?

Hon. Evans Mawira Kaaria: He is at the front of the crowd.

Mr. Elias Mutuma: You do understand the Meru language?

Hon. Evans Mawira Kaaria: I do.

Mr. Elias Mutuma: Kindly tell these hon. Senators what these youths were chanting escorting the Deputy Governor.

Hon. Evans Mawira Kaaria: From my understanding, they are saying ‘Kawira has no home’ and telling Mutuma that--- Can I explain as the video plays.

Mr. Elias Mutuma: Kindly replay the video for the witness.

(A video clip was played)

You can pause now. You now have the advantage of hearing clearly. What are they saying?

Hon. Evans Mawira Kaaria: The crowd is chanting ‘Kawira has no home x3.’

Mr. Elias Mutuma: Kindly proceed. It is quite important we hear from you Mr. Mawira.

Hon. Evans Mawira Kaaria: Do we have a transcript?

Mr. Elias Mutuma: Mr. Mawira, you do understand Meru language?

Hon. Evans Mawira Kaaria: I am trying to. ‘*Ni umaraya aringaga kwa county.*’ That means she is a prostitute at the county government.

Mr. Elias Mutuma: That is the Deputy Governor of Meru?

Hon. Evans Mawira Kaaria: No, the Deputy Governor is appearing in front of the crowd.

Mr. Elias Mutuma: He is part of the crowd, Mr. Mawira. We can all see that.

Hon. Evans Mawira Kaaria: Yes, he is part of the crowd.

Mr. Elias Mutuma: That song is sung in his presence.

Hon. Evans Mawira Kaaria: He is maybe running away from the crowd chanting that song, I do not know.

Mr. Elias Mutuma: Thank you. There is also a message directed at him. What are they telling him to do?

Hon. Evans Mawira Kaaria: Can you play that part?

Mr. Elias Mutuma: Mr. Mawira, you are trying to eat into my time.

Hon. Evans Mawira Kaaria: Honestly no.

The Speaker (Hon. Kingi): Hon. Evans, you know that video has been played, I believe this will be the fourth time.

Hon. Evans Mawira Kaaria: That part where he is saying they are sending a message to the Deputy Governor is where I want played so that I can paraphrase in my own words.

The Speaker (Hon. Kingi): Very well, let that particular part be played.

Mr. Elias Mutuma: Most obliged, Mr. Speaker, Sir.

(The video clip was replayed)

Mr. Elias Mutuma: Kindly, pause it there.

Hon. Evans Mawira Kaaria: That is a popular Meru song that can always be distorted to give a different message.

Mr. Elias Mutuma: Kindly proceed with the video from where it had stopped.

(The video clip was replayed)

Mr. Elias Mutuma: Mr. Mawira, I hope you were able to tell honestly.

Hon. Evans Mawira Kaaria: Yes, at that point, I am able to tell. They are saying “yeei yeei yeei yeei Mutuma twine nawe”. That is to say Mutuma dance with us, when it gets late, we will escort you to your home. Those are the exact words.

Mr. Elias Mutuma: Mr. Mawira, I believe the Senate will engage their own translators. However, Mr. Mawira, do you find the conduct of the Deputy Governor in that procession honourable?

Hon. Evans Mawira Kaaria: I am not able to discern because as I said, Mutuma could have been running away from the crowd chanting the music.

The Speaker (Hon. Kingi): Hon. Evans, stop making assumptions. You have seen the video of what was happening. The question from counsel is - do you think that whatever was happening is honourable on the part of the Deputy Governor? It is a yes or no.

Hon. Evans Mawira Kaaria: Yes, if he participated on the same, it is not honourable.

Mr. Elias Mutuma: Thank you. The natural consequence of these proceedings, should they succeed, is that that person becomes the Governor of Meru County.

Hon. Evans Mawira Kaaria: Yes, according to the law.

Mr. Elias Mutuma: Is he a person then fit to hold office based on his conduct?

Hon. Evans Mawira Kaaria: The conduct seen on the video?

Mr. Elias Mutuma: Yes. I am getting to the next, but on that alone, is he a person who demonstrates the honour that befits the office of a governor?

Hon. Evans Mawira Kaaria: I said if he participated in the same, then no.

Mr. Elias Mutuma: Thank you. Mr. Mawira, let us go to the violence that took place in the *Okolea* programme. You are aware of that incident?

Hon. Evans Mawira Kaaria: Yes, I am.

Mr. Elias Mutuma: Which ward did they take place?

Hon. Evans Mawira Kaaria: Makiri is in a--- is it in Kegoi and Antubochiu.

Mr. Elias Mutuma: Where the Deputy Governor comes from?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Are you aware that the violence led to the slaughter of a cow that the Governor had donated?

Hon. Evans Mawira Kaaria: I saw it in a video circulated on social media.

Mr. Elias Mutuma: Kindly, let us play video MP16. Hon. Senators, I should warn you that it is not a very pleasant video to watch, but we have no choice.

(A video clip was played)

You can see the cow is still alive. Is that right, Mr. Mawira? You can see it is kicking its legs.

Hon. Evans Mawira Kaaria: It has just been slaughtered.

Mr. Elias Mutuma: I am interested in what happens at the end. You can stop there. Thank you.

That is the same song sung in the procession led by the Deputy Governor.

Hon. Evans Mawira Kaaria: According to the video, yes.

Mr. Elias Mutuma: In fact, the people slaughtering the cow are making certain threats. I know you have understood what they have said. Kindly, tell the Senators what they are saying.

Hon. Evans Mawira Kaaria: They are sending threatening messages to the Governor of Meru County.

Mr. Elias Mutuma: What specific threatening messages?

Hon. Evans Mawira Kaaria: That they will slaughter the Governor the same way they have slaughtered the cow.

Mr. Elias Mutuma: That is what they are saying?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: So, in your assessment, Mr. Mawira, between the Governor and the person who seeks to remove her from office with that kind of violence, who has demonstrated gross violation and dishonor to the office?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I am not able to attribute this violence to the Deputy Governor. Therefore, I will not be able to rightfully answer that question.

Mr. Elias Mutuma: Mr. Mawira, you confirmed that you had seen that video before.

Hon. Evans Mawira Kaaria: The one for slaughtering the cow?

Mr. Elias Mutuma: Yes.

Have you summoned or sought to impeach the Deputy Governor based on his conduct?

Hon. Evans Mawira Kaaria: Based on the slaughtering of the cow?

Mr. Elias Mutuma: Based on his conduct.

Hon. Evans Mawira Kaaria: Which specific conduct?

Mr. Elias Mutuma: The one we have just witnessed, Mr. Mawira.

Hon. Evans Mawira Kaaria: The one of leading the chant?

Mr. Elias Mutuma: Yes.

Hon. Evans Mawira Kaaria: No. We have not.

Mr. Elias Mutuma: Mr. Mawira, if the Governor who is a woman is called a prostitute by her own Deputy Governor--- If a cow is slaughtered and people from the Deputy Governor's backyard threaten to slaughter her the same way, is the Governor not entitled to respond to such threats?

Hon. Evans Mawira Kaaria: She is.

Mr. Elias Mutuma: So, when she responds to such threats, what is gross? Her response or the act that triggered the response?

Hon. Evans Mawira Kaaria: She has not responded to that. I am not aware of that.

Mr. Elias Mutuma: You have also brought evidence to show that the Deputy Governor has been vilified and demeaned by what you are calling arbitrary relocation of the Deputy Governor's Office.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: I want you to go to pages 227, 228 and 229 on volume two of your documents. Let us begin with page 227. This letter is communicating the organization of the Office of the Governor, all CECMs and all Chief Officers. You confirm that is the position?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Do you confirm that is the position?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: The letter confirms that a decision has been made. The letter is clear that in order to ensure that the departments align their roles and responsibility with the priorities and objective set out in the Governor's manifesto, there has been a reorganisation of certain offices. Do you confirm that is the position?

Hon. Evans Mawira Kaaria: That is true.

Mr. Elias Mutuma: The Deputy Governor is given a wing to preside over the old County Government Headquarters. Is that what the letter says?

Hon. Evans Mawira Kaaria: Yes.

The Speaker (Hon. Kingi): Counsel, you have 15 minutes.

Mr. Elias Mutuma: Thank you, Mr. Speaker, Sir. So, who are listed as the other departments that the Deputy Governor will be in charge of?

Hon. Evans Mawira Kaaria: It is not indicated that he will be in charge of, but it indicates that, that old County Government Headquarters shall house and then it lists out those other departments.

Mr. Elias Mutuma: Thank you. Let us go to the second letter on page 228. Mr. Mawira, you confirm there is nothing arbitral about this letter because it affected the entire Executive?

Hon. Evans Mawira Kaaria: It is arbitral in the common sense that the Deputy Governor cannot just be moved from his office to the old Government buildings by the chief of staff who is a junior officer to the deputy governor.

Mr. Elias Mutuma: Let us go to the document on page 228. It is a letter; a memo by the deputy governor to the county secretary. Okay?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: The Deputy Governor states at paragraph two-

"My office was moved to the County Government Headquarters Annex, formerly Meru Municipality Offices. The offices that the Deputy Governor has been moved into, is not sufficient to execute my constitutional duties. For efficiency in service delivery to the people of Meru County, I request for additional offices for the following purposes:---" He then lists them.

Has there been any response to that letter, Mr. Mawira, on page 229?

Hon. Evans Mawira Kaaria: Yes, there is a response.

Mr. Elius Mutuma: What does the letter say? For the sake of time, let me read.

“Kindly note that we have an acute shortage of offices. However, as you may be aware, your office is the largest in terms of floor area and can be modified to create more space to facilitate you in execution of your constitutional mandate. Kindly, your Excellency, if it pleases you, our directorate of office accommodation will be available to make the adjustments as you require.”

Mr. Mawira, you confirm that the office that the Deputy Governor was given the offices where Gov. Kiraitu sat for the better part of his term?

Hon. Evans Mawira Kaaria: From the letters, I cannot confirm. But I am aware that is the office that he was relocated to.

Mr. Elius Mutuma: You also confirmed that it is the office where Gov. Munya sat throughout?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elius Mutuma: That office was good enough for a Governor and not good enough for a Deputy Governor? Is that what you are telling the Senate?

Hon. Evans Mawira Kaaria: It was then and that is why new offices were brought up to accommodate the Governor and the Deputy Governor, who then was Kiraitu Murungi and the Deputy Governor, Hon. Titus Ntuchiu, moved to the new building.

Mr. Elius Mutuma: Mr. Mawira, is there anything impeachable with the Deputy Governor being given a different office, where he is in charge of departments?

Hon. Evans Mawira Kaaria: The allegation was in support of the count on vilification, demeaning and incitement. So, it adds to the weight of the evidence.

Mr. Elius Mutuma: This was the evidence used to impeach the governor? Am I right?

Hon. Evans Mawira Kaaria: Yes, because it was used to substantiate vilification, demeaning and incitement.

Mr. Elius Mutuma: Let us go to the ground on the contempt of Assembly. Mr. Mawira, you confirmed that the Governor was first invited to appear before the House Committee.

Hon. Evans Mawira Kaaria: Yes, she was.

Mr. Elius Mutuma: Which date was that and vide what letter? Go to Page 408 of the Governor’s exhibit of documents.

Hon. Evans Kaaria Mawira: I am there.

Mr. Elius Mutuma: That letter is the one dated 6th October, 2023. The letter says it is an invitation to appear before the Sectoral Committee on Justice, Legal Affairs and Cohesion. The Governor gave an explanation as to why she did not honour the invitation. Are you aware of that letter?

Hon. Evans Mawira Kaaria: Yes, it is on page 415, addressed to the Speaker of the County Assembly of Meru.

Mr. Elias Mutuma: Sorry, Mr. Speaker, Sir. That is not the one. The Governor gave an explanation that she could not attend the invitation because she was attending a meeting of the Deputy President of Kenya. You are aware of that?

Hon. Evans Mawira Kaaria: Yes, I am aware of that.

Mr. Elias Mutuma: She asked that the appearance at the County Assembly be rescheduled?

Hon. Evans Mawira Kaaria: That was our request.

Mr. Elias Mutuma: Was that request honoured?

Hon. Evans Mawira Kaaria: There was a rescheduling of dates to appear in the Assembly.

Mr. Elias Mutuma: Kindly show me where the reschedule appears. You are talking about the document appearing on page 413 of our bundle. Is that a second invitation to your best knowledge and understanding?

Hon. Evans Mawira Kaaria: That was a summon.

Mr. Elias Mutuma: So, the Governor's request for rescheduling of the appearance through an invitation was not even responded to?

Hon. Evans Mawira Kaaria: It was now responded through a summons.

Mr. Elias Mutuma: So, the Governor tells you that she is attending another meeting in Nairobi for the Deputy President and she asks for a reschedule, then what happens next is that she was summoned?

Hon. Evans Mawira Kaaria: Yes, that is what happened.

Mr. Elias Mutuma: Mr. Speaker, Sir, does the witness appreciate the difference between an invitation and summons?

Hon. Evans Mawira Kaaria: Summons are issued when you fail to honour invitations.

Mr. Elias Mutuma: Did the Governor fail to honour the invitation?

Hon. Evans Mawira Kaaria: I want to be refreshed on the letter she sent to the Assembly. That is what I am asking my counsel. Let me refresh my mind by referring to the letter that she sent explaining why she could not appear.

Maybe, we can proceed as we source for that letter.

Mr. Elias Mutuma: I put it to you that the Governor's request was to reschedule the meeting.

Hon. Evans Mawira Kaaria: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: Hon. Mawira, what was the wisdom of summoning the Governor with penal consequences after she has sought to be excused and for rescheduling?

Hon. Evans Mawira Kaaria: I am trying to get the letter that the Governor requested for rescheduling of the meeting.

Mr. Elias Mutuma: I only have five minutes, Hon. Mawira. So, kindly answer my question. What was the wisdom of issuing summons when the Governor had made a valid request? First of all, was it a valid request for the Governor to seek for postponement and rescheduling in light of her programmes?

Hon. Evans Mawira Kaaria: Yes. It was valid.

Mr. Elias Mutuma: Normally as a county assembly---

Hon. Evans Mawira Kaaria: But the reason why I am insisting on getting the letter is because I recall that the reason the Governor stated as to why she could not appear, she said it was because the invitation letter had been sent in a short span of time.

Mr. Elias Mutuma: Assuming that is even the reason, that the notice was short, is it not then a more valid reason as to why the governor should ask for a postponement?

Hon. Evans Mawira Kaaria: No, because the Governor was in Meru. If that would have been the reason.

Mr. Elias Mutuma: Did the Speaker communicate that fact that the Governor was not going to travel to Nairobi and that she would still be in Meru and, therefore, forming the basis of the summons?

Hon. Evans Mawira Kaaria: No.

Mr. Elias Mutuma: Hon. Mawira then if I put it to you that the summons were ill advised and unwarranted, would you agree with me?

Hon. Evans Mawira Kaaria: They were issued at the discretion of the Speaker of the County Assembly.

Mr. Elias Mutuma: I am asking a simple question. If I put it to you that the issuance of the summons was unwarranted in the circumstances, would I be right?

Hon. Evans Mawira Kaaria: No.

Mr. Elias Mutuma: Why?

Hon. Evans Mawira Kaaria: Because if the Governor was in Meru there is no way she could not have found a little time to come and address matters of grave importance to the County of Meru.

Mr. Elias Mutuma: Is there anywhere in our statutes where the offence of contempt of Assembly is defined?

Hon. Evans Mawira Kaaria: It is a requirement of the rule of law.

Mr. Elias Mutuma: A simple question. Is there anywhere in our statutes where contempt of assembly is defined?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I beg my mind to be refreshed by the counsel because there is an Act of the County Government; the County Assembly, Powers and Privileges Act---

Mr. Elias Mutuma: Which states?

Hon. Evans Mawira Kaaria: In volume three, Section 22, page 62, it states that--
"No public officer shall refuse to produce before a county assembly or a committee any paper or book record."

Sub-section two, also states---

Mr. Elias Mutuma: Hon. Mawira is there any offence known as contempt of assembly?

Hon. Evans Mawira Kaaria: Yes, the law is clear. County Assemblies Powers and Privileges Act, that is, in volume three of our documents, there is a whole part five, explaining on invitation and summoning of witnesses to the County Assembly and also the consequences.

Mr. Elias Mutuma: What are those consequences?

Hon. Evans Mawira Kaaria: Section 22 (3) states-

“Where a county assembly passes a resolution that a county public officer has contravened subsection one, the resolution of the county assembly shall constitute a ground for removal from office of the county public officer in accordance to the Constitution or any applicable law.”

Mr. Elias Mutuma: Mr. Mawira, you have confirmed that the summons to the Governor were not warranted in the circumstances?

Hon. Evans Mawira Kaaria: I have not confirmed that.

Mr. Elias Mutuma: Mr. Speaker, Sir, thank you for the opportunity. I beg for 20 more minutes there is a crucial issue on the Integrated Financial Management Information Systems (IFMIS) that I would like to touch on. I would like to take the witness through this issue.

The Speaker (Hon. Kingi): I will give you 15 minutes.

(The Hon. Speaker spoke off record)

Mr. Elias Mutuma: I understand. Thank you, Mr. Speaker, Sir. Mr. Mawira, you accuse the Governor of embezzling funds through her relatives. One of those relatives is Nephath Kinyua.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: We confirmed that there is no evidence to support the assertion that Nephath Kinyua is a relative to the Governor. With the fact that Nephath Kinyua works in the office of the Deputy Governor in mind, let us go through the IFMIS report.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I beg to inform this House that Mr. Nephath Kinyua is not working in the Deputy Governor’s office. However, he is the Acting Director for External Linkages.

Mr. Elias Mutuma: Is that your evidence before the Senate?

Hon. Evans Mawira Kaaria: Yes, the evidence is adduced.

Mr. Elias Mutuma: Thank you. I am getting you a letter to confirm. Let us open page 345 of our documents, the Governor’s response. What is the date of the letter?

Hon. Evans Mawira Kaaria: The date is 8th September 2022.

Mr. Elias Mutuma: The title is ‘Deployment of Nephath Kinyua to the Office of the Governor as an administrator. This administrator is in the office of the Deputy Governor.

Hon. Evans Mawira Kaaria: On the contrary, on page 347 of the said document, there is a letter deploying Mr. Nephath Kinyua at the Directorate of External Partnerships to perform the functions of the office of the Director of External partnerships dated 9th March, 2023.

Mr. Elias Mutuma: Is this the letter appearing on page 347?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: It confirms that the position held by Mr. Nephath Nyaga is in an acting capacity.

Hon. Evans Mawira Kaaria: The letter states that Mr. Nephath Kinyua Meme was being redeployed.

Mr. Elias Mutuma: Yes. He was deployed at the Directorate of External Partnership Affairs to perform the functions of the office of the Director of External Partnership. He was deployed with immediate effect and awaiting the recruitment of a substantive director. Do you confirm that he was only acting in this position?

Hon. Evans Mawira Kaaria: There is nowhere indicated that he is in an acting capacity, but the letter reads---

Mr. Elias Mutuma: Nevertheless, because I am pressed for time, you have accused the Governor of embezzling funds through Mr. Nephath Kinyua, I want to take you through your document on page 22 of volume two.

Hon. Evans Mawira Kaaria: I am there.

Mr. Elias Mutuma: There is a specific entry, voucher No. 5755---

Hon. Evans Mawira Kaaria: On which page?

Mr. Elias Mutuma: Page 22 of your document.

Hon. Evans Mawira Kaaria: Let us proceed.

Mr. Elias Mutuma: Read for me the voucher number. This is your IFMIS extract attached to your document.

Hon. Evans Mawira Kaaria: Which voucher number?

Mr. Elias Mutuma: It is voucher number 57552. Can you see it?

Hon. Evans Mawira Kaaria: Kindly guide me.

Mr. Elias Mutuma: It is entry No. 10

Hon. Evans Mawira Kaaria: 7572

Mr. Elias Mutuma: Page 22, entry No. 10.

Hon. Evans Mawira Kaaria: Is it 57589?

Mr. Elias Mutuma: Hon. Mawira, entry No.10 in invoice No. 57552. The documents that appear first.

Hon. Evans Mawira Kaaria: 57562?

Mr. Elias Mutuma: Yes, 57562.

Hon. Evans Mawira Kaaria: 57562.

Mr. Elias Mutuma: Okay, that is a payment to Nephath Kinyua Meme, right?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: The date of that payment is 15th February, 2023. The amount is Kshs54,000.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: That is your document that you relied on?

Hon. Evans Mawira Kaaria: The amount is Kshs84,000.

Mr. Elias Mutuma: That is your own extract?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: You are saying the governor embezzled funds through this specific payment. Was that your evidence?

Hon. Evans Mawira Kaaria: This is part of the evidence I had used.

Mr. Elias Mutuma: I want you to go to page 51 of our bundle of documents. Let us go straight to page 54, forget about 51. There is a letter there.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: That letter seeks for facilitation of the deputy governor's trip to Nairobi from 7th to 9th February, 2023.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: The next page is 55.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: It confirms payments were done and there were people who received money courtesy of this request. Who was the first beneficiary of that payment?

Hon. Evans Mawira Kaaria: H.E. Isaac Mutuma.

Mr. Elias Mutuma: The second?

Hon. Evans Mawira Kaaria: Nephat Kinyua

Mr. Elias Mutuma: The Third?

Hon. Evans Mawira Kaaria: Francis Mukira and Christopher Gitonga.

Mr. Elias Mutuma: I want you to confirm that payment had nothing to do with the Governor and that is the payment that was done on 15th February, 2023.

Hon. Evans Mawira Kaaria: It had nothing to do with the personality of the Governor, but it arose from the office of the Governor.

Mr. Elias Mutuma: But the beneficiaries and people who signed for that money are listed there.

Hon. Evans Mawira Kaaria: Yes, they are listed.

Mr. Elias Mutuma: Let us go to page 21 again of your own document. Are we there?

Hon. Evans Mawira Kaaria: Yes, I am there.

Mr. Elias Mutuma: I am looking at invoice No. 66549. That is entry No. 14.

Hon. Evans Mawira Kaaria: Voucher No. 66649.

Mr. Elias Mutuma: Confirm the person who was paid money is one Nephat Kinyua Meme.

Hon. Evans Mawira Kaaria: Yes, he is the one.

Mr. Elias Mutuma: Let us go to page 58 of our response.

Hon. Evans Mawira Kaaria: I am there.

Mr. Elias Mutuma: Do you confirm that there is a voucher that bears the same number at the top.

Hon. Evans Mawira Kaaria: Yes, 66649.

Mr. Elias Mutuma: Thank you. That invoice is supported by the letter at page 61 of the same documents.

Hon. Evans Mawira Kaaria: Page 61 is facilitation for travel on 23rd December, 2022.

Mr. Elias Mutuma: Who requested for facilitation?

Hon. Evans Mawira Kaaria: Nephat Kinyua.

Mr. Elias Mutuma: On whose behalf is he making that request?

Hon. Evans Mawira Kaaria: On behalf of the chief of staff.

Mr. Elias Mutuma: Who are the beneficiaries of that trip?

Hon. Evans Mawira Kaaria: The beneficiaries are Isaac Mutuma, Aggrey Litinyi---

Mr. Elias Mutuma: Isaac Mutuma is the Deputy Governor, right?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: On the next page is a list of people who received that money and signed against it.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, the list that I have here is not signed against.

Mr. Elias Mutuma: Page 62?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: The name appears as Isaac Mutuma

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, they appear, but they have not signed against their names.

Mr. Elias Mutuma: But you can confirm that this is a list that was made indicating the beneficiaries of this payment?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, it indicates the beneficiaries, but I cannot tell if it is in support because it is not signed.

Mr. Elias Mutuma: I could go on and on, but let me pick just a few more. I have five minutes only. Let me go to page 27

Hon. Evans Mawira Kaaria: Of your document?

Mr. Elias Mutuma: Page 27 of your document.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I am there.

Mr. Elias Mutuma: Again, at Voucher No.69719. Again, the payee is Nephat Kinyua.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Receiving an amount there.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: Let us go to page 67.

Hon. Evans Mawira Kaaria: Of which bundle?

Mr. Elias Mutuma: Of our bundle.

Hon. Evans Mawira Kaaria: Which page?

Mr. Elias Mutuma: Page 67.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I am there

Mr. Elias Mutuma: That is a request for facilitation.

Hon. Evans Mawira Kaaria: No, Mr. Speaker, Sir. Page 67

Mr. Elias Mutuma: Yes.

Hon. Evans Mawira Kaaria: It is a request for something that is not visible. It is a standing imprest or something. Yes, it is standing imprest.

Mr. Elias Mutuma: Go to page 69. Confirm that the number of vouchers appearing there is the same number of the voucher where Nephat has been paid on page 27.

Hon. Evans Mawira Kaaria: Page 27?

Mr. Elias Mutuma: Page 69.

Hon. Evans Mawira Kaaria: On page 69, 719 is the voucher number, but the voucher has not been signed by anyone at all.

Mr. Elias Mutuma: But is it the same number?

Hon. Evans Mawira Kaaria: Yes, it is the same.

Mr. Elias Mutuma: Page 72 is a letter requesting the deputy governor to be facilitated.

Hon. Evans Mawira Kaaria: Yes, it says the Deputy Governor who travelled to Nairobi---

Mr. Elias Mutuma: Page 74 has a list of the people who were paid for and on behalf of the deputy governor

Hon. Evans Mawira Kaaria: The list is there, but not accompanied by their signatures.

Mr. Elias Mutuma: Mr. Mawira, I have less than three minutes. When the Deputy Governor or the Governor are traveling, they receive facilitation money in their accounts. Do they?

Hon. Evans Mawira Kaaria: They do sometimes, but other times they do not.

Mr. Elias Mutuma: The other times that they do not, their PAs and administrators receive that money for their travel and facilitation?

Hon. Evans Mawira Kaaria: Sorry.

Mr. Elias Mutuma: The other times when the money is not deposited in the governor's or deputy governor's accounts, is an instance where that money is deposited in the account of the PA or the administrator.

Hon. Evans Mawira Kaaria: It is not necessarily that it must be the PA or the administrator, but any officer designated.

Mr. Elias Mutuma: Mr. Mawira, you are lying to this Senate. Let me refer you to page 350 of our document.

Hon. Evans Mawira Kaaria: Of your document?

Mr. Elias Mutuma: Yes, you made a *Facebook* post clarifying who receives money for facilitation for and on behalf of the governor and the deputy governor. Are you there?

Hon. Evans Mawira Kaaria: Ye, Mr. Speaker, Sir, I can read the post.

Mr. Elias Mutuma: I do not want you to read because we are pressed for time. Do you confirm that there is nothing wrong with the Governor's PA receiving money for the facilitation of a valid trip? Is that what you stated in that *Facebook* post?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, I did that, but I also wrote a condition that only that person whose money has been channelled through, needs to account and surrender for the sum of money they received.

Mr. Elias Mutuma: That takes me to my last question. You talked about pre-payments.

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: You understand that offices are run through imprest. Imprest is money given to an officer to utilise and upon utilising, they account for the same?

Hon. Evans Mawira Kaaria: Yes.

Mr. Elias Mutuma: So, there is nothing wrong if an officer receives money as long as they account.

Hon. Evans Mawira Kaaria: There is something wrong if you get that money and you do not account and surrender for the same.

Mr. Elias Mutuma: To the best of your knowledge, has there been any audit in respect of all the monies that were sent to the Governor's or Deputy Governor's PA to confirm that no supporting documents were surrendered?

Hon. Evans Mawira Kaaria: Even though there was no audit, you yourself have not adduced enough evidence to show that that money was accounted for.

The Speaker (Hon. Kingi): Hon. Mawira, it is not up to counsel to adduce any evidence. It is up to you. You brought your case here, you need to prove it.

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, we have done that.

Mr. Elias Mutuma: Have you brought any audit report to suggest that those imprest were never surrendered with supporting documents?

Hon. Evans Mawira Kaaria: No audit report.

Mr. Elias Mutuma: Mr. Speaker, Sir, that is all for this witness.

The Speaker (Hon. Kingi): Thank you. Now, counsel for the County Assembly, do you need to do a re-examination, or you are comfortable? If you have to do re-examination, you have 10 minutes.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, it will be done by my learned friend, Mr. Boniface Mawira and he will stick to the 10 minutes.

Mr. Boniface Mawira: Mr. Speaker, Sir, my name is Mr. Mawira Mwereru.

Mr. Evans Mawira, I start with the video that was played by the governor. In that video where we have seen a cow being slaughtered, can we see the deputy governor or has reference been made to the deputy governor?

Hon. Evans Mawira Kaaria: He is nowhere to be seen.

Mr. Boniface Mawira: So, can that video be attributed to the deputy governor?

Hon. Evans Mawira Kaaria: No.

Mr. Boniface Mawira: In Volume two of your documents from page 1 to 29, you have annexed an IFMIS extract. It is specifically from page 17 to 29, correct?

Hon. Evans Mawira Kaaria: Yes, it is.

Mr. Boniface Mawira: IFMIS extract is for the office of the Governor, that is the title. The payment details are between 1st July, 2022 and 7th July, 2023.

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: It has a time stamp on the bottom left corner.

Hon. Evans Mawira Kaaria: Yes, it has.

Mr. Boniface Mawira: Has the Governor produced an alternative IFMIS extract?

Hon. Evans Mawira Kaaria: None whatsoever.

Mr. Boniface Mawira: Do the IFMIS receipts from page 105 of the governor's response have a time stamp?

Hon. Evans Mawira Kaaria: They do not.

Mr. Boniface Mawira: Does it say the office of which it emanates or the duration?

Hon. Evans Mawira Kaaria: It does not state.

Mr. Boniface Mawira: So, which of these two IFMIS extracts should we believe?

Hon. Evans Mawira Kaaria: The one with a time stamp and duration.

Mr. Boniface Mawira: You have been referred by the Governor's counsel to page 22 of volume two. That is the IFMIS extract, voucher No. 57562. Can you see it?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: What is the amount indicated on that voucher No.?

Hon. Evans Mawira Kaaria: Kshs84,000.

Mr. Boniface Mawira: Mr. Speaker, Sir, a moment for me to get to that point. That voucher No. is with respect to who? Or who was it issued to?

Hon. Evans Mawira Kaaria: It was issued to Nephath Kinyua.

Mr. Boniface Mawira: The Governor's counsel has referred you to page 54 of their volume two. Correct?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: We see that this trip was made between the 7th to 9th of February 2023. Correct?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: Now, come to Volume two page 22. That specific voucher No. 57562. Correct?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: I can see the amount there is Kshs84,000. Does it correspond with the amount that is on page 55?

Hon. Evans Mawira Kaaria: No. The amount on page 55 is Kshs126,000.

Mr. Boniface Mawira: So, there is an anomaly there?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: Turn to page 57. Has that voucher provided there been signed or examined by the relevant officers?

Hon. Evans Mawira Kaaria: It has not been signed by the relevant officers.

Mr. Boniface Mawira: Have you confirmed that it is still for Nephath Kinyua?

Hon. Evans Mawira Kaaria: Yes, it is.

Mr. Boniface Mawira: Is it examined?

Hon. Evans Mawira Kaaria: No.

Mr. Boniface Mawira: Is it signed?

Hon. Evans Mawira Kaaria: No.

Mr. Boniface Mawira: Okay. Turn to page 58 of the Governor's index. You have been referred to voucher No.6649. What is the difference between voucher No.6649 and the one on page 57?

Hon. Evans Mawira Kaaria: The one on page 58 has been signed by the examiner, the accountant, the Authority to Incur Expenses (AIE) holder and the director of accounts. The one on page 57 is not signed by even a single officer.

Mr. Boniface Mawira: Okay. So, those are glaring differences.

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: So, we cannot say for a fact that the vouchers appearing on those two separate pages have met all the specifications and all the requirements before the imprest is released.

Hon. Evans Mawira Kaaria: Sorry, come up again.

Mr. Boniface Mawira: You cannot say for a fact that the monies that are represented by these two vouchers are regular because one is signed by all the required officers and the other one is not signed.

Hon. Evans Mawira Kaaria: I confirm.

Mr. Boniface Mawira: You can confirm that the IFMIS receipt I have just shown to you that is annexed to the governor's response is just a Microsoft Word table, no time stamp, no nothing.

Hon. Evans Mawira Kaaria: It is not system generated. It is just a creation of a computer.

Mr. Boniface Mawira: Yes, and the Governor has not produced an alternative IFMIS extract.

Hon. Evans Mawira Kaaria: None whatsoever.

Mr. Boniface Mawira: An alternative IFMIS extract?

Hon. Evans Mawira Kaaria: None whatsoever.

Mr. Boniface Mawira: Have you in the Impeachment Motion stated the motor vehicle registration numbers of the county government vehicles that were in Makiri rally that turned violent?

Hon. Evans Mawira Kaaria: No. I have not indicated the number.

Mr. Boniface Mawira: So, you will agree that the motor vehicle searches are not relevant. This is because you have not made reference to a single motor vehicle registration number in the Motion.

Hon. Evans Mawira Kaaria: They are not relevant in this case.

Mr. Boniface Mawira: Does the fact that you attended an *Okolea* rally provide a defence or sanitize the obvious irregularity of conflicting *Okolea*, which is a private charity with the official Government functions and programmes?

Hon. Evans Mawira Kaaria: It cannot.

Mr. Boniface Mawira: Does the allegation that you supported that *Okolea* rally with Kshs100, 000 sanitize that irregularity?

Hon. Evans Mawira Kaaria: It cannot regularize the doctrine of conflicting Government resources and private charities.

Mr. Boniface Mawira: You have shown on our volume two pages 87---

The Speaker (Hon. Kingi): Counsel, your time is up. One question and wind up.

Mr. Boniface Mawira: Mr. Speaker, Sir, with your kindness, can I have five minutes? I have more than five more questions to go.

The Speaker (Hon. Kingi): Your time is up, counsel. One question and you wind up. That gentleman may faint. Have mercy on Hon. Evans.

Mr. Boniface Mawira: I am guided accordingly, Mr. Speaker, Sir. You have pointed to a letter appearing on page 86 of our volume two.

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: That is the facilitation to travel.

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: Where the Governor's name appears.

Hon. Evans Mawira Kaaria: Yes, it appears.

Mr. Boniface Mawira: When is the letter on page 86 dated?

Hon. Evans Mawira Kaaria: 5th June, 2023.

Mr. Boniface Mawira: When is the letter on page 87 dated?

Hon. Evans Mawira Kaaria: 6th June, 2023.

Mr. Boniface Mawira: So, the letter by the County Secretary on page 87 of our volume two was written a day after the letter on page 86?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: And the Governor is not listed on Meru County delegation that is travelling to China?

Hon. Evans Mawira Kaaria: I can confirm.

Mr. Boniface Mawira: From that letter?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: Has the Governor presented the identities of these people who she said are part of the real technical team, her relatives being an advance team?

Hon. Evans Mawira Kaaria: Sorry?

Mr. Boniface Mawira: Has the Governor presented the identities of the people she says are the real technical team, her relatives being an advance team? Are their identities or their request for clearance presented before this hon. House?

Hon. Evans Mawira Kaaria: Repeat.

Mr. Boniface Mawira: My question is; the Governor says that her relatives went as part of an advance team. I am now asking, have the identities of these people who were to go as part of the technical team, given that she alleges that her relatives were part of an advance team. Have the identities of these persons been disclosed?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: Where? The people who were to go after the travel.

Hon. Evans Mawira Kaaria: No. Sorry. No identity has been disclosed.

Mr. Boniface Mawira: The Governor is appearing on page 86 together with her siblings, which she says they are part of the advance team?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: So, could the Governor have travelled with the relatives as part of the advance team while, at the same time, alleging that she was to travel with the other people who were to travel after this advance team?

Hon. Evans Mawira Kaaria: Depending on this letter, there could not have been any other team that was to travel.

Mr. Boniface Mawira: There is no possibility of another team?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: This was the only team?

Hon. Evans Mawira Kaaria: Yes.

Mr. Boniface Mawira: And the Governor's relatives were part of the technical team?

Hon. Evans Mawira Kaaria: Yes.

The Speaker (Hon. Kingi): Counsel, if it hits 10.20, you will have to yield the microphone.

Mr. Boniface Mawira: One last question.

The Speaker (Hon. Kingi): One minute.

Mr. Boniface Mawira: Very well, Mr. Speaker, Sir. All the allegations that you have made and presented the evidence, the work ticket number 824574 has been used 17 times, has the government discounted that work ticket has been used 17 times?

Hon. Evans Mawira Kaaria: Nowhere.

The Speaker (Hon. Kingi): You said the last question. That was indeed the last. So, counsel, you may have to yield the microphone.

Mr. Boniface Mawira: Very well, Mr. Speaker, Sir. Thank you for your patience.

The Speaker (Hon. Kingi): Hon. Senators, pursuant to Rule 23 of the Third Schedule, you have the opportunity to seek clarification or ask questions. I will give you 20 minutes to do that so that from 10.40 p.m. we embark on the two witnesses and wind up.

Proceed, Sen. Olekina.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I just need to seek a couple of clarifications. One is with the lawyers of the County Assembly and I would like to take you to page 386 of your documents on volume two.

If you can clarify the letter, which is indicated there; submissions of nomination list for candidates interviewed for the post of chief officer in the county, has got two dates. One, is November 11th which happens to be my birthday and the other one is October 9th, 2023. Which is which?

I will direct the other two questions to the witness. First, in your evidence in chief, you indicated that when Government officials are traveling and where the expenses are paid for by the party inviting them, they receive quarter per diem.

In the cross examination, you indicated that no money was lost. Could you clarify that?

Third, one simple question is in terms of the IFMIS. Is IFMIS the final proof of payment or is there any other way that you can tell that money has been paid?

Finally, on the issue to do with the Public Finance Management (PFM) Act, I have heard you make many submissions in terms of the PFM Act. You alluded to the fact that there was a lot of embezzlement of funds and money was being withdrawn. My question is, who is the head of the county treasury? Is it the county governor or someone else as per the PFM Act?

The Speaker (Hon. Kingi): Proceed, witness.

Hon. Evans Mawira Kaaria: The first question was directed at the counsel.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, the question on the two dates is on page 386 of our bundle. The date of 9th October, 2023 is in our volume two. The date that is typed, is the date when the memo in question was authored and that is the date inserted by the author.

The date of 9th October, just shows when the document was served upon the County Assembly. So, there is only one date on the document that relates to its authorship. The other date is for the date. It is a routine when documents are served, they are stamped as received. That letter is also an attachment to the letter at page 384. That is where the confusion is coming from.

Mr. Speaker, Sir, all of them having been received on 9th October bear the stamp of 9th. The date of the stamp is not the date of the authorship. That is what I am trying to say.

Is IFMIS the final proof of payment? It is the official system of the Government of Kenya for public finance management. We do not have any other. If payments are indicated there, as having been made, then there is no other way to confirm whether those payments were made because they will not be keyed there as having been made if they have not been made.

While on this matter, there is no challenge even from the Governor herself as to the authenticity of this IFMIS. Who is the head of the county treasury? It is the CECM Finance or any other person designated under the PFM Act as the accounting officer. Sometimes, it is the chief officer who is so designated. However, the issue here is that people at certain levels only act through subordinates. It is never is an answer to say, it was not me.

Mr. Speaker, Sir, if that was the approach, no CEO would ever be responsible for anything. They would always say, it was someone else. Why are they in that office, if they can only take its glory, power and prestige, but no responsibility for whatever goes wrong there?

On that question, there is Section 39 of the County Governments Act. It says members of the county executive committee who include the Governor and the CECMs are individually and collectively accountable to the Governor in the exercise of their powers and performance of their duties and responsibilities.

So, if these persons are individually and collectively answerable to the governor, it means that the governor superintends them. Can she throw them under the bus when things go terribly wrong, like they have gone now, but if things go well, she takes the credit?

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Thank you. Is there any question that has not been answered by your lawyer?

Hon. Evans Mawira Kaaria: Mr. Speaker, Sir, some were supposed to be answered by me, but the counsel has done so.

The Speaker (Hon. Kingi): We will move to Sen. Thang'wa.

Sen. Thang'wa: Asante sana, Bw. Spika. Niko na maswali mawili na nitauliza kwa lugha ya Kiswahili. Tulionyeshwa kwa video, wimbo ambao walikuwa wakiimba - *Wenye Wivu Wajinyonge*. Mhe. Mawira, uko na wivu?

Hon. Evans Mawira Kaaria: Not at all.

Sen. Thang'wa: Nilitaka kujua hivyo tuu. Bw. Spika, katika nakala ya pili, kutoka *County Assembly* ya Meru, kurasa ya saba hadi 29 ni ile wanaita *IFMIS printout*. Katika *column 3*, imeandikwa *sub-item description* na kuna *pre-payments* kutoka mwezi wa Julai, 2022 hadi ukurasa wa 29, Julai 6, 2023. Huo ni mwaka mmoja.

Katika hio *sub-item* ya *pre-payment*, zimelipwa 410, kwa watu tofauti, ikiwemo huyo muungwana anaitwa Meme aliyetajwa hapa mara kadhaa. Swali langu ni kwamba amekuwa akilaghai kupitia huyo mtu ama wale ambao ni ndugu---

(Sen. Thang'wa microphone went off)

The Speaker (Hon. Kingi): Hon. Senators, avoid many speeches and go straight to the questions. I will allow you to conclude your question.

Sen. Thang'wa: Bw. Spika, nataka utuelezee kama ni ukweli alikua analaghai kupitia familia na kama hao wengine wote wamepewa pesa, anajua hangelaghai kupitia hao. Angelaghai tu kupitia wale watatu ametaja lakini sio wale wengine 300 ambao wamepewa pesa hizo.

The Speaker (Hon. Kingi): Proceed, hon. Evans Kaaria Mawira.

Hon. Evans Mawira Kaaria: Thank you, Mr. Speaker, Sir. It is true we have indicated in our evidence that prepayments have been made not only to the Governor's relatives, but also other officers in the office of the Governor that have not been accounted for; there are no surrender documents to indicate that there was no embezzlement.

The Speaker (Hon. Kingi): Proceed, Sen. Omogeni.

Sen. Omogeni: Thank you, Mr. Speaker, Sir. First, I want to thank the counsels, Dr. Muthomi Thiankolu, Mr. Elias Mutuma and Mr. Elisha Ongoya for being outstanding this afternoon in prosecuting the respective cases of their clients.

I have two questions to Dr. Muthomi Thiankolu. There is a video that was played, I believe, to prove Count three, on making inciting, insulting and demeaning remarks; the one where Governor Kawira was giving a speech. I did not hear names being mentioned in the video. So, I just wanted to know about the people being referred to as cartels. I wanted to know where I can get the names of those 10 leaders.

Number two, on Pages 17 to 29 of volume two, these alleged payments to various people in the office of the Governor; some it is alleged have relationships. There are procedures in county governments for processing and making payments. Other than what you have given us, is there anywhere you can point out, where the Governor tried to coerce any officers to make these payments or that these payments were not made following the laid down procedures through the Public Finance Act? Is there anywhere---

(Sen. Omogeni's microphone was switched off)

The Speaker (Hon. Kingi): Counsel, proceed to answer those two questions.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, it is true that in the video that the Senior Counsel alludes to, there is no specific reference to any of the nine Members of Parliament. However, it is also true, and luckily the Senate has very many lawyers - you can confirm this - that you do not need to refer to someone specifically. Someone can be referred to by innuendo.

In that video, it is common knowledge that Meru County has nine MPs and one Woman Representative, making them 10. It is also common knowledge, both through that video and others and even the previous impeachment proceedings, that this reference to a cartel of 10 people is a reference to the Members of the National Assembly and the Senator for Meru County.

There is the question of whether the evidence at Page 17 to 29 is sufficient. Our answer is that it is. If on its face the problem that we flag is the problem of the 107 pre-payments running to Kshs78 million and when this matter is raised the Governor only accounts for Kshs2 million and even that accounting is only through documents. We have shown where one work ticket is used 17 times for four months. Clearly, it does not require any further substantiation.

A prima facie case was made, but the Governor did not respond to it and the attempt only made the matter worse.

I thank you.

The Speaker (Hon. Kingi): Sen. Methu, proceed.

Sen. Methu: Thank you, Mr. Speaker, Sir, for this opportunity to ask two quick questions to the witness. I congratulate him on his resilience for standing for seven hours. When the witness during the cross-examination was asked about the reasons they only provided IFMIS extracts, he alluded to the fact that they sought these documents from the County Executive Committee Member (CECM) for Finance and the documents were not available. Is there any evidence on record of you seeking the evidence from the CECM? If the CECM has been difficult, now that you are a Member of the County Assembly, is there anything that MCAs in the Meru County Assembly have done?

Finally, since this has been mentioned by the Counsel for the County Assembly, I wonder why it is easy for the witness to conclude that the work ticket is forged and not photocopied. The same is appearing two or three times. A keener look at it will show you that it is the same work ticket for different cars, different travels, and different months. Is there then no possibility that the work ticket could have been photocopied and used in the next month for a different car? I want the two clarifications.

Dr. Muthomi Thiankolu: Thank you, Mr. Speaker, Sir. Sen. Methu, it is true that we have adduced evidence to support the allegation that we sought information on the IFMIS extracts from the CECM, which is on page 30 of our volume two. This was done via a letter from the clerk. The response from the CECM is on Page 31 of our volume two, where the CECM declined. The question asked is whether we have done anything to the CECM. We decided to hit the nail on the head because these are monies expended in the office of the Governor. Furthermore, the County Government Act holds the governor culpable for the management of the resources of the county.

Number two on if the work tickets are not forged. I am guided that it is County Government's Act Section 30(3)(f) –

“In performing the functions under Sub-Section 2 the Governor will be accountable for the management and use of the county resources.”

Furthermore, the CECM for Finance is an appointee of the Governor. It is also not true that the work tickets are forged. There is no way you can use the same work ticket with the same serial number for January, March and April. This would be irregular.

The Speaker (Hon. Kingi): Thank you. Sen. Sifuna, proceed.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, was the question on the work ticket addressed to me?

The Speaker (Hon. Kingi): It was addressed to the witness, but you proceeded to answer.

Sen. Sifuna: Mr. Speaker, Sir, my first question goes to the Counsel for the Governor. Provide a time-lapse between the infamous prostitute video and the response of the Governor.

The second question is to the witness. What Government resources were used at the *Okolea* meetings? I am confused because in your evidence you have said it was not vehicles, you have also not provided the numbers of the vehicles. Make it clear what Government resources of the County Government of Meru were used at the *Okolea* meetings.

Finally, the Counsel for the Assembly should clarify whether in his understanding of Section 22 of the County Assembly's Powers and Privileges Act displayed on Page 62 of their volume three – That provision relates to appearances by the Governor before the Assembly or as I understand it, refusal to produce before a County Assembly or a committee any paper, book, record or document.

I want him to explain to me if, in his understanding, he thinks that the section applies to summons to appear or refusal to appear before the County Assembly as opposed to refusal to produce a paper, book, record or documents.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed.

Hon. Evans Mawira Kaaria: Thank you, Mr. Speaker Sir. No government resources were used in the *Okolea* rally. We have clearly indicated that in the sworn affidavit by the police officer who is charging the people who were alleged to have participated in the mayhem, it is clearly stated that County Government vehicles were stoned or damaged. Human personnel is also a county resource and we have established that there were county government employees who were in that rally and also participated in the *Okolea* rally, which is a private charity.

The Speaker (Hon. Kingi): Counsel for the Governor.

Mr. Elias Mutuma: Thank you, Mr. Speaker, Sir. To answer the question by Senator for Nairobi City County, I would like to refer the Senator to Pages 177 and 178 of the Assembly's volume two, to demonstrate a very simple fact. You will find extracts of *WhatsApp* messages adduced as evidence in support of the utterances and the sequence of those messages. When you look at the message appearing at Page 177, it shows the time is 21.16 and the next message is 22.16. On the next page, you will find that time going back to 2017 and 2018. This confirms then that it cannot be the same day when these messages were posted.

Our simple answer to the question is; the Governor was responding to a viral video that was sent in this group, showing the Deputy Governor chanting inciting songs against her. It is in that response that she said, "I will not be intimidated by these childish youths who have been mobilised by the DG". The Governor then pointed to that video that had been sent. Therefore, you could get a lot of distortion on dates because these messages keep on being copied and pasted. It is very difficult to tell whether this is from March or August because they do not follow a particular sequence.

Secondly, when you are in a *WhatsApp* group and you are responding to a specific message, you could actually press to refer to a specific message that was sent days

earlier. It does not necessary mean that what appears next is what was being responded to. It could be in respond to a video that was sent much earlier.

That is all, Mr. Speaker, Sir. Thank you.

The Speaker (Hon. Kingi): Counsel for the County Assembly, under one minute, please; we are running out of time.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, the question was about my understanding of Section 22, whether it relates to the refusal to obey summons or refusal to produce documents. On its face, it refers to refusal to produce documents. We showed you that refusal in Pages 30 and 31 of our volume two. The Section that speaks to the question my classmate, Sen. Sifuna, asked is Section 27. It is the one that relates to the offense of failure to obey summons and specifically Section 27(1), Paragraph A.

Mr. Speaker, Sir, the other thing to note is that these are not just statutory sections, they are the foundations is Article 195 of our Constitution without which both the Senate and the County Assembly will not be able to exercise their oversight function.

I thank you.

The Speaker (Hon. Kingi): Thank you. Hon. Senators, we have expended the 20 minutes and now, we will proceed.

Thank you, Hon. Evans Mawira Kaari, you may proceed to take your seat.

Hon. Evans Mawira Kaaria: Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Counsel for the County Assembly, you said that you have two witnesses and we have agreed that each will consume 10 minutes.

Dr. Muthomi Thiankolu: Much obliged, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): So, call the third witness.

(The Witness for Meru County Assembly (Hon. Mugambi Rindiki Murwithania) was ushered into the Chamber)

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, our third witness, is the Hon. Mugambi Rindikiri Murwithania, the Member of Parliament (MP) for Buuri Constituency.

The Speaker (Hon. Kingi): Exactly 10 minutes.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, the witness is in the Chambers and he will be cross-examined by my learned friend, Mr. Maranya Damisiano Mari.

(The Witness for Meru County Assembly (Hon. Mugambi Rindiki Murwithania) took the Oath)

Mr. Maranya Damisiano Mari: For the interest of time, Mr Speaker, Sir, I will begin.

Mr. Witness, kindly, for the interest of the HANSARD, introduce yourself in terms of your name and what you do for a living.

[The Speaker (Hon. Kingi) left the Chair]

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

Hon. Mugambi Rindikiri Murwithania: Thank you, Madam Temporary Speaker and Members of the Senate. My name is Mr. Mugambi Murwithania Rindikiri, a Member of Parliament of Buuri Constituency in Meru County.

Mr. Maranya Damisiano Mari: Thank you, Hon. Mugambi Murwithania. When were you elected as a Member of Parliament for Buuri Constituency?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, I was elected in 2017, and now, I am serving my second term.

Mr. Maranya Damisiano Mari: Would you kindly let us know the party that sponsored you to Parliament for this term?

Hon. Mugambi Rindikiri Murwithania: I am an elected Member of Parliament under the UDA Party.

Mr. Maranya Damisiano Mari: Did you record a statement in respect to the Impeachment Motion?

Hon. Mugambi Rindikiri Murwithania: Madam Temporary Speaker, I did swear an affidavit, which I am sure is before this Senate.

(Sen. Orwoba and Sen. (Dr.) Khalwale consulted loudly)

The Temporary Speaker (Sen. Veronica Maina): Sen. Orwoba and Sen. (Dr.) Khalwale, can the witness be heard in silence? Please, take your seats.

Hon. Mugambi Rindikiri Murwithania: This is on Page 66.

Mr. Maranya Damisiano Mari: Kindly confirm that the same is on Page 66 of volume one.

Hon. Mugambi Rindikiri Murwithania: Madam Temporary Speaker, I do confirm that my affidavit is on Page 66 of volume one.

Mr. Maranya Damisiano Mari: Besides being the Member of Parliament for Buuri Constituency, what additional portfolio do you serve in Meru?

Hon. Mugambi Rindikiri Murwithania: Mr. Temporary Speaker, Sir, I am the Chairperson of the Meru Parliamentary Caucus.

Mr. Maranya Damisiano Mari: Does that mean that in your statement, you are speaking on behalf of yourself and other colleague MPs?

Hon. Mugambi Rindikiri Murwithania: Yes, I am.

Mr. Maranya Damisiano Mari: In your statement, you adversely declared the Governor's vilification of bullying or demeaning of both yourself and your colleagues, other Members of Parliament.

Hon. Mugambi Rindikiri Murwithania: Yes, it is true.

Mr. Maranya Domisiano Mari: Would you state in particular, instances that such vilification of bullying has occurred?

Hon. Mugambi Rindikiri Murwithania: On 10th September, we had a function, which was graced by His Excellency the President, the Deputy President and other leaders from Meru County. When the Governor took the podium, she uttered words, which were not conducive to good governance and leadership in our community.

Mr. Maranya Domisiano Mari: This is the clip that was played in respect to Laare Presidential meeting. I may not wish to replay; I rely on the same. Which other forum except the Presidential meeting has the Governor vilified the Members of Parliament (MPs) and yourself?

Hon. Mugambi Rindikiri Murwithania: We had an incursion in Nakuru State Lodge, where we were invited by His Excellency the President and the Deputy President to cause reconciliation among the deteriorating political situation in Meru County. It was not very pleasant. There was exchange of words, the President had to warn us and we had to prematurely leave the State House.

Mr. Maranya Domisiano Mari: Briefly, would you kindly state some of the vilifying words that have been said by the Governor against yourself and your MPs.

Hon. Mugambi Rindikiri Murwithania: On 10th September, we had gathered as usual customary when we have visitors. The MPs present are given an opportunity to speak. On that specific day, we were 10, including the Deputy Speaker of this Senate.

Mr. Maranya Domisiano Mari: Being mindful of time, how did you infer that in the Laare meeting, the Governor was making reference to you and your MPs when she referred to 10 cartels earning Kshs1 million?

Hon. Mugambi Rindikiri Murwithania: It is true we were 10 MPs. To me, it implied that those are the cartels that Madam Governor is referring to because she qualified that these are the 10 cartels who earn Kshs1 million and Kshs500,000 and above.

Mr. Maranya Domisiano Mari: In your statement, you have referred to Governor having referred to you as a cartel and corrupt and referred to your Members as introducing their co-wives. What do you make of such pronouns?

Hon. Mugambi Rindikiri Murwithania: The word ‘cartel’ is not very nice in a situation where you are referred to as greedy and only interested in your stomach. What Madam Governor was implying is that we are not interested in anything else other than our greed. We felt insulted, humiliated and demeaned in front of the President and the rest of the Meru community.

Mr. Maranya Domisiano Mari: Any meaning of the word ‘*wafilisti*’ referred to you by the Governor?

Hon. Mugambi Rindikiri Murwithania: In the Biblical terms, I believe she says she is a Bishop. I am sure she can explain what it means, but that is not a pleasant term to refer.

Mr. Maranya Domisiano Mari: Have these outbursts by the Governor been informed by any provocation on your part or that of your Members?

Hon. Mugambi Rindikiri Murwithania: There are so many circumstances and venues where the Governor has continued to vilify the MPs. I remember there are issues in South and Central Imenti and other areas. I am privy to this information because as their Chairman, we share quite a lot.

Mr. Maranya Domisiano Mari: Out of all the elected members in Meru, is there any of the members that the Governor is in good terms with?

Hon. Mugambi Rindikiri Murwithania: As far as I am concerned, I lead a team of 12 Members of Parliament (MPs), including the Senate Deputy Speaker, hon. Kathuri.

None of them is in friendship with the Governor, not because of our course, but I think because of her attitude.

Mr. Maranya Domisiano Mari: Hon. Rindikiri, what effect has this dominium believe vilification of the Governor cost yourself as well as your Members?

Hon. Mugambi Rindikiri Murwithania: We are Members of dignity elected by the people of Meru. The Members of the County Assembly (MCAs) as well as the Governor were also elected by the people of Meru. Our concern is the deterioration, which is almost nearing zero, of the relationship between our County Executive and the other leadership in the County.

Mr. Maranya Domisiano Mari: That means that the vilification has caused you ridicule and embarrassment within your constituency?

Hon. Mugambi Rindikiri Murwithania: Certainly, it has even gone beyond our county.

Mr. Maranya Domisiano Mari: Have you attempted to seek any resolution or alternative dispute resolution between yourself or to seek any peace-making forum with the Governor?

Hon. Mugambi Rindikiri Murwithania: Madam Temporary Speaker, it is true. Our mission to Nakuru State Lodge was one of the dates of reconciliation. We also had an opportunity of sitting in the boardroom of His Excellency the Deputy President. He gave us his boardroom to deliberate to bring the MCAs together, MPs and others, so that we could have an amicable solution to the deteriorating political situation in our county.

Mr. Maranya Domisiano Mari: Very finally, because I am mindful of time, some of the persons you have approached for purposes of reconciliation, are they still pursuing this one? You have referred to the Deputy President. Is he still pursuing the reconciliation or has given up?

Hon. Mugambi Rindikiri Murwithania: From the last communication we had, they have given up.

Mr. Maranya Domisiano Mari: For the interest of time, I now subject the witness to cross-examination.

Thank you.

The Temporary Speaker (Veronica Maina): Thank you, Counsel. The cross-examination should take a maximum of seven minutes.

Counsel, you may proceed.

Mr. Elisha Ongoya: Thank you so much, Madam Temporary Speaker. My name is Elisha Ongoya. I will take this witness in cross-examination very briefly.

Hon. Mugambi Rindikiri Murwithania, did I hear you in your evidence-in-chief say that the Governor referred to you as *Wafilisti* or something to that effect?

Hon. Mugambi Rindikiri Murwithania: I did make that. It is something that she been doing.

Mr. Elisha Ongoya: I am happy with that answer. Where is that grievance in your affidavit at Page 66 to Page 68 of the record? It is your affidavit that brings your grievances to this Senate.

Hon. Mugambi Rindikiri Murwithania: Madam Temporary Speaker, I repeat that I did not make that allegation or say that she is the one that said it. It is not in my affidavit.

Mr. Elisha Ongoya: Madam Temporary Speaker, I do not know whether we are communicating with the witness.

The Temporary Speaker (Veronica Maina): The question is answered. He said it is not---

Mr. Elisha Ongoya: Thank you so much. Allow me to move to something else about *Macartel Kumi*. I understand you to say that *Macartel Kumi* meant to say 10 MPs from Meru County. Did I get you right?

Hon. Mugambi Rindikiri Murwithania: Yes, we are 12 Members of---

Mr. Elisha Ongoya: I only have seven minutes. Did I get you right that *Macartel Kumi* meant 10 MPs from Meru County?

Hon. Mugambi Rindikiri Murwithania: The implication is, yes, because we were 10.

Mr. Elisha Ongoya: Madam Temporary Speaker, I have limited time. I am asking a very straightforward question. I just want to confirm whether I am right or wrong in that understanding.

The Temporary Speaker (Veronica Maina): Allow the witness to answer.

Hon. Mugambi, just answer that question.

Hon. Mugambi Rindikiri Murwithania: Madam Temporary Speaker, like I said and allow me to have an explanation because I do not think this is a question of 'yes' or 'no' is that the Members of the National Assembly who were in attendance were 10. That is what I meant, and Kshs.500,000 and above.

Surely, Members of the Senate, there was nobody in that congregation who fits into that description.

Mr. Elisha Ongoya: In that clip, did the Hon. Governor say 10 cartels in this meeting?

Hon. Mugambi Rindikiri Murwithania: Madam Temporary Speaker, as I said, she said that we cannot allow 10 cartel members to take hostage or determine the future of Meru politics.

Mr. Elisha Ongoya: Back to my question, did the Governor in that speech say 10 cartels in this meeting?

Hon. Mugambi Rindikiri Murwithania: I gathered it from there. I do not think I would start describing something that does not have some attachment to the presence.

The Temporary Speaker (Sen. Veronica Maina): Hon. Mugambi, that question is direct. Just answer it.

Hon. Mugambi Rindikiri Murwithania: I took it to mean that she was referring to the Members of Parliament MPs.

Mr. Elisha Ongoya: Did she say 10 cartels in this meeting?

Hon. Mugambi Rindikiri Murwithania: It was not a meeting. It was a church service.

Mr. Elisha Ongoya: Did she say 10 cartels in this event?

Hon. Mugambi Rindikiri Murwithania: Yes.

Mr. Elisha Ongoya: The record will bear us out. Fortunately, the Senators have watched that clip. Allow me to request that they play the video in the flash disk marked 'B' from the Governor's video supply to the Senate. It is a very short clip.

The Temporary Speaker (Sen. Veronica Maina): Technical team, please, play that video.

Mr. Elisha Ongoya: May I request that video marked 'B;' the second flash disk by the Governor be played?

The Temporary Speaker (Sen. Veronica Maina): The second video marked 'B'?

Mr. Elisha Ongoya: Sorry. The second flash disk marked 'B' has only one video.

The Temporary Speaker (Sen. Veronica Maina): So, it is the flash disk marked 'B.'

Mr. Elisha Ongoya: Correct, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Can you play the video in the flash disk marked 'B'? Counsel, if you have any other questions, you can continue with the rest as they get the video.

Mr. Elisha Ongoya: In your grievances in paragraph three on page 67 of the Assembly's volume one, you give various descriptions that the Governor makes against various leaders in your view. Have you particularized any allegations or claim, insult, demeaning, or vilification that the Governor makes against Mugambi Muirithania Rindikiri? That is yourself?

Hon. Mugambi Rindikiri Murwithania: I am here as the Chairperson of the Meru Parliamentary Caucus. I am not standing as Mugambi *per se*. So, I believe in totality that this affidavit includes myself.

Mr. Elisha Ongoya: In paragraph three, is there any claim at A, B or C that you have numbered them, that you claim the Governor makes against Mugambi Muirithania Rindikiri? That is yourself?

Hon. Mugambi Rindikiri Murwithania: As I said, the implication of the Governor's statement referred to us. I seek your indulgence that this is in reference to the discussion the Governor presented. Therefore, I cannot isolate myself from this. So, I am part and parcel of it, even if my name does not appear there as Mugambi Rindikiri. So, I am in the matter in totality. My name is not appearing there as Mugambi Rindikiri. So, I am pleading with the matter in totality, the 10 cartels.

The Temporary Speaker (Sen. Veronica Maina): Counsel, can you confirm whether the flash disk has 1B or 1D? It is only one flash disk and it is marked as 1D.

Mr. Elisha Ongoya: Madam Temporary Speaker, the flash disk is marked as 1D? Did I get that right?

The Temporary Speaker (Sen. Veronica Maina): Yes.

Mr. Elisha Ongoya: No, there are two flash disks. To distinguish them, only one is marked B. Just to distinguish from the earlier one, there are no two flash disks. We just marked 1B to distinguish it. It has only one video clip of less than two minutes.

The Temporary Speaker (Sen. Veronica Maina): Secretariat, check 1B again.

Mr. Elisha Ongoya: Just B.

The Temporary Speaker (Sen. Veronica Maina): It is marked just B.

Mr. Elisha Ongoya: 'B' for boy.

The Temporary Speaker (Sen. Veronica Maina): The Secretariat, kindly confirm.

Mr. Elisha Ongoya: Just for the record, Mr. Mugambi, your Constituency is Buuri Constituency?

Hon. Mugambi Rindikiri Murwithania: You are quite right.

Mr. Elisha Ongoya: At paragraph 3(c), you complain about an allegation made against the Member for Central Imenti Constituency.

Hon. Mugambi Rindikiri Murwithania: Correct.

Mr. Elisha Ongoya: At paragraph 3(d), you complain about an allegation made against the Member for South Imenti Constituency.

Hon. Mugambi Rindikiri Murwithania: Correct.

Mr. Elisha Ongoya: Is there any allegation made against the Member for Buuri Constituency in a similar fashion?

Hon. Mugambi Rindikiri Murwithania: No.

Mr. Elisha Ongoya: Thank you so much.

Have you seen any clip being played in your record of documents or material where the Governor allegedly promises to get the Member for Central Imenti Constituency, Amuiru?

Hon. Mugambi Rindikiri Murwithania: As I said, I share a lot of information as a caucus with other Members of Parliament (MPs). I believe there is a possibility, yes.

Mr. Elisha Ongoya: If they cannot get disk B, are they able to retrieve the video marked KMV12B? I just want to crosscheck whether it may have related content. It is the flash disk from which they were playing the other videos.

The Temporary Speaker (Sen. Veronica Maina): Secretariat, please check KMV12B.

Counsel, can you wind up your cross-examination?

Mr. Elisha Ongoya: I do not know whether the clip was not found.

The Temporary Speaker (Sen. Veronica Maina): The first one was not found and your Counsel is already there. He has confirmed it is not there. So, they are looking out now for the second one that you have requested.

Mr. Elisha Ongoya: Just for the record, please confirm that, in fact, Meru County has 11 elected MPs and not 10.

Hon. Mugambi Rindikiri Murwithania: As I said, the MPs present, included the Woman Representative and the Senator. We had two Members ---

Mr. Elisha Ongoya: Does that answer my question by any chance?

Hon. Mugambi Rindikiri Murwithania: We have 11 elected MPs, but the MPs present on that day were 10.

Mr. Elisha Ongoya: I do not know whether we have the information regarding the clip. Otherwise, I will have to rest at that point because the next question was supposed to come from the clip.

The Temporary Speaker (Sen. Veronica Maina): Is the clip there? Have you found the flash disk?

We might have to move on. Are you able to phrase the question without the clip? You can remind him the content of the clip.

Mr. Elisha Ongoya: Do you remember the event you attended, where Hon. Mpuri Aburi made sexual slurs using a stick called *Kibiri* and what they were going to do to the Governor with that stick? Do you remember that meeting?

Hon. Mugambi Rindikiri Murwithania: We have attended many meetings.

Mr. Elisha Ongoya: I am talking about a particular one, where Hon. Mpuri Aburi was describing what they were going to do to the Governor using the *Kibiri* stick.

Hon. Mugambi Rindikiri Murwithania: I have attended many, that is what I am saying.

Mr. Elisha Ongoya: Have all those meetings had Hon. Mpuri Aburi making a sexual slur on what they were going to do to the Governor using the *kibiriri* stick?

Hon. Mugambi Rindikiri Murwithania: I am not aware, Madam Temporary Speaker.

Mr. Elisha Ongoya: Then in the absence of the video clip, I am hamstrung. I would have wished the witness said it himself that they supported what Hon. Mpuri Aburi had said.

The Temporary Speaker (Sen. Veronica Maina): Just one minute, we reconfirm with the secretariat whether they can play it.

Mr. Elisha Ongoya: Madam Temporary Speaker, may I have my assistant allowed in the secretariat team, just to see whether they can show them the video?

The Temporary Speaker (Sen. Veronica Maina): He is already there and is working with the secretariat team. Counsel, they are checking out for it. We will indulge you to return to that question, if it is found. We can do the re-exam, and that will be done in five minutes.

Counsel for the County, do the re-examination in five minutes.

Dr. Muthomi Thiankolu: To the best of your knowledge, does the Governor have any justification for this constant reference to Members of Parliament (MPs) as cartels, greedy people, *watu wa tumbo zao* and all the other insults?

Hon. Mugambi Rindikiri Murwithania: A good Governor will move with 12 MPs and 59 MCAs.

Dr. Muthomi Thiankolu: To the best of your knowledge and conscience, has the Governor ever had any justification for this war against MPs?

Hon. Mugambi Rindikiri Murwithania: It is a surprise that she can pick issues with MPs.

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

[The Speaker (Hon. Kingi) resumed the Chair]

Dr. Muthomi Thiankolu: Do you know anything the MPs have done as a group to warrant this collective vilification every weekend?

Hon. Mugambi Rindikiri Murwithania: I am not aware of any.

Dr. Muthomi Thiankolu: Are you aware of any complaint lodged by hon. Kawira with a state agency that deals with cartelism or before the Competition Authority of Kenya against any MP?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, I am not aware of anything like that.

(A video clip was played)

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, that is the video Mr. Ongoya was referring to. I do not know how we will proceed given that he had been promised some indulgence. If you allow, I can allow him to put the question.

The Speaker (Hon. Kingi): Let the video be played.

Mr. Elisha Ongoya: Thank you, Mr. Speaker, Sir, I feel relieved.

(A video clip was played)

That video says ‘*wamechoka kuongozwa na mkora, anafaa kuongezwa katoto kwa tumbo na simiti na mawe.*’

Hon. Mugambi Rindikiri Murwithania: That is hon. Mpuru’s statement from what I have gathered.

Mr. Elisha Ongoya: It is Hon. Mpuru who made that statement that I have just said?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, that is Hon. Mpuru Aburi speaking. He has spoken those words.

Hon. Elisha Ongoya: That Hon. Mpuru is a member of your caucus, the one you come to represent here, true or false?

Hon. Mugambi Rindikiri Murwithania: That is true.

Hon. Elisha Ongoya: Did your member make that statement I have just said: “*Anafaa awekwe katoto kwa tumbo na simiti na mawe*”?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, I will have to crosscheck that because I do not know how *katoto* can be put *kwa mawe*.

(Laughter)

The Speaker (Hon. Kingi): Hon. Member---

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, because of where I come from, speaking about sexuality makes me a bit shy, but I will try.

The Speaker (Hon. Kingi): You are just supposed to confirm what has been said.

Hon. Mugambi Rindikiri Murwithania: Yes, that is what he has said.

Hon. Elisha Ongoya: Thank you. Let us proceed playing the clip.

(A video clip was played)

Hon. Elisha Ongoya: What is that speaker saying?

The Speaker (Hon. Kingi): Counsel, you have three minutes to conclude.

Hon. Elisha Ongoya: Thank you, Mr. Speaker, Sir. I am about done. What is that speaker saying?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, from what I can read he says: “This is why I have come with this stick to insert and scare Kawira, the Satan who has defeated men.”

Hon. Elisha Ongoya: Proceed playing the video clip.

(The video clip was played)

Hon. Elisha Ongoya: Kindly stop there. We have seen---

(Laughter)

The Speaker (Hon. Kingi): Order, Senators!

Hon. Elisha Ongoya: Mr. Speaker, Sir, to my understanding, they are very frustrated when they see that video played. Hon. Mpuri Aburi is not filing a Motion before the County Assembly, is he?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, I seek your indulgence because there is a section---

The Speaker (Hon. Kingi): Hon. Mugambi is it a ‘yes’ or ‘no’ so that we make progress?

Hon. Elisha Ongoya: Hon. Mpuri Aburi is not filing a Motion before the County Assembly, is he? He is not taking the Motion before the County Assembly.

Hon. Mugambi Rindikiri Murwithania: Yes, he is speaking to the public.

Hon. Elisha Ongoya: The only Motion we have heard--- Before I go there, do you know that stick he was holding in his hand? It is a common stick in the Meru community.

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, it is an African item.

Hon. Elisha Ongoya: Yes, what is it called in Meru language?

Hon. Mugambi Rindikiri Murwithania: *Kibiri*.

Hon. Elisha Ongoya: He has done two Motions. One is to demonstrate what he is going to use that *Kibiri* for and the other Motion is that the Deputy Governor must be given the finance docket. Those are two things he has spoken about there. Is that not true?

Is it true or not true that he has spoken about two things; inserting the *Kibiri* into the Governor - I am now being gross because those are the words he used - and two, the Deputy Governor getting the finance docket. Are those the two things he has spoken about?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, and Members of the Senate, that translation is not correct. It is not correct.

Hon. Elisha Ongoya: What is the correct translation?

Hon. Mugambi Rindikiri Murwithania: It is not correct. What has been said there and what the Counsel told me to read what was written there, but the interpretation and the translation are different.

Hon. Elisha Ongoya: What is the correct translation?

Hon. Mugambi Rindikiri Murwithania: Kindly, repeat it.

Hon. Elisha Ongoya: Could we replay the video just a few minutes where Hon. Mpuri Aburi was speaking in Kimeru?

The Speaker (Hon. Kingi): Hon. Mugambi, if you say it is not correct, it means you have the correct version.

Hon. Mugambi Rindikiri Murwithania: Yes.

The Speaker (Hon. Kingi): So, proceed to tell us what does it mean?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, and Members of the Senate, the stick that Hon. Mpuri Aburi is holding is supposed to be for stirring porridge not for sexuality.

Hon. Elisha Ongoya: What is he saying he will do with it?

(Laughter)

The Speaker (Hon. Kingi): Hon. Mugambi, just tell us what the Hon. Mpuri Aburi is saying. What is he saying in that video? You have heard it play.

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, it was fast. This is why I needed it to be replayed.

The Speaker (Hon. Kingi): Apart from seeing the video, you were there at the meeting. You have the benefit of having listened to the words.

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, there are two matters. This is why I am seeking your indulgence. We were speaking about the creation of the county---

The Speaker (Hon. Kingi): What did the Hon. Mpuri say?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, he said that he will use the stick to stir some things from the Governor.

The Speaker (Hon. Kingi): Counsel, proceed.

Mr. Elisha Ongoya: When he talked about to stir, he talked about the Governor by name. Did he not?

Hon. Mugambi Rindikiri Murwithania: Correct.

Mr. Elisha Ongoya: Thank you. You stood up to support that motion by hon. Mpuri expressly in your words.

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, this is not true. This clip is cut. I was supporting the agenda for the subdivision of Meru County into two.

Mr. Elisha Ongoya: In the clip as played, we do not see the subdivision of Meru County into two as an agenda. Do we see it?

Hon. Mugambi Rindikiri Murwithania: I am not the author.

Mr. Elisha Ongoya: We have just looked at it. Do we see it?

Hon. Mugambi Rindikiri Murwithania: I am not the author.

Mr. Elisha Ongoya: Mr. Speaker, Sir, he does not answer my question. Do we see the agenda of subdivision of Meru County as an agenda in any of the speeches we have looked at?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, this is the first time to have seen the clip. Since I was there, the agenda was on top of the others. What I was supporting---

The Speaker (Hon. Kingi): Hon. Mugambi, the question is on the particular clip that has been played. Have you seen the agenda of splitting Meru County into two being discussed?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, not from this clip.

Mr. Elisha Ongoya: Would supporting those sexual slurs, as you expressly say in that clip, be conduct befitting a Member of Parliament and a leader like you?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir, I did not support that item.

Mr. Elisha Ongoya: Mr. Speaker, Sir, that would be all in my cross-examination.

The Speaker (Hon. Kingi): Thank you. Secretariat, what were the remaining minutes for re-examination?

Counsel, you have only three minutes.

Dr. Muthomi Thiankolu: Hon. Mugambi, let us assume for argument's sake that Hon. Mpuri was grossly wrong in the utterance he made. Would that justify the vilification of the other 10 Members of Parliament? Has the Governor placed before this Senate evidence of any wrongs committed by the other 10 MPs?

Hon. Mugambi Rindikiri Murwithania: I have not come across any.

Dr. Muthomi Thiankolu: Between hon. Mpuri and the hon. Kawira Mwangaza, to the best of your knowledge, who began the provocation?

Hon. Mugambi Rindikiri Murwithania: I believe it is the Governor.

Dr. Muthomi Thiankolu: The video you have been shown on the occasion in question, did it occur before or after the Presidential function in which all of you were called cartels?

Hon. Mugambi Rindikiri Murwithania: It was before.

Dr. Muthomi Thiankolu: Which one occurred before the other; the Presidential function or the video that has been shown?

Hon. Mugambi Rindikiri Murwithania: The video that has been shown.

Dr. Muthomi Thiankolu: You said the Hon. Kirima was called 'a tractor'.

Hon. Mugambi Rindikiri Murwithania: That was hon. Shadrack Mwititi.

Dr. Muthomi Thiankolu: Has the Governor explained the basis for that slur in her response to the best of your knowledge?

Hon. Mugambi Rindikiri Murwithania: We saw it in the clip and that was so demeaning. We thought that, as elected leaders, if there was any mistake, it would have been followed by an apology. However, the analogy demonstrated a lack of respect for elected Member of Parliament for South Imenti.

Dr. Muthomi Thiankolu: My last question is; what would you tell the Senate is the prevailing status in Meru County attributed to these endless wars between the Governor, the MCAs, the MPs and virtually anyone the Governor wakes up in the mood of vilifying?

Hon. Mugambi Rindikiri Murwithania: Come again.

Dr. Muthomi Thiankolu: What is the prevailing general situation in Meru attributable to the Governor's unending fights with the other leaders?

Hon. Mugambi Rindikiri Murwithania: Mr. Speaker, Sir and Members of the Senate, we are faced with a very difficult moment in our local politics of Meru County.

The continued vilification, insults and demeaning of other leaders has left our county in a lot of shame. Unless this Senate takes a decision, Meru County as it is right now, is a laughing stock.

The Speaker (Hon. Kingi): Counsel, that should conclude your session.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, much obliged.

The Speaker (Hon. Kingi): Senators, I will give you five minutes for clarifications on this witness, so that we conclude on the remaining witness.

Sen. Orwoba, you may have the Floor.

Sen. Orwoba: Thank you, Mr. Speaker, Sir. I would like to seek two clarifications very quickly.

There has been a lot of use of phrases such as “*kaende*”, “*wenye wivu wajinyonge*” and other terminologies that sound abrasive, harsh and insensitive. How are those grounds for impeachment? If they can tie them to either committing a crime, abuse of office or physical or mental incapacitation.

Secondly, I pose this to both parties. We have a lot of evidence that has been submitted here in terms of exhibits in support of the impeachment Motion, and they are quoting social media; *WhatsApp* messages, *Facebook* and the likes. My question is, has this evidence actually passed through the legal process of authentication legally known as the chain of custody? We need to be sure that what we are referencing is legitimate evidence. Is it possible to get the context of these screenshots because we are in the era where there is a lot of misleading? Can we get the context instead of just giving us part screenshots of the message?

Finally, Mr. Speaker, Sir. Did they get consent for any social media exhibits that have been posted here? As you know, for instance in *WhatsApp*, the data manager is the administrator. Did you get consent to be able to post these alleged exhibits to ---

(Sen. Orwoba's microphone went off)

The Speaker (Hon. Kingi): Proceed, Counsel.

Dr. Muthomi Thiankolu: The first question is whether vilification is a ground of impeachment. It is because, under the laws we have presented for the relevant count, public officers, including governors are supposed to behave in a manner that brings honour and dignity to their office and the office of other public officers. They legally oblige to refrain from bullying and vilifying. These are Chapter Six of the Constitution laws that I am talking about. Someone is opening them for me. Perhaps once it is open, I will show it to you.

There is the question of whether we can rely on social media. The world moved along time ago from that traditional hostility towards electronic evidence. As a matter of fact, these days, even legal documents are served on *WhatsApp*. If you check with the Judiciary, *WhatsApp* is a recognised method of sending and serving official summonses, court orders and what not. There is legal provision of course for how electronic evidence is to be presented. The requirement is one for the authentication and all you need is a certificate.

We have presented that certificate in the affidavit of the Mover of the Motion. It identifies the devices from which these *WhatsApp* screenshots, *Facebook*, and whatever else, were downloaded.

So, all you need is to show the path and the device. For the record, we have those devices before the Senate. Should the Senate be interested in verifying whether, indeed, those *WhatsApp* messages were downloaded using those devices as required under Section 106(b) of the Evidence Act, or if you like, Section 78(a) of the Evidence Act?

Is it possible to get the context of these screenshots? Of course it is. Perhaps with or without some difficulty, but we tried during the Evidence-in-Chief to show you that the Governor was trying to misrepresent the context by misleading you into believing that the procession we saw the Deputy Governor participate in, in September, is the one that triggered the *WhatsApp*, when the *WhatsApp* have their timestamps and date-stamps that show they occurred several months before that unfortunate incidence.

Do we have consent? No such consent is required, and while still on this question, we said early in the morning that the prevailing jurisprudence is that the proceedings before you are not akin to proceedings in a court of law. So those hitches about the rules of evidence and whatnot, even though we have complied with them, we have only done so *ex-abundanti cautela*, out of the abundance of caution, not because we were required or in any event obliged.

The Sections of the law, to be found on Page 44 of our volume three, are sections from the Leadership and Integrity Act, which is a direct derivative of Chapter Six. It is all those sections that we have cited there.

The one on bullying is on Page 49 of our Volume III, and I could go on and on. All we are trying to say---

The Speaker (Hon. Kingi): Wind up, Counsel, we running out of time.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, all we are trying to say is that these are valid grounds for impeachment, and if we doubt that they are, let us think how sustainable it is to have a county being run like that.

We have already seen because of this persistent campaign matters escalating to levels of violence. We hope they will remain where they are and they will not escalate further.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Wambua, you have the Floor.

Sen. Wambua: Thank you, Mr. Speaker, Sir. My question is directed to the Counsel concerning what the Hon. Member of Parliament is confessing on the Floor.

There is open, obvious aggression between the two parties, and it is playing out in public. I want the Counsel to tell us, and help us to make a decision on this admission whether there is a requirement in law for the governor to be a friend of the other elected leaders in the county, or whether in the converse, the elected leaders in Meru County have an obligation to also maintain a relationship with the governor.

I thank you.

The Speaker (Hon. Kingi): Proceed, Counsel in under one minute, please.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, I believe on Page 20 of our volume three, again, we are counting on a reading from the County Government's Act; I believe

Section 30, subsection 3, paragraph D. There is a legal obligation on the Governor, speaking specifically to the Governor, to promote peace and order in the county and to promote democracy, good governance, unity, cohesion, and many, many other things.

So, it is not enough to say these are just insults. It is the legal obligation to refrain from that behaviour. Of course, it is true that from the video we saw some aggression between Hon. Mpuru Aburi and the Hon. Governor. I do not think anyone can deny that in good conscience. The question is whether that would justify the vilification of the other 10 Members of Parliament (MPs) for a whole year now and counting nonstop with no good basis.

Is there a legal requirement for a Governor to be a friend of the other leaders or vice versa? There is no legal requirement to be a friend to anyone, but there is a legal requirement to behave in a manner that brings dignity to the Office of the Governor and refrain from countless laws that say that Governor should not do.

The Speaker (Hon. Kingi): Thank you.

Kindly usher in your last witness.

(The Witness for Meru County Assembly (Dr. Jeremiah Gitonga Luruti) was ushered into the Chamber)

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, our last witness is Dr. Jeremiah Gitonga Luruti. They have gone to fetch him. For the record, he is only our last witness because given the time and the earlier discussion, we clearly will not make it to call the others.

The Speaker (Hon. Kingi): Counsel, you decided to put your emphasis on the second witness. Swear in the witness so that we get moving. Your time starts running from now; 10 minutes.

*(The Witness for Meru County Assembly
(Dr. Jeremiah Luruti Gitonga) took the Oath)*

Mr. Boniface Mawira: Mr. Speaker, Sir, my name is Boniface Mawira. I will take the witness through the examining.

Dr. Jeremiah Luruti Gitonga, have you filed a witness statement or affidavit in support of the impeachment motion?

Dr. Jeremiah Luruti Gitonga: Yes, I have.

Mr. Boniface Mawira: That is the statement on Page 52 to 54 of the county assembly Volume I?

Dr. Jeremiah Luruti Gitonga: Yes.

Mr. Boniface Mawira: Do you wish to produce that witness statement as your evidence before this House?

Dr. Jeremiah Luruti Gitonga: Yes.

Mr. Boniface Mawira: By way of introduction, kindly inform this House your name and profession.

Dr. Jeremiah Luruti Gitonga: My name is Jeremiah Gitonga. I have done radiology here in Kenya, whose address and purpose of this position---

Mr. Boniface Mawira: That is enough. Are you a member of the Radiology Society in Kenya?

Dr. Jeremiah Luruti Gitonga: Yes, I am.

Mr. Boniface Mawira: At Paragraph three of your statement, you said that Beijing Tech Company Limited that invited the Governor to China is partly owned by the Government of the People's Republic of China and pursues overseas interest of the Chinese Government. Correct?

Dr. Jeremiah Luruti Gitonga: Correct.

Mr. Boniface Mawira: At Paragraph one, you confirm that you are a Director of IV Healthcare, which is a local agent of Beijing Tech Company Limited.

Dr. Jeremiah Luruti Gitonga: Yes.

Mr. Boniface Mawira: By the letter that is in volume two from Page 60 of our Volume II, you confirm that on 25th of April 2023, Beijing LEE Tech Company Ltd invited the Governor and a delegation to visit China to witness and benchmark the state of the Earth linear accelerator machines designed and manufactured in reference to the plant treatment Cancer in Meru.

Correct?

Dr. Jeremiah Luruti Gitonga: Correct.

Mr. Boniface Mawira: The letter which is on Page 60 says that the Governor and the delegation would have the opportunity to visit other medical equipment manufacturers. Generally, it was a study tour, a benchmarking trip. Correct?

Dr. Jeremiah Luruti Gitonga: Correct.

Mr. Boniface Mawira: Your allegation is that instead of the Governor sending a technical team, people who are properly qualified to benchmark on this state of the earth Cancer equipment, she instead sends her relatives on this *safari*/vacation. Correct?

Dr. Jeremiah Luruti Gitonga: Correct.

Mr. Boniface Mawira: That is the letter on Page 68 of the County Secretary, which says 'following the invitation of the Governor.' You will agree that the County Secretary is referring to the invitation of the Governor of Meru County. Correct?

Dr. Jeremiah Luruti Gitonga: Correct.

Mr. Boniface Mawira: In the letter, Miriam Guantai, Nephth Kinyua Meme and Murangiri Kenneth are misrepresented as the technical team. Correct?

Dr. Jeremiah Luruti Gitonga: Correct.

Mr. Boniface Mawira: Are you aware whether these three relatives of the Governor proceeded to China?

Dr. Jeremiah Luruti Gitonga: Yes, I am aware.

Mr. Boniface Mawira: Did you personally proceed to China?

Dr. Jeremiah Luruti Gitonga: No, I did not.

Mr. Boniface Mawira: Why did you not go to China?

Dr. Jeremiah Luruti Gitonga: The Governor insisted that she only needed her technical team to go see the Linear Accelerator (LINAC) Plant unit.

Mr. Boniface Mawira: Did you obtain visa clearance from the Chinese Embassy?

Dr. Jeremiah Luruti Gitonga: I filled for the visa interview and when she was asked, she said that I do not work with the County Government; that I should not travel with the county team.

Mr. Boniface Mawira: Very well. So, the Governor in her defence is that these relatives, the brother, the sister and the brother-in-law who went to China are part of an advance team. From the letter on Page 68, is there anywhere the Governor indicates that part of an advance team?

Dr. Jeremiah Luruti Gitonga: No, she is not.

Mr. Boniface Mawira: What does she say instead?

Dr. Jeremiah Luruti Gitonga: She wrote that the technical team includes only the four.

Mr. Boniface Mawira: In the letter on Page 86 of Volume II, you will agree on that letter that the Governor is listed among the persons who are supposed to travel with relatives to China and the reference is facilitation to travel to China. Correct?

Dr. Jeremiah Luruti Gitonga: Correct.

Mr. Boniface Mawira: So, is the defence that the Governor has provided before this honourable House that the relatives travelled only as part of an advance team correct and that there was another team that was to follow this advance team if the Governor---

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

The Speaker (Hon. Kingi): Proceed, Counsel.

Sen. Faki, you should know better.

Mr. Boniface Mawira: Thank you, Mr. Speaker, Sir. Is it correct, as the Governor purports in her defence, that these people are part of an advance team and that there was another team that was to come after this team if in that letter that is written to the Principal Secretary, Ministry of Foreign Affairs, the Governor is listed among her relatives? That is written to the Principal Secretary (PS), Ministry of Foreign Affairs, the Governor is listed among her relatives.

The Speaker (Hon. Kingi): Counsel, just proceed to ask questions because you are basically leading your witness.

Mr. Boniface Mawira: I am guided, Mr. Speaker, Sir. Dr. Gitonga on that letter that is on Page 86, does the name of the Governor appear among the persons?

Dr. Jeremiah Luruti Gitonga: Yes, it is appearing there.

Mr. Boniface Mawira: So, is the defence that the relatives were supposed to travel as part of an advance team and that there was another team that was to come after this consistent with what you see on this letter?

Dr. Jeremiah Luruti Gitonga: The technical team was to appear in the China trip. The Governor is also part of it. Among the invitations was also the Governor for Nyeri, Mutahi Kahiga.

Mr. Boniface Mawira: No. We are coming to that. In this letter, from what you can see, the Governor was seeking facilitation to travel together with her siblings, yet he says the siblings are part of an advanced team. Is it possible that there was another team?

Dr. Jeremiah Luruti Gitonga: No, because her name is here.

Mr. Boniface Mawira: It is not possible. Did other counties lose opportunities arising from the discretion of the Governor of Meru County to send her relatives on this benchmarking trip?

Dr. Jeremiah Luruti Gitonga: Yes. This is because the technical team was to advise other counties. The Deputy Governor of Isiolo and the Governor of Nyeri were also invited. Also, the Governor of Baringo was to join the Meru technical team because their Governor was there. However, because the technical teams appeared not to know anything about the Linac or X-ray digital radiography units, the person who invited them did not feel right. The Governors of other counties lost the opportunity.

Mr. Boniface Mawira: Mr. Speaker, Sir, could I just ask for two minutes to conclude?

The Speaker (Hon. Kingi): I will give you one. At exactly 11:48 p.m., you have to yield the microphone.

Mr. Boniface Mawira: Very well, Mr. Speaker, Sir. I am guided.

The Speaker (Hon. Kingi): Counsel for Governor, seven minutes.

Mr. Duncan Okubasu: Thank you, Mr. Speaker, Sir. I may even take a shorter time. My name is Okubasu. I will ask the witness a few questions on behalf of the Governor. One, do you know that you have an obligation to be truthful to this House?

Dr. Jeremiah Luruti Gitonga: Yes, I do.

Mr. Duncan Okubasu: You said you are the Director of this Company called Ivy Healthcare. Is that correct?

Dr. Jeremiah Luruti Gitonga: That is correct.

Mr. Duncan Okubasu: If this House was to conduct a search now, would your name appear in the CR12 of that company?

Dr. Jeremiah Luruti Gitonga: We have two companies. Ivy Healthcare and Ivy Gas. No, the name will not appear. The name will be for my other Co-director.

Mr. Duncan Okubasu: So, what you are saying is that your name will not appear on CR12 of that company if its search was conducted today and now. Is that correct?

Dr. Jeremiah Luruti Gitonga: That is correct.

Mr. Duncan Okubasu: That means that you have lied on oath that you are a Director of Ivy League Care. Is that correct?

Dr. Jeremiah Luruti Gitonga: There are two Companies. Get me right. There is Ivy Health Care and the Ivy Gas. The Ivy Gas used me as their Director of Ivy Health----

Mr. Duncan Okubasu: My question is on Ivy Health Care, not Ivy Gas.

Dr. Jeremiah Luruti Gitonga: Okay.

Mr. Duncan Okubasu: So, you are confirming that you have lied on Oath. Is that correct?

Dr. Jeremiah Luruti Gitonga: On that one, you can check with the CR12 and the Registrar of Companies, but I know there are only two Directors for Ivy Healthcare.

Mr. Duncan Okubasu: Are you one of them?

Dr. Jeremiah Luruti Gitonga: I am a Director with Ivy Healthcare Solutions.

Mr. Duncan Okubasu: Okay. I will let the record to try you there.

Second, in Paragraph eight of your affidavit, you say that you were surprised to learn upon arrival in China that the delegation that the Governor had recommended to Ivy Care as the technical team composed of the Governor's relatives. Is that what you said?

Dr. Jeremiah Luruti Gitonga: Yes, that is what I said.

Mr. Duncan Okubasu: As a matter of fact, you never went to China.

Dr. Jeremiah Luruti Gitonga: On arrival of this team, not me. That is English. On arrival of this team in China, ---

The Speaker (Hon. Kingi): Hon. witness, did you go to China or not?

Dr. Jeremiah Luruti Gitonga: No, I did not go.

The Speaker (Hon. Kingi): Good, then leave it there.

Proceed, Counsel.

Mr. Duncan Okubasu: The deposition you have made is that the team comprised of the Governor's relatives. Is that correct?

Dr. Jeremiah Luruti Gitonga: Correct.

Mr. Duncan Okubasu: Now, you are not an employee of Meru County Government. Are you?

Dr. Jeremiah Luruti Gitonga: Correct, I am not.

Mr. Duncan Okubasu: You are not an employee of the County Public Service Board (CPSB)?

Dr. Jeremiah Luruti Gitonga: I am not.

Mr. Duncan Okubasu: So, you are not in a position to establish the employment credentials of the employees of the County Government of Meru?

Dr. Jeremiah Luruti Gitonga: I am a registered Member of Meru County Community and I have the ability to know who is the brother and sister and even to tell you the grandmother of the Governor.

(Laughter)

Mr. Duncan Okubasu: Okay. I want to ask you another compelling question. I will leave it at that. Are you by any chance an employee of the Ministry of Foreign and Diaspora Affairs?

Dr. Jeremiah Luruti Gitonga: No.

Mr. Duncan Okubasu: Okay. Is Ivy Healthcare a profit-making body?

Dr. Jeremiah Luruti Gitonga: Yes, it is.

Mr. Duncan Okubasu: What interest did this agency have in Meru County Government?

Dr. Jeremiah Luruti Gitonga: The interest was to set up a radiotherapy unit and other radiation and x-ray units that are used diagnosis of Cancer cells in the body. These units---

Mr. Duncan Okubasu: I have got your answer. You have answered it.

Dr. Jeremiah Luruti Gitonga: Right.

Mr. Duncan Okubasu: Was it pursuant to a lawful on-going procurement process or pursuant to un-representation that the Chinese Government wanted to offer some Cancer treatment equipment?

Dr. Jeremiah Luruti Gitonga: In my perception, the Chinese system of governance ---

Mr. Duncan Okubasu: No. The question was specific.

Dr. Jeremiah Luruti Gitonga: I am coming there. In Meru County, we had deliberated and were to go on a Public-Private-Partnership (PPP). They were to give the units for free, with no money accosted to it.

Mr. Duncan Okubasu: So then the question is, at least you saw this as a business opportunity, but based on a misrepresentation?

Dr. Jeremiah Luruti Gitonga: Yes, it is a health business opportunity because we would treat so many patients in this country.

Mr. Duncan Okubasu: My question then is this; that the Governor learnt that this was not a PPP or a charitable venture and turned away from the trip. You know she did not travel. Do you know that?

Dr. Jeremiah Luruti Gitonga: No, she did not learn it. She never went there.

Mr. Duncan Okubasu: So, she did not go there, right?

Dr. Jeremiah Luruti Gitonga: Right.

Mr. Duncan Okubasu: According to the advance team, it was not, in fact, a Chinese Government Project?

Dr. Jeremiah Luruti Gitonga: We had not asked for an advance team. We are the ones who paid for their trip. We asked for a technical team. Get that difference.

Mr. Duncan Okubasu: Doctor, you are not answering the question. So, your problem is that the Governor did not go?

Dr. Jeremiah Luruti Gitonga: The technical team did not go.

Mr. Duncan Okubasu: I thought you have said here that the technical team went?

The Speaker (Hon. Kingi): Counsel, your time is up. You have one minute to wind up.

Mr. Duncan Okubasu: Just one question. Now, I just want to ask you one question because I think the less we ask, the better for this witness. How did the invitation letter to the Governor describe the team?

Dr. Jeremiah Luruti Gitonga: The invitation letter described the team as 'technical team.'

Mr. Duncan Okubasu: Okay. I just want to refer you there to that letter, which is at Page 60 of volume two, the index. That is the last question I have for you.

On Page 60, do you still maintain your position that the invitation letter referred to a technical team? This is the question. Please, read for this House the first line and identify to us where the word 'technical team' is used.

Dr. Jeremiah Luruti Gitonga: Mr. Speaker, Sir, in that first line, there is an introductory note, but if you go down---

Mr. Duncan Okubasu: Please, read the first line.

Dr. Jeremiah Luruti Gitonga: If you go down, our ability to execute our plans in ensuring that a state-of-art treatment centre is set up.

Mr. Duncan Okubasu: Mr. Speaker, Sir, this witness is not answering my question.

Dr. Jeremiah Luruti Gitonga: I cannot just go with a hanging introductory note.

(There was a technical hitch)

The Speaker (Hon. Kingi): ---by reading the letter if you are struggling.

Mr. Duncan Okubasu: In Swahili they say ‘*kusoma*,’ to read. Read the first line.

Dr. Jeremiah Luruti Gitonga: “We are delighted to invite you, your distinguished members also, to visit us in China for you to witness and benchmark our state-of-art linear accelerator machines.”

Mr. Duncan Okubasu: Thank you. You have read the first line. They invited the Governor and the distinguished team. They did not invite the Governor and the technical team. Is that correct or you do not know the difference?

Dr. Jeremiah Luruti Gitonga: It is not correct because there are other accompaniments that define the same.

Mr. Duncan Okubasu: That is all for me for this one.

The Speaker (Hon. Kingi): Counsel for the County Assembly, three minutes.

Mr. Eric Muriuki: Mr. Speaker, Sir and hon. Senators, my name is Muriuki Eric, for purposes of record.

Dr. Jeremiah Gitonga, upon whose arrival to China did you learn of the news that you said surprised you in Paragraph 8?

Dr. Jeremiah Luruti Gitonga: Upon arrival of the technical team that was sent to China, I was called and told that the team that I had sent was not a technical team.

Mr. Eric Muriuki: Thank you. You are not an employee of the County like you have been asked.

Dr. Jeremiah Luruti Gitonga: Yes, I am not an employee of the County.

Mr. Eric Muriuki: You have testified that you do which work?

Dr. Jeremiah Luruti Gitonga: I deal with radiology work.

Mr. Eric Muriuki: That is work to do with Cancer. You have been asked that the Governor learnt that it was not a charitable affair and turned away from the trip. Is that true?

Dr. Jeremiah Luruti Gitonga: It is not true because she never went there.

Mr. Eric Muriuki: Whom did she send there instead?

Dr. Jeremiah Luruti Gitonga: I am sure she did not ask the team that she sent there what they had seen because she would have seen them trying to inspect a Cancer machine. She then would have understood that those people were not giving her a true picture of what a Cancer unit is all about.

Mr. Eric Muriuki: My last question is, as an oncologist or a radiologist and an expert on Cancer, how do you feel about the loss of opportunity for Meru County to benchmark and acquire this machinery that was supposed to help treat Cancer? Is it not a cruel joke that this opportunity was lost and used for tourism rather than for purposes of helping the people of Meru, where Cancer is highly prevalent?

Dr. Jeremiah Luruti Gitonga: Mr. Speaker, Sir, it was cruel because it would have been better if we lost Kshs4 billion and, as we sit, there are some counties that have

spent even Kshs2 billion and the machines are not there. Here is an opportunity that got lost. It would have been better if we had lost money than losing an opportunity of being taught about a unit that we were going to use and partner with them.

Mr. Eric Muriuki: Thank you, Mr. Speaker, Sir. I discharge the witness.

The Speaker (Hon. Kingi): Hon. Senators, we basically have seconds to midnight. So, these are the options we have. The hearing is supposed to take place between the 7th and 8th November, 2023. There will be absolutely no harm in crossing to the 8th and concluding these witnesses. However, we may stand down the witness and start with him tomorrow morning. You can do your clarifications and questions tomorrow before we embark on the defence by the Governor.

Now that I am informed that there are no clarifications, we have fully concluded with this witness.

Hon. Members before we proceed to adjourn, I have this Communication to make.

COMMUNICATION FROM THE CHAIR

COMMENTS AND UTTERANCES MADE IN RELATION TO THE ONGOING IMPEACHMENT PROCESS

Hon. Senators, as you may recall in my Communication issued on Tuesday, 31st October, 2023, I cautioned Senators against making comments, whether written or spoken, in relation to the proposed removal from office, by impeachment, of Hon. Kawira Mwangaza, the Governor of Meru County while the matter is pending before the Senate.

It has been brought to my attention that comments that are prejudicial to the ongoing proceedings in the Senate have been made in various fora, including social media X, formerly *Twitter*, by Kenyans who sadly include senior State and public officers.

In particular, the Cabinet Secretary for Public Service, Performance and Delivery Management has made several posts criticizing the ongoing proceedings, intimidating and casting aspersions on the conduct of some Senators.

Hon. Senators, the matter of impeachment of a Governor is a public discourse and the fact that the Senate is holding the hearing in public, including live broadcasting of the proceedings in the major TV channels and on *YouTube*, should not be an avenue for targeting specific Senators and casting aspersions on the Senate by no less than a leader and a Cabinet Secretary of the Government of Kenya.

I, therefore, caution the Hon. Moses Kuria, Cabinet Secretary for Public Service, Performance and Delivery Management and all other persons to desist from adversely commenting and making utterances, whether written or spoken, in relation to the conduct of the impeachment process, which may prejudice the just and fair disposal of the present matter.

If this caution is not heeded, we will summon the Cabinet Secretary, Hon. Moses Kuria.

I thank you.

(Applause)

ADJOURNMENT

Hon. Senators, you may now be upstanding. There being no other business on the Order Paper, the Senate stands adjourned until tomorrow Wednesday, 8th November, 2023 at 9.00 a.m.

The Senate rose at 12.03 a.m.