

COUNTY GOVERNMENT OF BUNGOMA



SECOND COUNTY ASSEMBLY OF BUNGOMA

FOURTH SESSION

PUBLIC ADMINISTRATION AND ICT COMMITTEE

**REPORT ON THE PUBLIC INTEREST PETITION TO THE COUNTY
ASSEMBLY FOR CONSIDERATION OF THE REMOVAL OF HON.
WYCLIFFEE WAFULA WANGAMATI AS GOVERNOR OF THE COUNTY
GOVERNMENT OF BUNGOMA BY IMPEACHMENT; - PETITIONER:**

MOSES WANJALA LUKOYE

**Clerk's Chambers
County Assembly Buildings
PO BOX 1886,
BUNGOMA, KENYA**

AUGUST, 2020

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ACRONYMS

Art.	Article
CECM	County Executive Committee Member
CG	County Government
CoK	Constitution of Kenya
CPSB	County Public Service Board
IGRA	Intergovernmental Relations Act
NG	National Government
SEC	Section
SDU	Service Delivery Unit
PFMA	Public Finance Management Act
QS	Quantity Surveyor

PREFACE

DEFINITIONS:

Impeachment means criminal proceedings or a charge of misconduct made against a State Officer; or an action of calling into question the integrity of a State Officer;

Abuse of office also called malfeasance in office or official misconduct is the commission of unlawful act, done in an official capacity, which affects the performance of official duties;

Gross violation means a grave violation or breach of the provision of the constitution;

Gross misconduct means something seen as unacceptable, serious enough and possibly criminal;

Leadership and integrity means being honest, trustworthy and reliable. Leaders with integrity act in accordance with their words and own up to their mistakes, as opposed to hiding them blaming their team, or making excuses; and

Impropriety means failure to observe standards of honesty or modesty; improper behavior or character.

Establishment of the Committee

1. The Committee is established pursuant to Standing Order no.158 that sets out the composition of membership.

Committee Membership

2. The Committee as currently constituted is comprised of the following members:-

1) Hon. Majimbo Okumu Chairperson

2) Hon. Violet Makhanu Vice chairperson

3) Hon. Joseph Juma	Member
4) Hon. Francis Chemion	Member
5) Hon. EllyTindi	Member
6) Hon. Stephen Wamalwa	Member
7) Hon. MeshackSimiyu	Member
8) Hon. Jack Wambulwa	Member
9) Hon. Barasa Mukhongo	Member
10) Hon. Joseph Magudah	Member
11) Hon. Tony Barasa	Member
12) Hon. Erick Wapang'ana	Member
13) Hon. Luke Opwora	Member
14) Hon. Hillary Kiptallam	Member
15) Hon. Joan Kirong'	Member

Mandate of the Committee

3. The Committee on Public Administration and ICT derives its functions in Standing Order No.196 (5) which sets out the functions of a Sectoral committee as:

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operation and estimates of the assigned departments;
- b) Study the programme and policy objectives of departments and the effectiveness of the implementation;

- c) Study and review all County legislation referred to it;
- d) Study, access and analyze the relative success of the departments as measured by the results obtained as compared with the stated objectives;
- e) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- f) To vet and report on all appointments where the Constitution or any law requires the County Assembly to prove except those under Standing Order 185 (Committee on Appointments); and
- g) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

Acknowledgement

Mr. Speaker Sir,

4. The Committee is grateful to the Petitioners, who submitted the Petition to the County Assembly for consideration. The Committee acknowledges the time and considerable effort made by all parties who submitted information before it.

The Committee is also particularly grateful to the Offices of the Speaker and the Clerk of the County Assembly for the support received as it discharged its mandate.

I also express my gratitude to my colleagues and the secretariat for their thoughtful input and engaging contributions to the matter.

Mr. Speaker Sir, on behalf of the committee and pursuant to Standing Order no. 207 it is now my pleasant and honorable undertaking to present and lay on the table of the house the report of the Committee on Public Administration and ICT regarding the public interest petition to the County Assembly for consideration of the removal of Hon. Wycliffe Wafula Wangamati as Governor of the County Government of Bungoma by impeachment.

Signed;

DATE.....SIGNATURE.....

HON. HENRY MAJIMBO OKUMU, MCA- KHALABA WARD

CHAIRPERSON: COMMITTEE ON PUBLIC ADMINISTRATION AND ICT

CHAPTER ONE

INTRODUCTION

Background information

5. The Petitioner, Mr. Moses Wanjala Lukoye is a resident of Bungoma County;-a Human Rights Activist who has interest of the public at heart.

6. A Petition refers to a written prayer to the County Assembly by a member of the public requesting the County Assembly to consider any matter within its authority, including enacting, amending or repealing any legislation. The Bungoma County Assembly's Standing Orders in particular, Standing Order No 203 provides for the general form of public petitions. The right to petition the County Assembly is the right of every citizen of the County and is provided for in Article 37 of CoK and Section 15 of the County Governments Act and Standing Order No. 199 respectively. Any person, groups of people or an organization has the right to petition the County Assembly. Pursuant to Standing Order no.207 (on Committal of petitions), the Petition was Committed to the Committee on 14th July, 2020.

Powers and privileges of the Committee

7. The powers of the Committee are derived from:

i. Article 195 of the Constitution of Kenya, 2010 gives the County Assembly power to summon witnesses.

ii. Section 14 (1) (b) of the County Governments Act states that a County Assembly may establish committees in such a manner and for such general or special purposes as it considers fit and regulates the procedure of any committee so established.

iii. The County Assemblies Powers and Privileges Act 2017.

iv. The committee further derives its powers from Standing Order No. 172 which provides that committees shall enjoy and exercise all the powers and privileges bestowed on County Assembly by the Constitution and statute including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the government and the public.

LEGAL BASIS

Article 1 (1) of the Constitution of Kenya provides all sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.

(2) The people may exercise their sovereign power either directly or through their democratically elected representatives.

Section 88 of the County Governments Act, 2012 provides that citizens have a right to petition the county government on any matter under the responsibility of the county government; citizen petitions shall be made in writing to the county government.

Section 89 of the same Act, provides that county government authorities, agencies and agents have a duty to respond expeditiously to petitions and challenges from citizens.

The petition to County Assemblies (Procedure) Act, 2020 provides for the procedure on handling petitions.

Standing Order No 203 of the Bungoma County Assembly Standing Orders provides for the form of a petition.

Standing Order No 207(1) of the Bungoma County Assembly Standing Orders provides that every petition presented or reported pursuant to this part, shall stand committed to the relevant Sectoral committee.

(2) whenever a petition is committed to a Sectoral committee, the committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the

Table of the County Assembly and no debate on or in relation to the report shall be allowed, but the Speaker in exceptional circumstances, may allow comments or observations in relation to the petition for not more than 20 minutes.

Committee Proceedings

8. The guiding principle in the Committee's approach to the petition was to reply to the prayers of the petitioner conclusively. The Members of the Committee analyzed the issues to be determined from the prayers of the petitioner and identified the necessary action to be taken. The Committee adopted quasi-judicial proceedings to process the petition. The Committee conducted its investigations and proceedings on the petition by adopting an activity calendar - Annex 1: The Activity Calendar

PARTIES

9. The petitioner, Mr. Moses Wanjala Lukoye appeared in person whereas the Respondent was represented by Mr. Makhakara of M/S. H. M. WASILWA & CO. ADVOCATES, TRONIC HOUSE, 3RD FLOOR MOI AVENUE PO BOX 976-50200 BUNGOMA

Pre-trial conference

10. The pre-trial conference was held on **27th July, 2020 at the County Assembly Plenary** to consider issues to be addressed in processing the petition. Annex 2: The pre-trial conference programme.

Status Conference

11. This was held on **7th August, 2020** which basically entailed parties to confirm service of evidence, list of witnesses and list of documents. The conference was also meant to enable the parties to agree on appropriate hearing dates, though the same had been publicized in the Daily Nation to run from **11th to 14th August, 2020**. Owing to the rule

of natural justice and a right to fair hearing, the hearing schedule was adjusted to run from 13th – 15th August, 2020, as requested by both parties for extension of time.

PETITION:

12.The petition for Moses Wanjala Lukoye had the following grounds:-

- The Governor grossly violated Article 232 of the Constitution and Section 107 of PFMA specifically on wage bill required at 35% but has risen to 52%;
- The Governor violated Article 10 of the CoK by creating offices like the County Chaplain, Deputy County Secretary among others; and doing mere public participation just as a public relations exercise on major projects such as dual carriage, Masinde Muliro Stadium;
- Grossly violated the provisions of the Public Procurement and Assets Disposal Act, 2015 in starting Projects like Dual Carriage, Masinde Muliro Stadium without financial provisions and there is a likely danger for the county government of Bungoma being auctioned; and
- The Governor grossly violated Chapter Six of the Constitution by cheating a section of the public that they shall not pay tax; and failing to take action against corrupt officers including CECM Public Administration and CECM Health together with the Advisor for Special Programme in the alleged jerrican scandal;
- The Governor grossly violated Article 232 of the Constitution by creating a Governor's scholarship using public money without public participation; giving out scholarship money without following laid down procedures, refusing to respond to the petition against him in the Employment and Labour Relations Court in Kisumu by members of the CPSB but instead allowed payment of Kshs. 8,114,560 to their advocate; failing to respond to the petitioners correspondences;
- The Governor grossly violated Section 30(3) of CGA by failing to provide leadership and governance to provide 300 beds for COVID-19 pandemic as directed by the National Government after being given Kshs. 213M for the

samebut instead secured only 22 beds; failing to provide leadership and governance for the establishment of a fire station and has also allowed the CECM Roads to occupy the fire station; failing to provide leadership and governance in addressing unemployment and poverty reduction and due to lack of proper planning, the County Government of Bungoma has failed to employ village administrators under his tenure, the poverty levels has increased from 53% to 70%; failing to provide leadership and governance for staff motivation as there has been no promotion in public service as required, failing to provide leadership and governance in paying pending bills as directed by the President;

- The Governor has displayed gross misconduct by concentrating more on political party issues rather than serving the public.

EVIDENTIAL SESSIONS

13. The petition hearings were conducted on 13th, 14th and 17th August, 2020 at the County Assembly Plenary. The proceedings were open to members of the public. The first Petitioner to appear was Mr. Moses Wanjala Lukoye, who appeared in person and gave both oral and documentary evidence before the committee. He was cross-examined by Counsel for the Respondent and members of the committee.

The Counsel for the respondent appeared before the committee on 17th August, 2020 with two witnesses- CECM Public Administration **Mr. Richard Sabwami Keya**; and **Cyril Weyong'o, the Legal Advisor** to the Governor who gave evidence in chief and were cross examined by the petitioner and members of the committee in compliance with Article 47 and 50 of the Constitution.

After the hearing sessions, parties were directed to file written submissions by close of business on 19th August, 2020.

14. During the hearings, the Committee sought for information to ascertain facts in order to qualify answers as necessary to clarify information. The Committee provided reasonable opportunity to Parties to have access to evidence before the hearing sessions.

15. In the exercise of its mandate, the Committee held seven (7) deliberative sessions to consider the matter under review. The Minutes of the adoption session as well as the petition presented to the Committee are annexed to this report. Annex 3: Adoption Minutes

CHAPTER TWO

2.0 REVIEW OF THE GROUNDS AND DOCUMENTS

16. The Committee undertook a number of steps to arrive at a decision. During discussions, the Committee relied on Article 159 (2) (d) of the Constitution of Kenya which provides that: "... justice shall be administered without undue regard to procedural technicalities..."

17. This Committee considered the arguments of the Respondent that the Petition ought not to be allowed because the petitioner did not have the right to petition for the removal of H.E. THE GOVERNOR from office as per Section 15 (1) of the County Governments Act, 2012 and Standing Order No. 207 of the County Assembly of Bungoma Standing Orders. (Provision of art 37 of CoK)

18. On the issue of sub judice, the Committee established that ground 6 of the petition by Moses Lukoye is before court and two special committees in the assembly and thus could not be prosecuted.

19. The petitioner, Moses Wanjala Lukoye dropped voluntarily ground 7 of his petition.

20. The Committee relied on the evidence adduced in responses and submissions during and after the evidence sessionsto evaluate the grounds of the petition.

21. The Committee considered the petition presented and the corresponding evidence as submitted by the Petitioner. The Committee deliberated over the narration on each of the allegations as substantiated by the petitioner, evaluated the evidence adduced and made remarks on each allegation. The committee further gave an opportunity to the respondent's Counsel to appear with two witnesses and make oral submissions.

2.1 SUBMISSIONS BY- MOSES WANJALA LUKOYE

A - GROSS VIOLATION OF THE CONSTITUTION OF KENYA

1. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County has :
 - a) Presided over a wage bill of 53.7% in the 2017/18 Financial year and wage bill of 46.1% in the 2018/19 Financial year as shown on **Figure 3.11 on page 55 of the County Governments Annual Budget Implementation Review Report FY 2018/19 from the office of Controller of Budget.**
 - b) The Respondent affirms that the increase in the wage bill was occasioned by the previous regime employing many ECDE teachers on permanent terms but it was the responsibility of the current regime under Hon. Wycliffe Wafula Wangamati to correct any anomaly in employment to ensure that the wage bill does not go beyond 35% of total revenue.
 - c) The reduction in the wage bill from 53.7% to 46.1% was due to refusal to pay bonafide casual workers and increase in the County Revenue for the following year.
 - d) The current wage bill is at 52% of the total county revenue before employment of the advertised positions of Directors, Village Administrators and others as evidenced by what is budgeted for remuneration of County Staff.
 - e) When he took over the County Government of Bungoma, the Wage bill was less than 45%. It was expected that after taking over the County Government of Bungoma in August 2017, Hon. Wycliffe Wafula Wangamati could put measures in place to reduce the wage bill to at most 35% as per the law but instead he increased it by violating the law.
 - f) The petitioner submits that there are many workers who earn from the County Government but have no job descriptions and just idle in the corridors or even do not appear anywhere in the County but they earn.

Examples of such workers are **ERIC WAMBASI** and **PETER CHIMAKILE** among others. Some are just goons such **ADAMS MULAMA** and **HENRY KITUYI** who are facing criminal proceedings at the Chief Magistrates court.

- g) Despite the high wage bill, the Governor is alleged to have not taken any action as the County Public Service Board to advertised positions of Directors and other offices, which is a duplication of roles and misuse of County Resources as evidenced by the **advert by CPSB of 14th July 2020 deadline, with a lot of duplication of offices and advertising sub county and Ward administrators who were already employed.**
 - h) The petitioner further alleges that this proves that Hon. Wycliffe Wafula Wangamati has violated Section 107 (c) of the Public Finance Management Act, 2012 as read together with Regulation 25 (b) of the Public Finance Management (County Government) Regulations, 2015, **which requires that wages and allowances of public officers shall not exceed 35% of the total County Revenue.**
2. Un-procedural and illegal employment of staff in the Hon. Wycliffe Wafula Wangamati's office without following due process.
- The Governor of Bungoma County un-procedurally and illegally employed staff in his office without following the due process as evidenced by **Auditor's Report of year ended 30th June 2018 paragraph 8 on page 15 and Governor's staff list and various schemes of service.** This is violation of Article 232 of our Constitution:
3. Creation of illegal offices
- a) Office of the Chief Officer in the office of Governor/Deputy Governor and appointed **Mr. Denson Barasa**, which has no County Executive Committee Member (CECM);

- b) Chief Officer in the office of County Secretary who is not a CECM but just the Secretary to the Executive Committee and appointed **Mrs. Phoebe Buchunju**.
- c) That Hon. Wycliffe Wafula Wangamati violated Section 45 (3) of the County Government Act, 2012 because the appointed Chief Officers who are not responsible to anybody.
- d) The creation of Deputy County Secretary and appointment of **Mr. Isaac Mukenya**,
- e) County Chaplain and appointment of Bishop **Siranjofu**,
- f) Investment secretary and appointment of **Mr. Koyabe** when the position had not been created and it is now that it has been advertised,
- g) Deputy Chief of Staff/personal secretary and appointing of **Mr. Job Chelongo** is violation of Section 60 (b) of the County Government Act, 2012 because it is a duplication of roles done by other departments or persons and just meant to reward his cronies as the Wage bill is increased.
- h) This is evidenced by the **County Assembly Committee of PA & ICT report on the vetting of the nominee for the position of Deputy County Secretary.** With these actions, Hon. Wycliffe Wafula Wangamati has violated Article 232 of our Constitution *“1. The values and principles of public service include— (a) high standards of professional ethics; (b) efficient, effective and economic use of resources; and (g)subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;”*
- i) Violated Section 45 (3) of County Government Act, 2012
“A county chief officer shall be responsible to the respective county executive committee member for the administration of a county department as provided under section 46 of this Act

- j) Violated Section 60 (b) of the County Government Act, 2012 “**The County Public Service Board shall establish a public office within the county public service if it is satisfied that— (b) there exists no other public office in the county public service discharging or capable of discharging the duties for which the county is requested to establish another office;***
4. Appointment of eight (8) advisors instead of 3 as recommended by the consortium of the then Transition Authority, Salaries and Remuneration Commission and the Council of Governors in 2013
- a) As evidenced by Press release on nominees for appointment of chief officers, advisors, members of CPSB and Municipal council.*
- b) The petitioner submits that the Salaries and Remuneration Commission (SRC) only allowed the Governors to appoint 3 advisers (Political, Economic and Legal) as evidenced by the letter and its annexure of Appendix 1 from the County Secretary & Head of Public Service dated 7th Sept. 2017 from the Respondent’s Documents pages 1 and 2 before the Constitution of County Public Service Boards (CPSB).*
- c) The letter by the County Secretary clearly indicates that the Governor was to appoint the staff in his office but **not** the County Public Service Board (CPSB) as Hon. Wycliffe Wafula Wangamati found an already Constituted CPSB so he had no powers to appoint 8 advisers, which is not his mandate and the offices have not been created by the CPSB. The annexed letter only proves that the first Governors were allowed to recommend 3 advisers who will be regularized by the CPSB after it is established.*
- d) That circular does not apply to the second regime because the CPSB are already in place. With such actions, Hon. Wycliffe Wafula Wangamati has violated Article 232 of our Constitution “**1. The values and principles of public service include— (a) high standards of professional ethics; (b) efficient, effective and economic use of resources; and (g) subject to***

paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;”

- e) Violated Section 60 (b) of the County Government Act, 2012 “*The County Public Service Board shall establish a public office within the county public service if it is satisfied that— (b) there exists no other public office in the county public service discharging or capable of discharging the duties for which the county is requested to establish another office;*”
5. Creation of unnecessary Service Delivery unit (SDU) in 2018, which is a duplication of the roles of the County Public Service Board and the County Department of Public Administration and Management as;
- a) Evidenced by **Press release on nominees for appointment of chief officers, advisors, members of CPSB and Municipal council.**
- b) From the Respondent’s Documents page 34, CECM – Public Service Management and Administration wrote to CPSB asking them to create the SDU on 31st October 2019 when the SDU team had already been appointed by the Governor as seen from the press release.
- c) The Respondent has not attached any documents showing how the CPSB created the SDU if they ever created it. He agreed that SDU has not yet been established as per paragraph 15 of the Devolution resolutions of 2019 but he has appointed officers in the SDU. With this actions, Hon. Wycliffe Wafula Wangamati has violated Section 60 (b) of the County Government Act, 2012: “*The County Public Service Board shall establish a public office within the county public service if it is satisfied that— (b) there exists no other public office in the county public service discharging or capable of discharging the duties for which the county is requested to establish another office;*”

6. Instruction of the County Secretary to demote County Directors to sub-counties

- a) Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County instructed the County Secretary to demote County Directors to sub-counties but at same job groups and giving room to give acting allowances to his cronies to misuse them for his personal gains especially in the Revenue and Procurement Departments as evidenced by the **Press release on staff reorganization by Director of Communication.**
- b) He also moved the Sub-County Administrators to County Departments against the law to appointed junior offices to act thus increasing the allowances thus wage bill.
- c) The petitioner submits that there is **NO SCHEME OF SERVICE** for Sub County Administrators that allows the County Secretary to deploy Sub County Administrators to other County Departments. The office of Sub County Administrators is a creation of the County Government Act, 2012 and CPSB has not created a scheme of service for them to be deployed.
- d) It is therefore illegal for the County Secretary to employ them to other County Departments. In the absence of a scheme of service that shows how they can fit in other departments, the action of the County Secretary as directed by the Governor is not re-deployment but employment, which is the mandate of CPSB. With this actions, Hon. Wycliffe Wafula Wangamati has violated Article 41 (2b) of our Constitution ***“Every worker has the right— (b) to reasonable working conditions;***

7. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County watched over and did not take action on the un-procedural and illegal employment and appointments that;

- a) Are happening every day as evidenced by the **List of the Casual workers especially in Governor’s office** that if he is allowed to continue being the

Governor, all the County Revenue will go to wages and allowances or there shall be no money to pay the County workers.

- b) With this actions, Hon. Wycliffe Wafula Wangamati has violated Section 30 (3f) of the County Government Act, 2012: ***“In performing the functions under subsection (2), the governor shall be accountable for the management and use of the county resources;”***
8. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County has grossly violated Article 10 (2) of the Constitution of Kenya 2010 through the following ways:
- a) Denied public participation in creation of offices such as County Chaplain Investment Secretary and Deputy County Secretary among others. **There is no evidence of any public participation in the creation of those offices.**
 - b) Has done public participation just as a public relation exercise especially on major projects such as the Dual carriage, Masinde Muliro Stadium and Webuye Industrial Park as evidenced by the **Tender for Construction of milk plant done advertised whose deadline was 12th November 2018 but public participation done on 30th April 2019.**
 - c) The petitioner submits that the public participation was just done as a public relations exercise because the tender for the construction of the plant had already been advertised meaning a decision had already been done before consulting the public.
 - d) Has failed in the rule of law in appointing staff to his office as evidenced by the **Auditor’s Report of year ended 30th June 2018 paragraph 8 on page 15 and Governor’s staff list and various schemes of service.**
 - e) Has failed to uphold Human dignity, Social Justice and lack of protection of the marginalized for dismissing those who have been working on contract since 2014 and replacing them with his own cronies as evidenced by the **List of the Casual workers especially in Governor’s office.**

- f) The petitioner submits that those who were working as casuals before August 2017 when he took over office had to go to court vide **Petition No. 1 of 2019** for them not to be sacked.
9. Violated the Constitution of Kenya, 2010 Articles 201 (a), (d) and (e) on principles of public finance, Articles 227 (1) on procurement of goods and services and Public Procurement and Disposal Act, 2005 **that requires that before a project is launched, there must be financial provisions.**
- a) He has launched and started many major projects such as dual carriage from Musikoma to Kanduyi worth Kshs. 1.3 billion, Masinde Muliro Stadium worthy Kshs. 700 million and Webuye Milk plant worthy Kshs. 350 million without financial provisions.
 - b) There is a danger of the County Government of Bungoma being auctioned after the projects are completed by the contractors for lack of money to pay them. I submit that the **County budget for the flag ship projects for the five years is not sufficient. For example for Dual carriage the total projected budget will not go beyond one billion when the total cost is about Ksh. 1.4 billion.**
 - c) This is further evidenced by the **County Assembly Joint committee of budget & Appropriation committees April 2019 observation on page 14 that the County Government cannot raise the budget for flagship projects thus need for asking for a loan.**

10. Violated Chapter six of our Constitution on leadership and integrity

“Article 73 (2ci) The guiding principles of leadership and integrity includeselfless service based solely on the public interest, demonstrated by— (i) honesty in the execution of public duties;” and “Article 75. (1) A State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids— (a) any conflict between personal interests and

public or official duties; (b) compromising any public or official interest in favour of a personal interest; or (c) demeaning the office the officer holds.”

Through the following ways:

- a. Cheating a section of the public that they shall not pay tax as evidenced by **his 2017 manifesto.**
- b. Taking no action to county officers whom he has appointed and have been involved in corrupt practices meaning that he is an accomplice as seen in the **Auditor’s report for the year ended 30th June 2018 paragraph 6.2 on page 12.**
- c. **Paid for milk plant purported to have constructed at Bukembe that is now being constructed at Webuye.** The Milk plant has become a cash cow. The Governor went to launch it knowing that it is a cash cow. I submit that this demeans the office of the Governor.

11. Created a Governor’s Scholarship using public Money without public participation in 2018, which is not effective and economic use of resources as evidenced by **Auditor’s report for the year ended 30th June 2018 paragraph 5 on page 11. And the County Assembly report on Scholarship date July 2018.**

With these actions, Hon. Wycliffe Wafula Wangamati has violated Article 232 of our Constitution “*1. The values and principles of public service include— (a) high standards of professional ethics; (b) efficient, effective and economic use of resources; (d) involvement of the people in the process of policy making;*”

12. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County gave out Scholarship money without following the laid down procedures as evidenced by **Auditor’s report for the year ended 30th June 2018 paragraph 5 on page 11. And the County Assembly report on Scholarship date July 2018.** With this actions, Hon. Wycliffe Wafula Wangamati has violated Section 29 (3) of the Public

Procurement and Disposal Act, 2005”*“A procuring entity may use restricted tendering or direct procurement as an alternative procurement procedure only if, before using that procedure, the procuring entity—*

(a) obtains the written approval of its tender committee; and (b) records in writing the reasons for using the alternative procurement procedure.”

13. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County has violated Article 232 of our Constitution:

“1. The values and principles of public service include— (a) high standards of professional ethics; (b) efficient, effective and economic use of resources;”(c) responsive, prompt, effective, impartial and equitable provision of

Services;

By -

- a) Refusing to respond to a court petition against him in Employment and Labour relations Court in Kisumu by Members of County Public Service Board but instead allowing them to illegally pay Ksh. 8,114,560 to their advocate when they were out of office and were to hire personal advocates, which is Misuse of public resources as evidenced by **Employment and Labour Relations Court ruling of Petition 45 of 2017, Payment voucher of Ksh. 8.114,560 to NyikuliSwifwoka& Company advocates.**
- b) I submit that the Governor never entered any response but went ahead to pay Ksh. 10,076,080 to counsel that was an audit query as evidenced by **Auditor’s report of year ended 30th June 2018 paragraph 7.2.**
- c) Failing to respond to my correspondences to him thus lack of responsiveness as evidenced by lack of responding to my correspondences.

14. Failure to provide leadership and Governance

Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County has violated Section 30 (2m) of the County Government Act, 2012

“Subject to the Constitution, the governor shall - sign and cause to be published in the county Gazette, notice of all important formal decisions made by the governor or by the county executive committee.”

And Section 30 (3) of the County Government Act, 2012

“In performing the functions under subsection (2), the governor shall— (a) provide leadership in the county’s governance and development; (b) provide leadership to the county executive committee and administration based on the county policies and plans; (c) promote democracy, good governance, unity and cohesion within the county; (d) promote peace and order within the county; (e) promote the competitiveness of the county; (f) be accountable for the management and use of the county resources; and (g) promote and facilitate citizen participation in the development of policies and plans, and delivery of services in the county.”

By:

- a) Failing to provide leadership and governance for the establishment of a fire station, which is to handle emergencies such as fire, road accidents and drowning. He has allowed the County Executive member of Roads and public Works and his team to occupy **the whole** fire station constructed in the first regime and frustrated the fire station staff not to respond accordingly. As evidenced by the **Fire station contract agreement and drawings.**
- b) Failing to provide leadership and governance in addressing unemployment and poverty reduction. Due to lack of proper planning, the County Government of Bungoma has failed to employ Village administrators for failure to gazette the delineated villages. I submit that advertisement was done and public money used for advertisement but up to date no

employment as **evidenced by the advert but the Governor has failed to gazette the delineated villages.**

- c) Failing to provide leadership and governance for staff motivation and promotions. Most of the staff in the public service have not been promoted as required as evidenced by the **Resignation letter of the CCO Finance who complained of intimidation and undue influence.**
- d) Failing to provide leadership and governance in paying pending bills as directed by the President before the start of 2019/20 Financial year.

B - COMMITTED A CRIME UNDER NATIONAL LAWS.

15. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County has violated Section 30 (1&2) of the Public Procurement and Disposal Act, 2005
“(1) No procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure. (2) Any person who contravenes the provisions of this section shall be guilty of an offence.”

By giving out Scholarship money without following the laid down procedures as evidenced by **Auditor’s report for the year ended 30th June 2018 paragraph 5 on page 11. And the County Assembly report on Scholarship date July 2018.**

16. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County is liable to Section 45 (2a) of the ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003:

“An officer or person whose functions concern the administration, custody, management, receipt or use of any part of the public revenue or public property is guilty of an offence if the person— (a) fraudulently makes payment or excessive payment from public revenues for— (i) sub-standard or defective goods; (ii) goods not supplied or not supplied in full; or (iii) services not rendered or not adequately rendered”

For:

- a. Paying Ksh. 10,076,080 to counsel who never entered any defence that was an audit query as evidenced **by Auditor's report of year ended 30th June 2018 paragraph 7.2.**
- b. Allowing payments of non-existing milk plant as evidenced by the **Auditor's report for the year ended 30th June 2018 paragraph 6.2 on page 12. Paid for milk plant purported to have constructed at Bukembe that is now being constructed at Webuye.**

17. Hon. Wycliffe Wafula Wangamati employed his cronies as staff in his office, appointed members to SDU and appointed his cronies as 8 advisers against the law and all these officers are earning money that could be used to develop Bungoma County. This is an act of conspiracy to defraud the citizens of Bungoma County of their money through employment as per Section 317 of the Penal Code.

C- GROSS MISCONDUCT /ABUSE OF OFFICE

18. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County abused office by instructing the County Secretary to do recruitment **(as evidenced by the advertisement of the position of the County Attorney by the County Secretary in the Standard Newspaper of 5th August 2020)**, which is the function of the County Public Service Board that there is no proper record to show the total staff in the County Government of Bungoma Public Service. If he continues being the Governor, all the County Revenue will go to wages because he has failed to control the wage bill to the required 35%.

19. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County abused office by appointing eight (8) advisers instead of 3 as recommended by the consortium of the then Transition Authority, Salaries and Remuneration Commission and the Council of Governors in 2013 as evidenced by **Press release on nominees for appointment of chief officers, advisors, members of CPSB and Municipal council.** I submit that the Consortium only allowed the Governors to appoint 3 advisers (Political, Economic and Legal) before the Constitution of County Public Service Boards (CPSB). Hon. Wycliffe Wafula Wangamati found an already

Constituted CPSB so he had no powers to appoint 8 advisers, which have not been created by the CPSB.

20. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County abused office by usurping the powers of CPSB and appointing staff to his office and dictating the salary to be paid to them as evidenced by the **Auditor's Report of year ended 30th June 2018 paragraph 8 on page 15 and Governor's staff list and various schemes of service.**
21. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County abused office/gross misconduct by appointing the Chairman of the CPSB Mr. Jonathan Namulala to act as Chief Officer, Finance instead of picking a chief officer to act as evidenced by Respondent's Documents page 31, which is the letter by County Secretary & Head of Public Service to Jonathan Namulala dated 4th November, 2019 paragraph 2 which says that CPSB just approved Namulala to Act but it is the GOVERNOR who appointed him to act. I submit that appointment to acting capacity for Chief Officer is to be done from existing chief officers but not the chairman of the CPSB, which is an independent body that can be sued in its own name. This is abuse of office by Hon. Wycliffe Wafula Wangamati.
22. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County abused office/gross misconduct by appointing a chief officer Mrs. Phoebe Buchunju to act as Secretary of CPSB as evidenced by the signing of Mrs. Buchunju as Ag. Secretary to CPSB as evidenced by the Respondent's Document page 32.
23. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County abused office and showed gross misconduct by intimidating CPSB to regularize staff recommended to them by him without recruiting the staff in that office in accordance to the law as evidenced by the letter of Regularization of Appointment on page 62 of the Respondent's Documents.
24. Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County abused office and showed gross misconduct by appointing three officers Ms Rosemary

Naswa Wanaswa, Mr Humphrey Khisa and Mr Vitalis Wekesa Shikuku in 2018 to SDU that had not been created by then.

25. From the cross-examinations and from the documents provided by Hon. Wycliffe Wafula Wangamati, he affirms that the County Secretary requested the CPSB to second their chairman Mr Jonathan Namulala to act as Chief Officer, Finance and Namulala was appointed by the Governor to act as Chief Officer, Finance. I submit that the County Secretary has no powers to second any officer in law. His role is to be head of public service and communicate the decisions of the Executive Committee, which is chaired by the Governor. Therefore Hon. Wycliffe Wafula Wangamati abused his office to allow the County Secretary to request for Secondment which is not his mandate.
26. The petitioner submits that Hon. Wycliffe Wafula Wangamati abused office by appointing Mrs Phoebe Buchunju who is a chief Office to Act as Secretary to the CPSB so that she can illegally second the Chairman of CPSB Mr Jonathan Namulala to act as Chief Officer Finance and also appoint Mr. Isaac Mukenya as Deputy County Secretary, which had been rejected by the County Assembly Committee on PA & ICT. Mrs Phoebe Buchunju who is a County Chief Officer was specifically appointed by Hon. Wycliffe Wafula Wangamati to write letters as Secretary of CPSB for the illegal appointments, which could not have been done by a substantive Secretary of CPSB.
27. From the PARLIAMENT OF KENYA, THE SENATE, THE HANSARD on Tuesday, 28th January, 2020 Special Sitting, the former Governor, Kiambu County government was removed from office for:
- a. ***“Violation of the Constitution of Kenya, 2010 Articles 201 (a), (d) and (e) on principles of public finance, Articles 227 (1) on procurement of goods and services and Public Procurement and Disposal Act, 2005 by failing to adhere to the stipulated dictates of the law in awarding Ksh. 2.1 billion road tarmacking contracts against as approved total Roads, transport, Public Works and Utilities Budget of Kshs1.4 billion in the Financial Year 2018/2019. The purpose of the***

irregular awards was not to provide public roads, but was intended to enable the Governor obtain personal benefit through kickbacks. This has exposed the county to huge losses through potential suits for breach of contract and/or pending bills.” I submit that similarly Hon. Wycliffe Wafula Wangamati should be removed from office for awarding contracts of his flagship projects without sufficient provision of funds for the contracts.

- b. Abused office by “Violation of the Section 74 of the County Governments Act, 2012 by usurping the Powers of the County Public Service Board to regulate the engagement of persons on contract, volunteers and casual workers in the County of Kiambu by directly creating directorates and hiring staff on casual basis as Directors and Assistant Directors, as well as Sub County Administrators and Ward Administrators. Further, to this, the County Governor has hired over 600 casuals without the involvement of the Public Service Board. Upon realizing that he had broken the law the Governor caused all the said staff to be fired exposing the County to risk of multiple suits and loss of public funds.”* I submit that similarly, Hon. Wycliffe Wafula Wangamati abused office when he usurped the powers of the CPSB by recommending officers in his office to be regularized by CPSB and employing over 143 casuals in his office with involving the CPSB. He has also allowed the County Secretary to re-deploy Sub-county administrators to other Departments without a Scheme of Service by CPSB and he has appointed the Chairman of CPSB Mr Jonathan Namulala to act as Chief Officer Finance and appointed the Chief Officer of ICT Mrs Phoebe Buchunju to act as Secretary to CPSB so as to approve his irregular appointments.
- c. Abused office by “Violation of Article 226 (5) of the Constitution of Kenya, 2010 through the imprudent use of public funds in payment of staff without authorized staff establishment records as required under Section B5 (2) of the County Public Service Human Resource Manual. Examination of the Staff records and payroll by the Auditor General in 2017/2018 audit revealed that the County had employed 706 new employees yet there were no positions advertised*

in the newspapers declaring vacant positions.” I submit that similarly Hon. Wycliffe Wafula Wangamati abused office when he employed 42 new employees in 2017 in his office and send the list to CPSB to regularize yet there were no positions advertised in the newspapers declaring vacant positions.

- d. Abused office by *“Incurring unsustainable wage bill above the expected threshold of 35 per cent in contravention of Regulation 25 (1) (b) of the Public Financial Management (County Government) Regulations, 2015. The statement of receipts and payments on wages and benefit for public officers serving in Kiambu County Government for the Financial Year 2017/2018 was Kshs 5.9 Billion while the actual revenue collected during the year under review was Kshs 12.6 billion, an indication that the percentage of wages and benefits of public officers to the total revenue was 47 per cent. The net effect of the above audited scenario is unsustainable bloated wage bill therefore revenue collected is used to finance wages instead of financing development projects that enhances service delivery and overall wellbeing of Kiambu County residents.”* I submit that similarly Hon. Wycliffe Wafula Wangamati has abused office by presiding over a wage bill of over 35% without putting in place any corrective measures.

28. From the presentation of the Respondent, it was affirmed that during the state address to the County Assembly, the Governor Hon. Wycliffe Wafula Wangamati directed that a Quantity Surveyor (QS) will be attached to the office of the County Secretary to quicken making of BQs, which was done. This is a confirmation of abuse of office for interference of the mandate of CPSB. He was just supposed to make a request for consideration to CPSB for creation of the QS in the office of the County Secretary but not directing. I submit that there is an office of QS in public works and tenders are done in the department of procurement so it is duplication of roles and abuse of office to direct as QS in an office whose function is being done by other departments unless it is meant to micromanage the procurement process with an aim of getting kickbacks. Disciplinary measures could have just been done to procurement

department and QS if there was delay in processing tenders rather than giving directions which contravenes the law.

D- DIRECT LINKAGE OF HON. WYCLIFFE WAFULA WANAGAMATI TO THE ACCUSATIONS/GROUNDS

29. Section 44 (3) states that:

“The county secretary shall—

(a) be the head of the county public service;

(b) be responsible for arranging the business, and keeping the minutes, of the county executive committee subject to the directions of the executive committee;

c) convey the decisions of the county executive committee to the appropriate persons or authorities; and

(d) perform any other functions as directed by the county executive committee.

The petitioner submits to the committee that any requests or appointments which are supposed to be done by the Governor or any business of the County Executive Committee that are done by the County Secretary is a direct action of the Governor who chairs the County Executive Committee. Therefore the action of the County Secretary to make communications to the CPSB and take action is all under the directions of the Governor. Anything done by County Secretary is deemed to be as per function (d) otherwise the Governor and the executive committee will undertake disciplinary measures against the County Secretary. There is no evidence of any disciplinary action against the County Secretary by the County Executive Committee implying that all the actions of the County Secretary are the actions of the Governor. In summary, the Governor communicates through the County Secretary so any action of the County Secretary is directly linked to the Governor.

- 30.** Hon. Wycliffe Wafula Wangamati directly employed the SDU members, directly employed the 8 advisers against the law. From the letters by CPSB, he appointed staff in his office under the disguise of recommending them for the Board just to write they have been Regularized when no competitive sourcing done. He has appointed the chairman of the CPSB Mr. Jonathan Namulala to act as Chief Officer and Mrs. Phoebe Buchunju to act as Secretary to CPSB, Which is against the provisions of the Section 57 and 58 of the County Government Act, 2012 that makes CPSB to be independent from the executive arm.
- 31.** Hon. Wycliffe Wafula Wangamati being the Governor and the Chief Executive Officer of the Executive arm of the County Government of Bungoma is directly linked to any action done by his officers unless evidence is provided of an action done by the Governor in disapproval of any wrong doing by any officer in the Executive arm. Since taking over office and appointing officers that he has to appoint, he has never made any reshuffles meaning that he approves of all the action of his officers and he is directly culpable of any violation done by his officers.

2.2 RESPONDENT’S SUBMISSIONS- (represented by Mr. Makhakara of M/S. H. M.WASILWA& CO. ADVOCATES)

EXECUTIVE SUMMARY

- The Nature, Scope and Utility of Public Interest petition in the Commonwealth Parliamentary Practice

- Introduction: Constitutional, Statutory and Regulatory Framework for the Processing of a Public Interest Petition.

- The Petition

- The Response

- The Proceedings

- Issues for Determination by the Committee

- a) The Jurisdiction of the Sectoral Committee;

- b) Whether the Petition discloses violations of the Constitution, Statute or other Law that amounts to Gross Violation of the Constitution or abuse of Office;

- c) Whether the removal from office of a Governor can be the proper mandate of a Public Interest Petition within the intendment of Section 15 (1) of the County Governments Act

- d) What actions commend themselves to the Committee in its Report to the Petitioners?

1.1The Nature, Scope and Utility of Public Interest petition in the Commonwealth Parliamentary Practice

- a) The Right to entreaty a Public Authority by way of a Petition is enshrined in Article 1(1) of the CoK2010 stated thus:

..Sovereign power shall be exercised in accordance with this Constitution

b) The Manner by which that sovereign power may be exercised is

(the power), may be exercised directly or through their democratically elected representatives...”

c) The constitutional Junction created by Article 2 and begs the question:

Where the constitution provides a power or procedure to a specific organ or person, can that power or procedure be exercised by a citizen directly and independently of the organ upon whom such power is delegated by the Constitution?

d) Applying the above test to the Petition before this Committee, it is doubtful whether the power to initiate the removal of a governor is shared between a citizen and a member of the County Assembly

e) To understand the answer to the above question one must look at the precise wordings relating the power to remove from office of comparative state officers

(i) The Senate is empowered by Article 96(4) CoK to

“Consider and determine any resolution to remove the President or Deputy President from office’

This power of removal from office is restricted to a member of the Member of the National Assembly by Article 144(1) where-under the action is initiated by a Motion in the National Assembly

This power conferred to a Member of the National Assembly is not shared with a citizen; a citizen cannot despite Article 1(1) or the right to Petition Public Authorities initiate the removal of the President or his Deputy from Office.

That is what is meant by the right may be exercised in accordance with this constitution

(ii) In contrast, the power to remove from office of a Judge is by Article 168(2) and (3) of shared between the Judicial Service Commission and a citizen

1.2 The provisions of SO No 203 require the County Assembly to

Indicate whether any efforts have been made to have the matter addressed by a relevant body or whether the response has been unsatisfactory

See SO 203(f) which imports the principle of Restraint & Exhaustion

Indicate whether the issues in respect of which the petition is made are pending before any court of law or other constitutional body

SO 203(g) Res Sub Judice

1.3 This Committee is invited to consider the options available to it in making a Report, namely

- a) Recommending to the CPSB Sanction of an officer where there is infringement, or surcharge where there is misappropriation;
- b) Reprimand
- c) Corrective or remedial measure of an administrative nature or where there are gaps in statutory or legislative framework, Legislation or Policy Shifts
- d) The need for institutional continuity
- e) Restraint; for instance deference to the Public Service Commission or the Labor Relations Court to deal with grievances on Labor or recruitment of staff or Article or the Public Procurement Tribunal to deal with grievances on tenders and contracts

1.4 What this Committee can do with this petition ultimately is prescribed by its own standing orders as:

To respond to the petitioner by way of a Report...laid on the Table of the County Assembly

See SO No. 207(2)

CHAPTER THREE

3.0 ANALYSIS OF EVIDENCE; ORAL AND WRITTEN SUBMISSIONS

3.1 GROSS VIOLATION OF THE CONSTITUTION OF KENYA

i. Gross Violation of Article 232 of the Constitution of Kenya 2010

The petitioner submitted that the Governor has grossly violated Article 232 of the Constitution of Kenya and Section 107 (c) of the Public Finance Management Act, 2012 as read together with Regulation 25(b) of the PFM(County Governments) Regulations 2015 which requires that the wages and allowances of public officers shall not exceed 35% of the total County Revenue. The petitioner submitted that the wage bill increased to 52% through the following ways:

- a) Un-procedurally and illegally employing staff in his office without following the due process as evidenced by Auditor's Report of year ended 30th June 2018 paragraph 8 on page 15 and Governor's staff list and various schemes of service.

Committee's consideration:

- **The committee noted that the Auditor General's Report of year ended 30th June 2018 paragraph 8 on page 15 reported that the County Executive recruited 27 employees in different groups. In the recruitment, the irregularities identified were that;there was no approved recruitment plan and indents from the Ministries, the positions were not advertised to ensure competitive recruitment and there were no shortlisting minutes, interview scores and authority from the CPSB to the County Secretary to appoint the employees. It was further noted in the report that 6 staff members were not appointed to the correct job groups.**

- **The report further indicated that the County Executive absorbed 402 casuals workers into permanent and pensionable terms during the year under review without following necessary recruitment procedures.**
 - **The committee observed that the petitioner submitted an unauthenticated list of casuals in the Governor's office(pages 26 to 36 of the petitioner's evidence). The submitted evidence was dismissed for lack of authenticity.**
 - **The committee further noted that the Respondent during the interrogations accepted liability for the 6 staff that were not appointed in the correct job groups and informed the committee that corrective measures had been undertaken to rectify the error of commission.**
 - **The petitioner did not demonstrate how the respondent directly through his actions and omissions as alleged led to an increase in the wage bill from 35 percent to 52 percent. There was no County payroll or personnel budget provided to support the allegation.**
 - **The committee notes that the hiring and recruitment of officers in public service is the duty of CPSB. The appointing authority, in this case the County Secretary as per the Auditor general's report acted without advice from the CPSB.**
 - **The committee took cognizance of the Auditor General's report on the irregularities in the recruitment of the officers. However, there was no evidence adduced to show how the respondent was directly involved in the hiring of casual workers and other staff as alleged by the petitioner.**
- b) Creation of illegal offices such as Chief officer in the office of the Deputy Governor, Chief Officer in the office of the County Secretary, Deputy County Secretary, County Chaplain, Investment Secretary, Deputy Chief of staff/personal secretary that were not necessary as per Section 60 of the County Government

Act,2012 as evidenced by Press release on nominees for appointment of chief officers, advisors, members of CPSB and Municipal council.

Committee's consideration;

- **With regard to the establishment of offices and filling of the Chief Officer positions in the County Executive, the Committee observed that the petitioner submitted to the County Assembly, report by the Committee on Public Administration and ICT on the vetting of the nominee for the position of the Deputy County Secretary on pages 104 to 120 of the petitioner's evidence.**
- **The committee observed that the report submitted could not be relied on as authentic evidence since it wasn't an official document of the County Assembly. The report was neither signed by the chairperson of the committee nor adopted by the members of the committee.**
- **The Committee observes that the petitioner did not provide evidence to establish a nexus between the Governor and the allegations made.**

c) Appointment of eight (8) advisors instead of three (3) as recommended by the consortium of the Transition Authority, Salaries and Remuneration Commission and the Council of Governors in 2013.

Committee's consideration;

- **The committee noted that the petitioner submitted the press release on nominees for appointment of various offices among them the advisors in the Office of H.E the Governor dated 29th August 2018 on pages 37 to 41 of the petitioner's evidence. The document was signed by H.E the Governor.**

d) Creation of unnecessary Service Delivery Unit (SDU) which is a duplication of the roles of the CPSB and the County Department of Public Service Management and Administration.

Committee's consideration;

- The committee observed that in a communique of the sixth devolution conference from 4th to 8th March, 2019, in Kirinyaga County, the conference resolved that “County Governments shall, in the next one(1) year, establish County Service Delivery Units to monitor development projects”(Respondent’s Document Pg37)
- The committee further observes that Section 60 (b) of the County Government Act, 2012 stipulates that: “The County Public Service Board shall establish a public office within the county public service if it is satisfied that— (b) there exists no other public office in the county public service discharging or capable of discharging the duties for which the county is requested to establish another office;
- With regard to the Service delivery unit creation, the CECM Public Service Management and Administration, appearing as a witness in the proceedings; affirmed that indeed his office wrote to the CPSB on 31st October 2019 on the creation of the Governor’s Service unit. (Annexed on Pg. 34 of the Respondent’s document) However the CPSB had not responded to the request by the time of his appearance before the committee.
- The CECM verbally confirmed under oath that the CPSB had not responded to the request by the CECM Public Service Management and Administration on the regularization of the appointment of the Service Delivery Unit members.
- The Governor nominated for appointment to the Service Delivery unit as per the press release dated 29th August 2018 on page 37 of the petitioner’s evidence.

- **The Governor acted in contravention of Section 60(b) of the County Government Act, 2012 on appointment of the SDU to a unit that had not been established by the CPSB.**
 - **The evidence adduced on this ground was sufficient to sustain the statement.**
- e) Movement of County Directors to sub-counties in the Revenue and Procurement Department, and replacing them with his cronies on acting capacity for his personal gain; and movement of the Sub-County Administrators to County Departments against the law and appointing junior officers to act, thereby increasing the allowances and wage bill as evidenced by the Press release on staff reorganization by Director of Communication. (Petitioner’s evidence pg. 42)

Committee’s consideration;

- **With regard to the transfer of the County Directors, the committee noted that the Director of Communication in the Office of the Governor issued a press release on staff reorganization on the 8th of August 2018. The petitioner did not submit any evidence to demonstrate that the Governor replaced the Directors with his cronies, neither was the personal gain of the Governor substantiated.**
- **In a letter dated 27th February 2018 addressed to the Clerk to the County Assembly from the CECM –PSMA; in response to a statement raised in the County Assembly on the deployment of the Sub-County Administrators; the CECM affirms that the deployment was carried out procedurally by the Office of the County Secretary and Head of Public Service as per the provisions of Section 72(2) of the County Government’s Act, 2012 (the respondent’s document on pg. 28)**

- **The committee noted that the deployment of the Sub-County Administrators was undertaken by the County Secretary as per the provisions of Section 72(2) of the CGA 2012.**
- **With regard to the Scheme of Service, the committee noted that in the absence of the County Scheme of Service, the Public Service Commission Scheme of Service could be used as a guideline.**
- **The petitioner failed to provide evidence to prove that the Governor gave instructions to the County Secretary to demote County Directors to sub-counties. He also failed to show how the law was violated in the deployment of officers in the county among them directors and sub county administrators.**
- **The evidence adduced on this ground was insufficient to sustain the statement.**

f) Instruction of the CPSB to advertise positions of Directors and other offices which was a duplication of roles and misuse of County Resources as evidenced by the advert by CPSB of 14th July 2020 deadline, with a lot of duplication of offices .(Petitioner's evidence pg.43 to 103)

Committee's consideration;

- **The committee observed that the evidence submitted by the petitioner was the CPSB adverts for the positions of Directors and deputy directors in various ministries downloaded from the county website.**
- **The petitioner did not submit any document as proof that the Governor instructed the CPSB. The petitioner further failed to prove the duplication of roles and misuse of County resources.**

ii. Gross Violation of Article 20(2) of the Constitution of Kenya 2010

The petitioner submitted that the Governor has grossly violated Article 10 (2) of the Constitution of Kenya 2010 through the following ways:

a) Denied public participation in creation of offices such as County Chaplain Investment Secretary and Deputy County Secretary among others. The petitioner submitted that there is no evidence of any public participation in the creation of those offices.

The committee noted that the petitioner did not submit any evidence as proof that the Respondent denied the public participation in the creation of the offices.

b) The petitioner submitted that the Governor has done public participation just as a public relation exercise especially on major projects such as the Dual carriage, Masinde Muliro Stadium and Webuye Industrial Park as evidenced by the Tender for Construction of milk plant done advertised whose deadline was 12th November 2018, but public participation done on 30th April 2019. The petitioner submitted that the public participation was just done as a public relations exercise because the tender for the construction of the plant had already been advertised meaning a decision had already been done before consulting the public.

Committee's consideration;

- **The committee observed that the petitioner submitted the tender for the construction of the dairy processing unit in Bungoma County whose deadline was 12th November 2018 on page 146-149 of the petitioner's evidence.**
- **The committee also noted that the petitioner provided a copy of the invitation to public participation meeting on the proposed development of an industrial park in Webuye town by the County Department of Trade, Energy and Industrialization. The proposed dates were 2nd to 5th of April 2019 on page 150 of the petitioner's document.**
- **The petitioner further submitted a copy of an approved budget for public participation on proposed development of industrial park, received by the Deputy Head of Treasury on 27th November 2018 on pages 151 and 152 of the petitioner's document.**

- The petitioner also submitted extracts from the face book page of the Governor's Press Service dated April 9th April 30th and 17th May 2019, where the County Government is indicated to have held public participation and launched various projects on pages 153 to 155 of the petitioner's document.
 - The committee takes cognizance of the documents submitted by the petitioner and that the invitation for tender documents was undertaken prior to the public participation. However, the petitioner did not demonstrate how the Governor conducted the public participation as a mere public relation exercise.
- c) The petitioner submitted that the Governor has failed in the rule of law in appointing staff to his office as evidenced by the **Auditor's Report of year ended 30th June 2018 paragraph 8 on page 15 and Governor's staff list and various schemes of service.**

Committee's consideration

- The committee took cognizance of the Auditor General's report on the irregularities in the recruitment of the officers as submitted by the petitioner on pages 10 to 22 of the petitioner's evidence. However, there was no evidence adduced to show how the respondent was directly involved in the hiring of casual workers and other staff as alleged by the petitioner.
- d) The petitioner submitted that the Governor has failed to uphold Human dignity, Social Justice and lack of protection of the marginalized for dismissing those who have been working on contract since 2014 and replacing them with his own cronies as evidenced by the List of the Casual workers especially in Governor's office. The petitioner further submitted that those who were working as casuals before August 2017 when he took over office had to go to court vide **Petition No. 1 of 2019** for them not to be sacked.

Committee's consideration;

- **The committee observed that the petitioner submitted an unauthorized list of casuats in the Governor's office list of casuats on pages 26 to 36 of the petitioner's evidence. The submitted evidence was dismissed for lack of authenticity.**
- **Furthermore, the particulars of the petition No. 1 of 2019 in court were not submitted as evidence to the committee**

iii. Violation of Articles 201(a)d) and (e) and Article 227(1) of the Constitution of Kenya 2010

The petitioner submitted that the Governor violated the Constitution of Kenya, 2010 Articles 201 (a), (d) and (e) on principles of public finance, Articles 227 (1) on procurement of goods and services and Public Procurement and Disposal Act, 2005 by the following ways:

- a) That the Governor launched and started many major projects such as dual carriage from Musikoma to Kanduyi worth Kshs. 1.3 billion, Masinde Muliro Stadium worthy Kshs. 700 million and Webuye Milk plant worthy Kshs. 350 million without financial provisions.

The petitioner therefore submitted that there is a danger of the County Government of Bungoma being auctioned after the projects are completed by the contractors for lack of money to pay them. The petitioner averred that the County budget for the flag ship projects for the five years is not sufficient. For example for Dual carriage the total projected budget will not go beyond one billion when the total cost is about Ksh. 1.4 billion.

The petitioner submitted the County Assembly Joint committee of Budget & Appropriation committees April 2019 observation on page 14 of the petitioner's

document as evidence that the County Government cannot raise the budget for flagship projects thus need for asking for a loan.

Committee's consideration;

- **The committee observed that the petitioner submitted as evidence, the County Assembly report of the Joint Committee on Budget and Appropriations and Finance and Economic Planning committees on the County Medium Term Debt Management Strategy Paper for the FY 2019/20-FyY 2020/21 on pages 156 to 171 of the petitioner's document.**
- **The committee observed that the submitted report could not be relied on as authentic evidence since it wasn't an official document of the County Assembly. The report was not signed by the chairperson of the committee nor was it adopted by the members of the committee. Further the report was not received by the office of the Clerk as an official document.**
- **The Committee observes that the petitioner did not provide evidence to establish a nexus established between the Governor and the allegations made.**

iv. Violation of Chapter six of the Constitution on leadership and integrity

The petitioner submitted that the Respondent violated Chapter 6 of the Constitution of Kenya 2010 through the following ways:

- a) Cheating a section of the public that they shall not pay tax as evidenced by **his 2017 manifesto.**
- b) Taking no action to county officers whom he has appointed and have been involved in corrupt practices meaning that he is an accomplice as seen in the Auditor's report for the year ended 30th June 2018 paragraph 6.2 on page 12.

Committee's consideration;

- **With regard to the allegation of misleading the public that they shall not pay tax in the Governor's campaign manifesto, there was no evidence submitted to support the claim by the petitioner.**
- **The committee took cognizance of the Auditor General's report for the Year ended 30th June 2018 paragraph 6.2. on page 13 of the petitioner's evidence. The report indeed indicated that the County made a payment of Kshs. 9,377,350 to a local contractor for dairy commercialization area network at Bukembe, however, physical verification of the project revealed that the project is not operation not withstanding full settlement of the contract sum.**
- **The petitioner did not provide evidence to prove that the Governor was an accomplice to the alleged corruption by the Chief Officers, nor did he prove that the Governor had not taken any action against the officers involved. The allegations by the petitioner were not substantiated as no documentary evidence was provided.**

v. Violation of Article 232 of the Constitution of Kenya 2010

- a) The petitioner submitted that the Governor created a Governor's Scholarship using public Money without public participation in 2018, which is not effective and economic use of resources. The petitioner also submitted that the Governor of the Bungoma County gave out Scholarship money without following the laid down procedures as evidenced by Auditor's report for the year ended 30th June 2018 paragraph 5 on page 11. And the County Assembly report on Scholarship date July 2018.

Committee's consideration;

- **The committee observed that the petitioner submitted as evidence, the Auditor General's report on page 12 of the petitioner's documents. In the**

report as indicated on paragraph 5 of page 11 of the report, the Auditor General raised that the management, through the Ministry of Education spent Kshs. 22,675,734 to cater for scholarship for bright and needy students. However, verification of recorded revealed that the Ministry awarded scholarship yet no scholarship policy had been formulated and the criteria on how the scholarship were awarded was not availed for audit verification.

- The committee took cognizance of the Auditor general's report and the anomalies cited in the scholarship records. The petitioner did not however submit to the committee documents to demonstrate that public participation was not undertaken, or the involvement of the Governor in the cited anomalies.
- b) The petitioner submitted that the Governor refused to respond to a court petition against him in Employment and Labour relations Court in Kisumu by Members of County Public Service Board but instead allowing them to illegally pay Ksh. 8,114,560 to their advocate when they were out of office and were to hire personal advocates, which is Misuse of public resources as evidenced by **Employment and Labour Relations Court ruling of Petition 45 of 2017, Payment voucher of Ksh. 8.114,560 to NyikuliSwifwoka& Company advocates.** The petitioner also averred that the Governor never entered any response but went ahead to pay Ksh. 10,076,080 to counsel that was an audit query as evidenced by **Auditor's report of year ended 30th June 2018 paragraph 7.2.**

Committee's consideration;

- The committee was cognizant of the Auditor General's report on the direct procurement of legal expenses as evidenced on page 15 of the petitioner's document. The committee however noted that there was no link established to confirm the Governor's involvement in the payment.

- **The evidence adduced on this ground was insufficient to sustain the statement.**

3.1.1 THRESHOLD FOR GROSS VIOLATION OF THE CONSTITUTION

In the Supreme Court of Nigeria case of Hon. Muyiwa Inakoju & others –v- Hon. Abraham Adeolu Adedeke S.C. 272 of 2006, it was held as follows:

“A Governor as a human being cannot always be right and he cannot claim to be always right. That explains why section 188 talks about gross violations. Accordingly, where a misconduct is not gross, then section 188 weapon of removal is not available to the House of Assembly.”

It is useful to note the various meanings of the word **“gross”** in relation to violation. Gross violation is a flagrant violation, a glaring error, nasty, unpleasant, vulgar or crass. It must be a severe transgression of the Constitution or a law.

In Kenya it is useful to note the provision of Article 73 of the Constitution which deals with the responsibilities of leadership:

Responsibilities of leadership

73.(1) Authority assigned to a State officer—

(a) is a public trust to be exercised in a manner that—

(i) is consistent with the purposes and objects of this Constitution;

(ii) demonstrates respect for the people;

(iii) brings honour to the nation and dignity to the office; and

(iv) promotes public confidence in the integrity of the office; and

(b) vests in the State officer the responsibility to serve the people, rather than the power to rule them.

(2) The guiding principles of leadership and integrity include—

(a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;

- (b) *objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;*
- (c) *selfless service based solely on the public interest, demonstrated by—*
 - (i) *honesty in the execution of public duties; and*
 - (ii) *the declaration of any personal interest that may conflict with public duties;*
- (d) *accountability to the public for decisions and actions; and*
- (e) *discipline and commitment in service to the people.*

In Petition No. 3 of 2014 **Hon. Martin Nyagah Wambora & 4 others –v- The Speaker of the Senate and 5 others**, the High Court held as follows:

“To our minds therefore, whether a conduct is gross or not will depend on the facts of each case having regard to the Article of the Constitution or any written law alleged to have been violated. We find that it is not every violation of the Constitution or written law that can lead to the removal of Governor, it has to be a gross violation’.

The question therefore is how to measure what constitutes gross violation. We are of the view that the standard to be used does not require a mathematical formula, but it must take into account the intendment of Article 181(1) of the Constitution. In our view therefore whatever is alleged against a Governor must;

(a) be serious, substantial and weighty.

(b) there must be a nexus between the Governor and the alleged gross violations of the Constitution or any other written law.

The charges as framed must state with a degree of precision the Article(s) or even Sub-Articles(s) of the Constitution or the provisions of any other written law that have been alleged to be grossly violated.”

The issue of the threshold for impeachment is complex and does not contain a simple mathematical formula. During the Senate's consideration of the report of the Special Committee investigating the removal of the Governor of Kericho on 3rd June 2014 the Senate adopted the Committee's recommendation that the threshold for impeachment should take into account the following considerations-

- (i) *The allegations must be serious, substantial and weighty;*
- (ii) *The violation must be a flagrant and glaring violation;*
- (iii) *There must be a nexus between the violation and the Governor;*
- (iv) *The violation must have led to harm, loss or damage to society;*
- (v) *The violation must have led to a loss of dignity in the office held and loss of confidence or trust in the person holding office to carry out the functions of that office with integrity and accountability.*

The threshold was also used by the Senate in the subsequent consideration of the proposed removal from office, by impeachment, of Honourable Mwangi wa Iria, the Governor of Murang'a County in November, 2015.

- **The committee noted that the allegations against the Governor on the ground of gross violation of the Constitution were not serious, substantial and weighty and the petitioner did not demonstrate the nexus between the Governor and the alleged gross violations. The evidence adduced was insufficient to sustain the allegations.**

3.2 FAILURE TO PROVIDE LEADERSHIP AND GOVERNANCE

The petitioner submitted that the Respondent has violated Section 30 (2)(m) and 30(3) of the County Government Act, 2012 by:

- a) Failing to provide leadership and governance for the establishment of a fire station, which is to handle emergencies such as fire, road accidents and drowning. He has allowed the County Executive member of Roads and public Works and his team to occupy **the whole** fire station constructed in the first regime and frustrated the fire station staff not to respond accordingly. As evidenced by the **Fire station contract agreement and drawings.**
- b) Failing to provide leadership and governance in addressing unemployment and poverty reduction. Due to lack of proper planning, the County Government of Bungoma has failed to employ Village administrators for failure to gazette the delineated villages. I submit that advertisement was done and public money used for advertisement but up to date no employment as **evidenced by the advert but the Governor has failed to gazette the delineated villages.**
- c) Failing to provide leadership and governance for staff motivation and promotions. Most of the staff in the public service has not been promoted as required as evidenced by the **Resignation letter of the CCO Finance who complained of intimidation and undue influence.**
- d) Failing to provide leadership and governance in paying pending bills as directed by the President before the start of 2019/20 Financial year.

Committee's consideration;

- **The committee noted that the petitioner did not submit documentary evidence on the role of the Governor on the issues raised on this allegation. The petitioner did not demonstrate how the respondent failed to provide leadership and governance.**

3.3 COMMITTED A CRIME UNDER NATIONAL LAWS.

- i. The petitioner submitted that the Respondent has violated Section 30 (1&2) of the Public Procurement and Disposal Act, 2005 as evidenced by **Auditor's report for the year ended 30th June 2018 paragraph 5 on page 11. And the County Assembly report on Scholarship date July 2018.**
- ii. The petitioner also submitted that the Respondent is liable to Section 45 (2a) of the ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003 by:
 - a) Paying Ksh. 10,076,080 to counsel who never entered any defence that was an audit query as evidenced **by Auditor's report of year ended 30th June 2018 paragraph 7.2.**
 - b) Allowing payments of non-existing milk plant as evidenced by the **Auditor's report for the year ended 30th June 2018 paragraph 6.2 on page 12. Paid for milk plant purported to have constructed at Bukembe that is now being constructed at Webuye.**

Committee's consideration;

- **The committee observed that these issues had been raised under the gross violation of the Constitution and that the petitioner did not submit evidence to demonstrate the nexus between the Respondent and the allegations.**

3.4 GROSS MISCONDUCT /ABUSE OF OFFICE

The petitioner submitted that the Governor abused office and gross misconduct by:

- i. Instructing the County Secretary to do recruitment **(as evidenced by the advertisement of the position of the County Attorney by the County Secretary in the Standard Newspaper of 5th August 2020),** which is the function of the County Public Service Board that there is no proper record to show the total staff in the County Government of Bungoma Public Service.
- ii. Appointing eight (8) advisers instead of 3 as recommended by the consortium of the then Transition Authority, Salaries and Remuneration Commission and

the Council of Governors in 2013 as evidenced by **Press release on nominees for appointment of chief officers, advisors, members of CPSB and Municipal council.**

- iii. Usurping the powers of CPSB and appointing staff to his office and dictating the salary to be paid to them as evidenced by the **Auditor's Report of year ended 30th June 2018 paragraph 8 on page 15 and Governor's staff list and various schemes of service.**
- iv. Appointing the Chairman of the CPSB Mr. Jonathan Namulala to act as Chief Officer, Finance instead of picking a chief officer to act as evidenced by Respondent's Documents page 31, which is the letter by County Secretary & Head of Public Service to Jonathan Namulala dated 4th November, 2019 paragraph 2 which says that CPSB just approved Namulala to Act but it is the GOVERNOR who appointed him to act. I submit that appointment to acting capacity for Chief Officer is to be done from existing chief officers but not the chairman of the CPSB, which is an independent body that can be sued in its own name. This is abuse of office by Hon. Wycliffe Wafula Wangamati.
- v. Appointing a chief officer Mrs. Phoebe Buchunju to act as Secretary of CPSB as evidenced by the signing of Mrs. Buchunju as Ag. Secretary to CPSB as evidenced by the Respondent's Document page 32.
- vi. Intimidating CPSB to regularize staff recommended to them by him without recruiting the staff in that office in accordance to the law as evidenced by the letter of Regularization of Appointment on page 62 of the Respondent's Documents.
- vii. Appointing three officers Ms Rosemary Naswa Wanaswa, Mr Humphrey Khisa and Mr Vitalis Wekesa Shikuku in 2018 to SDU that had not been created by then.
- viii. Appointing Mrs Phoebe Buchunju who is a chief Office to Act as Secretary to the CPSB so that she can illegally second the Chairman of CPSB Mr Jonathan Namulala to act as Chief Officer Finance and also appoint Mr. Isaac Mukenya

as Deputy County Secretary, which had been rejected by the County Assembly Committee on PA & ICT. Mrs Phoebe Buchunju who is a County Chief Officer was specifically appointed by Hon. Wycliffe Wafula Wangamati to write letters as Secretary of CPSB for the illegal appointments, which could not have been done by a substantive Secretary of CPSB.

- ix.* Employing 42 new employees in 2017 in his office and send the list to CPSB to regularize yet there were no positions advertised in the newspapers declaring vacant positions.
- x.* Directing that a Quantity Surveyor be attached to the office of the County Secretary to quicken making of BQs, instead of taking disciplinary measures on the procurement department and QS if there was delay in processing tenders rather than giving directions which contravenes the law.

Committee consideration;

- **With regard to the abuse of office and gross misconduct, the committee observed that the appointment of Mr. Jonathan Namulala to act as Chief Officer Finance and Economic Planning and Mrs Phoebe Buchunju as Acting CEO/Secretary of CPSB was un-procedural as alleged by the petitioner. The petitioner however, failed to provide evidence to show that the appointment was done by the Governor. The committee notes that the deployment was initiated and executed by the CPSB.**

3.5 THE PETITIONER'S PRAYERS

The petitioner prayed that:

1. The County Assembly declares that Hon. Wycliffe Wafula Wangamati as the Governor of the Bungoma County is guilty of the grounds of Gross violation of the Constitution of Kenya, Committed a crime under National laws, Abuse of office and Gross misconduct.
2. The County Assembly considers removing Hon. Wycliffe Wafula Wangamati as Governor of the County Government of Bungoma by Impeachment.
3. All the illegally created offices and unnecessary offices be abolished.
4. All those who were un-procedurally and illegally employed to be terminated and surcharged.
5. All those implicated in corrupt practises be disciplined appropriately.

CHAPTER FOUR

4.0. COMMITTEE'S GENERAL OBSERVATIONS AND CONCLUSION

The Committee makes the following observations supported by the necessary statutes and specific evidence:

1. The committee observes that the petitioner adhered to the provisions of the Petitions to County Assemblies (Procedure Act,2020) and the Bungoma County Assembly Standing Order No. 203 on the form of petitions.
2. The committee observes that petitioner failed to provide evidence that directly links the respondent (Governor) to the grounds of Gross violation of the Constitution of Kenya, Crimes under National laws, Abuse of office and Gross misconduct.
3. The Committee observes that there was no evidential value adduced on the grounds listed above. The Committee holds the view that the evidence of the petitioner amounts to hearsay. The Black's Law Dictionary 7th Edition defines hearsay as: *'...A testimony that is given by a witness who relates not to what he or she knows personally but what others have said and that is therefore dependent on the credibility of someone other than the witness. Such testimony is generally inadmissible under the rules of evidence...'*
4. The Committee observes that the petition is not a remedy for all incidents of maladministration or criminal conduct. Whereas allegations are made, but the committee was not able to make a conclusive finding due to the limit of its mandate, the matter is nevertheless serious in nature and may require the relevant organs of Government to pursue. The Committee's view is that some of the allegations made in the present petition merit such consideration. These include the allegations relating to-
 - a) The appointment of Mr. Jonathan Namulala to act as Chief Officer Finance was un-procedural as alleged by the petitioner.

- b) The secondment of Ms. Phoebe Buchunju to act as the CEO County Public Service Board was also un-procedural.
 - c) The appointment of members of the Service Delivery Unit was also un-procedural.
 - d) The committee further takes cognizance of the irregular and un-procedural hiring of partisan staff in the Governor's office as contained in the Auditor General's report dated 30th June, 2018.
5. The committee observes that the petitioner willingly requested allegations on ground 6 (e) and 7 to be expunged for consideration by the committee.
 6. The committee observes that there was no evidence adduced to show that the Office of the County Secretary was acting on instructions of the Governor. The Office is created by the law and the holder has his roles clearly spelt out.
 7. The committee notes that the petitioner is of double speak; on one hand is complaining of wage bill sky rocketing and on the other hand the petitioner complains that the Respondent has failed to employ village administrators;
 8. The committee notes that the petitioner failed to prove how the Respondent engaged in public relations exercise in carrying out public participation on major projects in the County;
 9. The committee was cognizant of the provisions of Standing Order No. 85 and therefore could not discuss issues pending before court or committee (sub judice); Allegations 4(b) 6(a)(b) of the petition were expunged on this basis.

4.1 CONCLUSION

The removal of a Governor is a constitutional and political process. It is a *sui generis* process that is *quasi-judicial* in nature and the rules of natural justice and fair administrative action must be observed.

What standard should be applied in implementing the threshold for the removal of a Governor? There is need to maintain a high threshold for the removal of the Governor and the need to ensure that the law is strictly followed.

The standard of proof is neither beyond reasonable doubt nor a balance of probability. Noting that the threshold for the removal of the Governor involves “Gross violation of the Constitution,” we hold that the standard of proof required for the removal of a Governor is above balance of probability but below reasonable doubt.

The committee holds the view that the petitioner did not provide sufficient evidence to support the allegations presented.

4.2 ADOPTION

Mr. Speaker Sir,

I further wish to confirm that the contents herein were adopted by the Committee. Once again it is my pleasant duty and privilege to table this report.

5.0 ADOPTION SCHEDULE

We the undersigned members of the Public Administration and ICT Committee append our signatures adopting this report with the contents therein.

No.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Majimbo Okumu	Chairperson	
2.	Hon. Violet Makhanu	Vice chairperson	
3.	Hon. Stephen Wafula	Member	
4.	Hon. Joseph Juma	Member	
5.	Hon. Francis Chemion	Member	
6.	Hon. Meshack Simiyu	Member	
7.	Hon. Joseph Magudah	Member	
8.	Hon. Elly Tindi	Member	
9.	Hon. Joan Kirong	Member	
10.	Hon. Jack Wambulwa	Member	
11.	Hon. James Mukhongo	Member	
12.	Hon. Hillary Kiptalam	Member	
13.	Hon. Tony Barasa	Member	
14.	Hon. Erick Wapang'ana	Member	
15.	Hon. Luke Opwora	Member	

APPENDIXES

Annex 1: The Activity Calendar

Annex 2: Pre-trial Conference Programme

Annex 3: Adoption Minutes

Annex 4: The Petition

Annex 5: The Petitioners' submissions

Annex 6: The Respondents' submissions

Annex 7: The adoption schedule