

**RECORD OF EVIDENCE TAKEN BEFORE THE SENATE  
SPECIAL COMMITTEE INVESTIGATING THE PROPOSED  
REMOVAL FROM OFFICE BY IMPEACHMENT OF THE  
GOVERNOR OF WAJIR COUNTY HELD ON  
WEDNESDAY, 12<sup>TH</sup> MAY, 2021 IN THE SENATE CHAMBER,  
MAIN PARLIAMENT BUILDINGS**

**SENATORS PRESENT**

[The Chairperson (Sen. Okong'o Omogeni, MP) – Presiding]

**Sen. Susan Kihika, MP – Vice-Chairperson**

Sen. Paul Mwangi Githiomi, MP  
MP

Sen. Mithika Linturi, MP  
MP

Sen. Fredrick Outa, MP  
Sen. Petronila Lokoria Were, MP  
Sen. Christine Zawadi Gona, MP

Sen. Johnson Arthur Sakaja,

Sen. (Eng.) Godana Hargura,

Sen. Kavindu Muthama, MP  
Sen. Issa Juma Boy, MP

**IN ATTENDANCE**

**THE GOVERNOR'S TEAM**

Hon. Mohamed Abdi Mohamud	-	Governor,
Wajir County Mr. Paul Nyamodi	-	Advocate
Mr. Ndegwa Njiru	-	Advocate
Mr. Charles Mwangi Ndegwa	-	Advocate
Mr. Patrick Barasa	-	Advocate

**THE COUNTY ASSEMBLY'S TEAM**

Mr. Ahmednassir Abdullahi SC - advocate

- Mrs. Hanan El-Kethiri - Advocate  
Ms. Elizabeth Wangui - Advocate

### **MEMBERS OF WAJIR COUNTY ASSEMBLY**

- Hon. Mohamud Gabane Noor - Majority Leader & MCA  
Sarman Ward  
Hon. Abdullahi Isaack Mohamed - MCA, Tula Tula/Elnur  
Ward  
Hon. Issa Ahmed - Chairperson, Public  
Accounts & Investments  
Committee  
Hon. Shueb Bare Ahmed - MCA Diff Ward

### **SECRETARIAT**

- Dr. Johnson Okello - Director, Legal Services  
Ms. Mary Chesire - Deputy Director, Committee Services  
Ms. Josephine Kusinyi - Principal Legal Counsel  
Dr. Brenda Ogembo - Senior Clerk Assistant  
Ms. Sylvia Nasambu - Clerk Assistant II  
Ms. Lucy Radoli - Legal Counsel II  
Ms. Lorna Okatch - Research Officer  
Mr. Wilson Bosmet - Principal Serjeant-at-Arms  
Mr. Patrick Murindo - Serjeant-at-Arms  
Ms. Julia Gachoki - Serjeant-at-Arms  
Mr. Mohamed Ibrahim - Serjeant-At-Arms

*(The Special Committee convened at 2.30 p.m.)*

**The Chairperson** (Sen. Omogeni): The meeting is called to order. First, we want to apologize for beginning this session slightly late. It is because we had to retreat to deliberate and write some ruling on the issues that were

raised in the morning. As is tradition, we always start our business with a word of prayer. I will ask Sen. Linturi to pray for us.

## PRAYER

### THE COMMITTEE RULING ON PRELIMINARY

#### ISSUES RAISED

This is the brief ruling of the Committee on the issues that were raised this morning.

Hon. Senators, ladies and gentlemen, this morning Mr. Ahmednassir Abdullahi, Senior Counsel appearing for the County Assembly of Wajir and Mr. Nyamodi together with Mr. Ndegwa appearing for the County Executive of Wajir County raised a number of preliminary issues, which the Special Committee had to retreat, deliberate and give directions this afternoon.

Due to the limited time available to the Committee we have made a brief summary which gives direction on the way forward and the detailed reasoning thereof will be contained in the final resolution of this Committee that will be communicated to the House.

On the issue of the letter dated 11<sup>th</sup> May, 2021, addressed to the Clerk of the Senate by the firm of Ahmednassir Abdullahi, the Committee, having perused the letter confirms that the letter was received by the Senate within the stipulated times. The advocates for the Governor, however, were not served with the same within the stipulated time, that was on Tuesday.

However, this morning during its hearing this Committee did direct that the Governor and his legal team be served with that letter and this Committee was able to get a confirmation from advocate Nyamodi that indeed that letter was served on them. The mistake, therefore, which is regrettable, arose from inadvertence by the Senate to effect service of the said letter on the legal

team of the Governor for which we unreservedly apologize on behalf of the Senate.

However, this Committee has taken into account the contents raised in the said letter and have taken judicial notice of the fact that the legal team of the Governor sought for five minutes to look at the contents of the letter and seek further instructions from their client, that is, the Governor for Wajir. In the circumstances, no prejudice will be suffered if the said letter was to remain part of the record to be considered by the Senate.

Further, now that the said letter has been admitted, the firm of Ahmednassir Abdullahi made a request to the Special Committee to summon the following persons pursuant to Rule 9 of Part 2 of the 5<sup>th</sup> Schedule of the Senate Standing Orders.

The witnesses that the said advocate sought to be summoned include:-

- (a) Mrs. Kheira Omar Maalim, who is said to be the spouse of the Governor for Wajir.
- (b) Yusuf Mohamed Abdi, who is alleged to be the son of the Governor for Wajir
- (c) Farhiya Mohamed Abdi, who is alleged to be the daughter of the Governor for Wajir
- (d) Osman Abdi Jimal, a businessman.

The Committee has taken into account the provisions of Rule 9, Part II of the Fifth Schedule of the Senate Standing Orders, which provide that the Committee may, at the request of the County Assembly or the Governor, invite or summon any person to appear and give evidence before the Committee.

Further, the Senate is of the view that these proceedings concern the Governor and the Special Committee is not persuaded at this juncture that there is sufficient basis that has been adduced to compel it to issue summons in respect of Mrs. Kheira Omar Maalim, Yusuf Mohamed Abdi and Farhiya Mohamed Abdi.

In any event, the Senate is of the view that the County Assembly may still adduce evidence to show that there is a nexus between the allegations of abuse of office which the Governor is facing and the Governor's family without necessarily the testimony of the witnesses sought.

On the request to summon Mr. Osman Abdi Jimal, the Special Committee is convinced that it should exercise its discretion under Rule 9 Part II of the Fifth Schedule to the Senate Standing Orders.

Accordingly, summons are hereby issued for Mr. Osman Abdi Jimal to appear before this Committee and give evidence on these impeachment proceedings.

On the issue of the inclusion of an annexure to affidavit of Barre Ahmed which for purposes of these proceedings is marked as CA7, the Committee has considered the request and allows the request on the basis that the wider mandate of the Committee is to exercise its oversight function and it flows from the powers donated to this House under Article 125 of the Constitution.

In this respect, the Committee while cognizant of the rules of evidence and the protection of the right to fair hearing remains alive to the fact that to sufficiently carry out its mandate, it may call for any information document or person that would shed more light on the matters that have been raised before it. It is therefore, directed that the said information be filed before Committee and be served all the parties.

On the issue of expunging the affidavit sworn by Hussein Abdi Dahir, which is marked as CA1 and CA2, the Committee does not allow the application as the information contained therein may be crucial to the investigations under inquiry and may establish whether the allegations against the Governor have either been substantiated or have not been substantiated.

On the question of whether the matters conversed in CA4 and CA8 amount to introduction of evidence that was not adduced before the County Assembly, the Committee finds that this can only be determined after the substantive hearing of both parties and after evidence has been adduced as those will be issues of facts and not issues of law.

This is so because the matters raised in the preliminary objection are at this juncture, premature. This matter goes to the facts of the case and at this juncture the Committee cannot rule on this matter and the Committee shall determine this matter when it retreats to consider the evidence adduced and make its findings.

We now turn to the issue of the injunction issued by the High Court in Meru in High Court, Petition No.E009 of 2021 the Aden Ibrahim Mohamed and others versus the County Assembly of Wajir and others.

The Senate has previously been faced with similar proceedings in the past where it has been called upon to hear, investigate and vote on charges against a sitting Governor. All the governors' impeachment motions are and all resolutions have led to long-drawn court battles, where the governors seek among others, conservatory injunctive orders against the county assemblies or the Senate, stopping them from proceeding with the impeachment process as per our Constitution of Kenya, 2010.

In this regard, the Supreme Court of Kenya, in Petition No.32 of 2014, Justice Kariuki Mate and another versus Martin Nyaga Wambora and another, considered the issue of contempt of court arising from legislative proceedings, where the appellants urged that the trial court ought to have noted the legitimate dilemma facing the Speaker of the County Assembly, who are subject to constitutional timelines, yet was faced with a court order stopping the legislative process.

It was urged that in this instance, the Speaker complied with the Constitution in a context in which the question of the constitutional obligation on the other hand and the burden of knowledge of the court order on the other hand, and asked the court to clarify the extent parties would be in violation of legal requirements, with opposed court orders bearing upon them.

Any party aggrieved by removal proceedings in the county assembly ought to appear before the Senate and raise all pertinent issues, including the legality of the process in the county assembly. In this regard, the Committee is guided by a quote from the ruling of the late Justice Onguto, in the case of Mwangi wa Iria and others versus the Speaker, Murang'a County Assembly and Others, where the Judge said-

“I take cognizance of the fact that the Senate is truly what I may call the impeachment court. The Senate is expected not only to investigate the nexus of the allegations to the first petitioner, but the Senate must also interrogate the entire process as it is – through the county assembly. I have seen no law that restrains the Senate from returning a verdict that the process was not conducted as detailed under the constitution or any law for that matter. Pray the Senate rises to the occasion and is practical and realistic in its investigations.”

The constitutional mandate to impeach a governor is duly assigned to the County Assembly and the Senate. Article 181 defines the circumstances under which a county governor may be removed from office. In line with the terms of Article 181(2) Parliament duly enacted the County Government Act of 2012 which lays down the procedure for removal of a governor in Section 33 thereof.

Further, Standing Order No.68 of the Senate standing orders also provides for the procedure for the removal of a governor from office. These provisions provided for strict timelines to be followed by the Senate in the process of removing or otherwise not removing a governor.

Finally, on the question of the competence of the Motion pending before the County Assembly of Wajir the Senate ought not to involve itself on the validity of the proceedings pending before another legislative body. This special investigative Committee must limit itself to the question of whether the allegations made against the governor for removal are substantiated or not and not as to whether there are other proceedings pending before the County Assembly of Wajir.

That is our ruling and we now order that we proceed with the proceedings.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, we are most obliged.

**The Chairperson** (Sen. Omogeni): we will serve you with these copies when we have a clean copy.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, we need some direction before leaned senior calls his witnesses. We note that the augmentation of the addition to the affidavit has been allowed. We are going straight into evidence taking now. We still have now see the additional evidence and we will struggle to take instruction and cross- examining.

**The Chairperson** (Sen. Omogeni): Counsel for County Assembly are you able to serve that evidence you said you had? Can it be served right away before you put your witness to the dock?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, we will serve right away. Do I first serve the Senate or just---

**The Chairperson** (Sen. Omogeni): Serve us and all the parties.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): We are most obliged. We will do that immediately.

**The Chairperson** (Sen. Omogeni): Do that right away and then you can call your first witness.

*(Mr. Ahmednassir Abdullahi served the documents)*

Counsel for Governor, if you need leave to make any response to what you have been served we can grant you up to tomorrow morning.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): What we relish an opportunity for is to take instructions because it is a document we are seeing for the first time. It is the Governor being impeached; we will need an opportunity to show it to him. We do not know if the witnesses will still be available tomorrow morning.

**The Chairperson** (Sen. Omogeni): We will allow you up to tomorrow if you have any documents or response to table them before us and serve the other parties.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir, just for clarification. Does that mean that at a particular point you shall stand down the witness so that the witness then can be available for further cross-examination in the event we need reply to the same?

**The Chairperson** (Sen. Omogeni): The witnesses can be here tomorrow. If there is need you can make that application and then we can give direction on it.

Senior Counsel Ahmed Nasir, you can bring your first witness. We request the other witnesses to step out if they are here.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I will call the first witness. I first need your guidance. As a lawyer I am not used to having my witness at my back.

**The Chairperson** (Sen. Omogeni): We expect him to be at the Dispatch Table. For time management, how long will you take with your first witness?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): As the principal witness he will be a little longer than the others but I will save time with others. Since most of the documents and affidavits are on record, we will not take long, maybe 15 minutes, maximum.

**The Chairperson** (Sen. Omogeni): Witness, you can elect to be sworn-in by either lifting the Koran or you can affirm.

Team from the County Assembly, we have received a signal from our security room that somebody is trying to interfere with iPads which are before you. Please do not interfere with them. If you remove any of them, it will trigger an alarm somewhere. Leave them the way they are. You can make use of them but do not try to pull them off or to remove the charger. I am told you cannot leave the compound with those gadgets.

There could be some Senators' personal items in the drawers. Please, leave them as they are because the security cameras are watching.

Okay. You can take Oath now.

*(Hon. Abdullahi Isaack Mohamed took the Oath)*

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Yes, Mr. Abdullahi Isaac. Explain to the Committee a little bit about yourself.

**Hon. Abdullahi Isaack Mohamed:** As I said my name is Hon. Abdullahi Isaack Mohamed duly elected Member from Elnur/Tula Tula Ward from Wajir County Assembly. I represent Elnur/Tula Tula Ward as a Member for County Assembly (MCA). My role is legislation, representation and oversight.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How many MCAs does the County Assembly of Wajir have?

**Hon. Abdullahi Isaack Mohamed:** The County of Wajir is made up of 30 wards. So, it has 30 elected Members and 19 nominated Members.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): As you aware today we are having this trial here. Can you explain to this Committee the background of this process? When did it start and how?

**Hon. Abdullahi Isaack Mohamed:** The process of impeaching the Governor started when I started collecting signatures for the removal of the Governor. It started on 19<sup>th</sup> April, 2021. I collected signatures for the removal of the Governor. I had 33 MCAs signed.

**The Chairperson** (Sen. Omogeni): Senior Counsel, could we know which volume he is making reference to so that we move together? Where is his evidence? It is in which volume?

**The Advocate for Wajir County Assembly** (Ms. Wangui): Mr. Chairman, Sir, it is CA3.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, yes. It is No.9 on this. It is in CA3.

**The Chairperson** (Sen. Omogeni): Okay. So, Senators you can make reference to CA3. Continue.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Explain quickly.

**Hon. Abdullahi Isaack Mohamed**: Mr. Chairman, Sir, I will be referring to my Notice of Motion before the Senate and my witness statement and the annexures therein.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, you are the one who drafted the Notice of Motion and took it to the Assembly?

**Hon. Abdullahi Isaack Mohamed:** Yes, Senior Counsel. I drafted the Motion and collected the signatures. On 19<sup>th</sup> April, 2021, I took the Notice of Motion together with the signed documents to the Office of the Clerk for verification.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): For ease of following, what page do you find that Notice of Motion?

**Hon. Abdullahi Isaack Mohamed:** The Notice of Motion can be found on page one A1.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Up to what page?

**Hon. Abdullahi Isaack Mohamed:** It is on Page 1.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Up to what page?

**Hon. Abdullahi Isaack Mohamed:** It is on page 1 up to page 13.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Explain to this Committee very briefly what happened when you submitted it to the Assembly.

**Hon. Abdullahi Isaack Mohamed:** As a procedure and according to the Standing Orders of the Wajir County Assembly, when I presented the signed documents together with the Notice of Motion--- I will refer to my witness statement here. According to the procedure, I delivered to the Clerk of Wajir County Assembly Hon. Shalle a copy of proposed Motion in writing stating the grounds and particulars upon which the proposal was made for the impeachment of the Governor of Wajir County His Excellency (Amb.) Mohamed Abdi Mohamud.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Okay. Just explain what happened after you did that. You do not have to read it.

**Hon. Abdullahi Isaack Mohamed:** Okay. After presenting the document as Section 33 of the County Government Act states, the Clerk of the Assembly has to verify to make sure that I have attained the one third threshold required to present the Motion.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Did you attain that threshold?

**Hon. Abdullahi Isaack Mohamed:** Yes, the threshold is in Annex A1 (2) that is pages 14 to 16.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Then after that what happened?

**Hon. Abdullahi Isaack Mohamed:** That is where 32 Members verified their signatures. After that, the Clerk will submit the Notice of Motion to the Speaker for approval. The Speaker went through the Notice of Motion and was satisfied. After receiving the Notice of Motion, the Speaker by provision of Standing Order No. 63 (3) gave a Notice of Motion on the Floor of the House on Tuesday, 20<sup>th</sup> April, 2021 at 2.30 p.m. for the impeachment of the Governor.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Did the House debate that issue?

**Hon. Abdullahi Isaack Mohamed:** The Notice of Motion was given on 20<sup>th</sup> April, 2021. Usually a Notice of Motion is not debated. I read the charges and the Speaker called off the sitting. Therein the Speaker would write to the Governor notifying him of my Notice of Motion. The Governor has seven days to respond on the issue.

That one can be seen in Annex A3 which is on Page 19. The page 19 shows the notification of Notice of Motion of Impeachment sent to His Excellency the Governor by the Speaker of Wajir County Assembly.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): What is on Page 20 of your document?

**Hon. Abdullahi Isaack Mohamed:** That is on Page 19 of my witness statement.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): What is on page 20?

**Hon. Abdullahi Isaack Mohamed:** The Page 20 is a letter written by the Speaker of the County Assembly of Wajir.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Page 20 I said. Look at Page 20.

**Hon. Abdullahi Isaack Mohamed:** Sorry, Page 20 is a memorandum, a public participation that was done by the County Assembly of Wajir through the national dailies. It was a submission of memoranda by the public or public participation on the impeachment of the Governor.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let me take you to paragraph 15 of your witness statement. Look at paragraph 16 of your witness statement. Can you read to the Committee the grounds of impeachment?

**Hon. Abdullahi Isaack Mohamed:** Paragraph 16 is ground of impeachment. There is gross violation of the Constitution of Kenya 2010 and the County Government Act, Public Procurement and Disposal Act 2015 and the Public Finance Management Act by the following actions, errors or omission.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Stop there. Was that your first ground in the Notice of Motion before the Assembly?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Can you highlight to the Committee where they will find that in your Notice of Motion?

**Hon. Abdullahi Isaack Mohamed:** The Notice of Motion is in the---

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No, just highlight that ground. It is on what page of your Notice of Motion?

**Hon. Abdullahi Isaack Mohamed:** It is on page 4 of my Notice of Motion.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it your evidence that that ground is captured word for word in this witness statement?

**Hon. Abdullahi Isaack Mohamed:** Yes, I can confirm that.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Explain very briefly what the ground of impeachment under that Ground 1 is. What were you complaining about and what evidence do you have?

**Hon. Abdullahi Isaack Mohamed:** On gross violation of the Constitution of Kenya (2010), the County Government Act (2012), the Public Procurement and Disposal Act (2015), the Public Finance Management (PFM) Act (2012), these are the following grounds. They are clearly shown.

Ground (a) was the failure to account for the financial resources allocated to the county and appropriated by the County Assembly by failing to provide quarterly expenditure reports to the County Assembly in blatant disregard to Articles 201 (a) and 183 of the Constitution.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let me take you up. Look at your witness statement. It starts at paragraph 16 and goes to 17 and 18. Explain paragraph 18 to the Committee.

**Hon. Abdullahi Isaack Mohamed:** Paragraph 18 is one the issue of pending bills. The County Government of Wajir, having contracted the people of Wajir to work for them failed to pay contracts to the tune of

Kshs2.064 billion. Considering that the economy of Wajir is very small, and considering the people of Wajir rely mostly on the expenditure of the county government, this is a huge sum of money for people to be owed by the Wajir County.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it your evidence that the sum that appears in paragraph 18 of Kshs2.064 billion is work done and not paid?

**Hon. Abdullahi Isaack Mohamed:** This is work done and not paid, and was presented by the County Executive Committee Member (CECM) of Finance as annexed in page 63-97 of my annexes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): To your knowledge, was this budgeted for in the annual budget of the County Government of Wajir?

**Hon. Abdullahi Isaack Mohamed:** It was captured in the budget of 2018/2019 and it was not paid.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Was money allocated for---

**Hon. Abdullahi Isaack Mohamed:** Yes, the money was allocated.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): To your knowledge, what happened to the money if it was not paid?

**Hon. Abdullahi Isaack Mohamed:** The money was diverted to other payments that will be captured later in the Motion, but this money was not paid.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Go to paragraph 22 of your witness statement.

**Hon. Abdullahi Isaack Mohamed:** The actions on the part of the Governor are also a violation of Section 33 (f) as he has failed to be accountable for management and use of the county resources.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Explain what you mean by that.

**Hon. Abdullahi Isaack Mohamed:** I want to clearly show that these pending bills that were submitted by the CECM of Finance were just a portion of the pending bills. If you go to paragraph 23, when these pending bills were submitted from the requests of the Members of the County Assembly (MCAs), accordingly, some time in 2019, a nine member *ad hoc* committee was constituted through a Motion tabled in the County Assembly.

The Committee was established because of the public outcry that this money that was declared by the CECM of Finance to be the pending bills was not the actual pending bill, but more than that. It will be captured clearly by my colleague, hon. Hussein, in his affidavit.

**The Advocate for wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Where is the evidence in your witness statement and annexures where you can pinpoint to the Committee to look into that report?

**Hon. Abdullahi Isaack Mohamed:** It is clearly captured in annexure (a) (17) on page 98-177 of my witness statement.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): What does all that show? It is a lot of documentation. In a nutshell, what does it show?

**Hon. Abdullahi Isaack Mohamed:** I will take you to the Committee report. I just want to show you some few issues regarding the role of the said *ad hoc* committee. If I take you to page 100, on behalf of the County Assembly of Wajir *ad hoc* committee on pending bills-- I want to read for you the mandate of the Committee---

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It is okay. The Committee will see that it is on page 100.

**Hon. Abdullahi Isaack Mohamed:** The Committee was mandated and tasked to verify and come up with the pending bills that were not declared by the CECM. The pending bills are in the tune of almost Kshs2 billion. That will also be captured in the affidavit by my colleague.

It clearly shows that despite contracting members of the public, the County of Wajir also failed to declare that these contracts were done and not paid. They only declared Kshs2 billion. This Kshs2 billion plus the remaining Ksh1.6 billion was not paid.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): To your knowledge, are those pending bills still pending?

**Hon. Abdullahi Isaack Mohamed:** I confirm that they are still pending.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): That is okay. Let me take you to paragraph 26. Explain to the Committee what those figures are.

**Hon. Abdullahi Isaack Mohamed:** If you come to paragraph 26, it is clear that there is a separation of power. The role of the county assembly is to provide oversight and representation. In paragraph 26, you can see that the money quoted at Kshs70 million belongs to the Assembly of Wajir for the purpose of paying the salaries, mileage and medical cover for hon. Members.

This money was supposed to be remitted on June 20<sup>th</sup>. If you go to page 178 (b), you can see that the budget is Kshs760 million. However, this Kshs70, 216, 902 was supposed to be submitted to Wajir County Assembly in the month of June for payment of salaries. Remember that this money is recurrent. It cannot be forwarded to the next month.

The purpose of this money is to pay salaries, mileage and medical covers for hon. Members. To frustrate the hon. Members not to do their role, this money was withheld by the county treasury. It was later brought forward to the next month. Remember that this is recurrent expenditure which is supposed to be paid within that Financial Year.

This Kshs70 million was misused by the County Executive for purposes that were not appropriated by the County Assembly. This is a clear violation by the County Executive, and it clearly shows that the County Executive has a role in making sure that the County Assembly does not perform its functions of oversight, representation and legislation well.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): From paragraph 28-34 of your witness statement, you make a lot of averment on breeches of the PFM Act. Can you list for this Committee the breeches you say the Governor is responsible for? From paragraph 28-34.

**Hon. Abdullahi Isaack Mohamed:** If I start with paragraph 28, it still talks about the remittance of the county treasury to the county assembly. I want to bring out clearly that the Kshs70 million that was withheld by the county treasury is not paid up to now, and we are ending the Financial Year 2020/2021. This money was transferred from 2019/2020. This is a whole year.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** To your knowledge, is that money in the accounts?

**Hon. Abdullahi Isaack Mohamed:** To my knowledge, we cannot ascertain whether the money is in the account, but we can confirm that that money was used in the Financial Year 2019/2020. As of now, we do not know where that money is.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** That is okay. Let me ask you. Looking at your evidence, just summarize---

**The Chairperson (Sen. Omogeni):** Senior Counsel, where can we get this annex marked (a) (1) (10)? After paragraph 28---

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** The annexure (a) (1) (10) is on page 180.

**The Chairperson (Sen. Omogeni):** It is good that you guide us. Page 180?

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** Yes, page 180.

**Hon. Abdullahi Isaack Mohamed:** Annexure (a) (1) (9) is a letter dated 30<sup>th</sup> June addressed to the head of treasury from the Controller of Budget on this issue. Annexure (a) (10) is on page 181.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Continue now. Explain or give examples of breaches of the PFM Act by the County Government and the Governor.

**Hon. Abdullahi Isaack Mohamed:** By withholding this money, the Governor clearly violates Articles 176 and 195 of the Constitution by disregarding the County Assembly as an independent arm of the County Government.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at paragraph 31.

**Hon. Abdullahi Isaack Mohamed:** On paragraph 31, is a letter dated 24<sup>th</sup> June, 2020 that can be found on page 181 of the annexes. On that letter, the Speaker of Wajir County Assembly, Hon. Ibrahim Yakub, wrote a letter to the Governor asking him to come and address the County Assembly.

The importance of the address is to ensure you enumerate the policies and direction of the county government. Without direction, we do not know what policies are to be implemented or where the County is headed.

The Governor, since inception of the second Wajir County Government, has never done a single address. This clearly shows that Wajir County Government has no direction at all. We do not know where we are headed

and neither do we know the policies that are supposed to be implemented. The Governor has decided to remain mum on these issues.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it your evidence that since he came to office, he has not addressed the Assembly?

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. There is a difference between opening the assembly and giving an address. The Governor came on the first day to open the Assembly when we swore in the Speaker.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it your evidence that it is a mandatory requirement for the Chief Executive to address the County Assembly?

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. It is a requirement and it is a violation of Section 30(2) (K) of the County Governments Act, 2012.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Go to paragraph 34 of your witness statement.

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. On paragraph 34, you are talking about the emergency funds, which are meant to enable payments in respect to a county or when an unforeseen issue arises.

Since inception and it is even captured on page 1 of the 2018 Auditor-General's report. Once you withdraw money from the emergency fund, you are supposed to provide statements to the County Assembly within two months and seek an approval. The Governor never sought an approval and never provided a statement regarding the emergency fund. This is a clear violation of Section 167 of the Public Management Act.

Mr. Chairman, Sir, this is like a cash cow to the Governor because this money is misappropriated and embezzled and no report is given out. When the County Assembly seeks a report regarding the issue, no report is given. It is now clearly captured in the Auditor-General's report on 30<sup>th</sup> June, where they do not keep separate accounts or statements for the emergency, revolving and bursary funds.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): To your information, how much money has been misappropriated under that heading of emergency funding?

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. When we came in in 2017/2018, the first emergency fund that we appropriated was Kshs150 million. Emergency fund is usually 2 per cent of the total revenue. Therefore, it is almost Kshs183 each financial year.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it the last three or four financial years? Is it your testimony that the Governor has not accounted for emergency funds?

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. Yes, it is my testimony that he has not accounted for a single cent of the emergency fund.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): As a County, you simply have no idea of how it was spent?

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. The County Assembly seeks information. Once it is not provided, the only avenue to go is through this impeachment Motion.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at Paragraph 38.

**The Chairperson** (Sen. Omogeni): Sorry, again Senior Counsel. On which page is Annexure A?

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. Annexure A is on page 10 of the Auditor-General's report. You can refer to my Motion that was submitted to the Senate. It is on Page No.1 of the Auditor-General's report, 2017/2018.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Go to paragraph 38 and explain to the Committee what is this absence of the cash book and how that Kshs409,440,000 arose.

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. According to the Auditor-General's report, the County Government totally failed to maintain

cashbooks. Therefore, this has caused misuse of Kshs409 and Kshs440 million, respectively. This money was withdrawn with no cashbook by the County Treasury, contrary to the provisions of Section 119(5) of the Public Finance Management Act. This is a clear violation. These transactions were not recorded either in the imprest and it can be seen on page 16 of the Auditor-General's report.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Does that appear as Annexure A (1) (13) on page 213 of your document?

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. This one is on page No.16 of the Auditor-General's report on my Motion.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): On Paragraph 40 (a), what is that Kshs172 million that you have referred to?

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. Let me refer you to Page No.12 of the Auditor-General's report, 2017/2018 about irregular procurement of goods and services.

**The Chairperson** (Sen. Okong'o-Omogeni): Please, use the marked numbers on your document, such as 182 or 183.

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. I am referring to my Motion that was submitted to the Senate.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Just explain A and B quickly. What is it about this company called Ms FATCO Construction and Transporters Ltd?

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. On Ms FATCO Construction and Transporters Ltd., it was raised by the Auditor-General that this company was awarded a contract worth Kshs34,747,105. Three of the bidders were eliminated but they had better experience. Ms FATCO Construction and Transporters Ltd., had lesser experience.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): At paragraph 42 of your witness Statement, explain to this Committee that allegation you have made that Kshs119 million was misappropriated in Wajir County.

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. According to the information from the Controller of Budget (CoB), this Kshs119 million---

**The Chairperson** (Sen. Omogeni): No, Senior Counsel. I did not get that page properly. Which page was he referring to on the audit report?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I will get for you. However, we will be giving you the pages in every annexure from now on so that you can follow easily. Look at paragraph 42 of your witness statement.

**Hon. Abdullahi Isaack Mohamed:** Through the Chair. Yes, on paragraph 42 of my witness statement, it says Kshs119 million was misappropriated. Usually, when the County Treasury requests for funds, they make do so with suppliers' list. On page No.216, there is a copy of a letter dated 26<sup>th</sup> November, requesting for Kshs199 million. This was authorised on 26<sup>th</sup> November by the CoB.

Now, the supplier list to pay the funds are also on Page No.218. In the Department of Roads, there were 24 companies to be paid Kshs104 million. In the Department of Water, it was Kshs104 million. If you go to page 220, Kshs95 million was to be paid from the funds.

Coming to Page No.43, the CoB authorised the money to be paid to those companies but it was diverted for other use. On page No.44 of the documents submitted by Wajir County Government to CoB in support of their requisition, 24 companies were to be paid Kshs104 million for the Water Department.

Further, 15 companies were to be paid Kshs96 million for the Department of Roads. However, the money was not paid to the said companies.

The money was diverted. From the department of water, only Kshs36 million was paid. From the department of roads, only Kshs43 million was paid. The remaining balance of Kshs119 million cannot be accounted for.

So, you can see clearly that there is a loss of Kshs119 million that was misappropriated.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): That is what you captured in Paragraph 49 of your witness statement.

**Hon. Abdullahi Isaack Mohammed:** Yes. I captured that in paragraph 49. Some of the companies that were paid from the money were Shell companies that are associated with the Governor.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let us go to Paragraph 51.

What is that allegation you make?

**Hon. Abdullahi Isaack Mohammed:** On paragraph 51, the issues that I raised here is over-quotation by a company named Leyli that was contracted by the Wajir County Government to supply bales of *ugali*.

A bale of *ugali* in local retail goes for Kshs1,600 in Wajir town. If you go for wholesale, it is lesser than that. This company was contracted by Wajir County Government to provide 42,857 bales of *ugali* at the cost of Kshs3,500. That is almost 200 per cent of the local price. That is a clear misappropriation of funds by Wajir County Government.

Further, you can see some items that were not 100 per cent delivered. Apart from the bales of *ugali*, the contracted company did not deliver the items 100 per cent. This money was latter paid in full to the contractor. So, you can imagine.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Where do you find that? At what page?

**Hon. Abdullahi Isaack Mohammed:** In the annexures, on Page 229.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Who owns that company of Leyli General Contractors? Do you know?

**Hon. Abdullahi Isaack Mohammed:** Leyli General Contractors is owned by Osman, the person you sought to be called as a witness.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Okay. Let us go to Paragraph 53. There are a number of tenders you highlight.

**The Chairperson** (Sen. Omogeni): Senior Counsel, there is a Senator who wants to seek a clarification.

**Sen. Linturi:** Mr. Chairman, Sir, I am sorry for interrupting. If I got the question from the Senior Counsel, the question was that where would you get evidence on who was paid for the supply of those bales of *unga*? He said Page 229 is where you would get the evidence of payment. Turning to Page 229, what I find is a letter of notification of award. So, I want some clarity, so that we are able to follow.

**Hon. Abdullahi Isaack Mohammed:** The issue I was trying to explain is not the payment. I am trying to explain the notification of award. This company was awarded a contract of Kshs149 million to supply *unga* at a cost of Kshs3,500. So, the annexure there is a letter of notification of award to the supplier in response to our---

So, this is a notification of award, not the payment.

Notification of award basically is an agreement between the county and---

**The Chairperson** (Sen. Omogeni): Do you have page two of that letter? What we have is just Page 1.

We do not know the author of the letter, signature and the person who issued it.

Just go to Page 229. At the bottom there is no signature or author.

**Hon. Abdullahi Isaack Mohammed:** 229 will be clearly captured in my---

Let me guide you to my motion.

**The Chairperson** (Sen. Omogeni): If you do not have, proceed.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at Page 234.

**The Chairperson** (Sen. Omogeni): Sen. Linturi says you have not addressed his concern.

He says that is the notification of the award. However, I think the allegation is that payments were made.

Is that what you are saying Senator?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): To your knowledge, was payment made to that company or that emergency tender for maize?

**The Chairperson** (Sen. Omogeni): Where do we get that evidence?

**Sen. Linturi:** Let me be specific and clear. The evidence that we are seeking here is for payment of that supply. When you refer us to Page 229, what we find is a notification of award for various items. However, even if you were to look at this notification, there is nowhere you find any reference to the supply maize flour.

**Hon. Abdullahi Isaack Mohammed:** I want to explain this clearly.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Have you understood him?

**The Chairperson** (Sen. Omogeni): Look at the last time. I assume *ugali* is what you are talking about. The last item is *ugali*, Kshs3,500.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, from where we sit, the witness should get no such help. It is his document. Let him point out whether it is *ugali* or maize flour.

**The Chairperson** (Sen. Omogeni): Answer the Senator to his satisfaction.

**Hon. Abdullahi Isaack Mohammed**: Senator, what I want to bring out here is that from a statement sought by a Member of the County Assembly (MCA), he sought to be--- The statement is here.

**The Chairperson** (Sen. Omogeni): You will do us a lot of favour if you make reference to a page, so that we are able to follow.

**Hon. Abdullahi Isaack Mohammed**: This is page 229.

**The Chairperson** (Sen. Omogeni): We are there.

**Hon. Abdullahi Isaack Mohammed**: Page 229 is a notification of award. You can see at No.9, at the bottom of the page, a bale of *ugali* goes for Kshs3,500.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is there any place we can find that? Is there a next page? To your knowledge, is there a page 2 of that letter?

**Hon. Abdullahi Isaack Mohammed**: It was supposed to be here.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is there anywhere we can find?

**Hon. Abdullahi Isaack Mohammed:** Yes. Can you give me a minute to find it in my Motion?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Okay. We will come back.

What were you saying in relation to Page 230?

**Hon. Abdullahi Isaack Mohammed:** This was a response to request for a statement on county food and non-food items that were issued. This was a statement that was sought by the Member for Wagberi Ward.

If you go through, they are asking how many food and non-food items were brought. So, you can clearly see here.

On the delivery of those goods, if you go to Page 231, there is sleeping mat and trampoline. The delivery is 93 per cent and 80 per cent delivered. However, the main issue that we want to bring out here is award of a contract to supply a bale of *ugali* at a cost of Kshs3,500.

There is no mention of payment here. What I mentioned here is the issue of Kshs3,500 being paid.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let us go back to the question by Sen. Linturi.

To your knowledge, was payment made for that *ugali*, bale or maize?

**Hon. Abdullahi Isaack Mohammed:** A notification award---

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): We know that. To your knowledge; if you know say 'yes.' If you do not, say you do not.

**Hon. Abdullahi Isaack Mohammed:** I am not aware of the payment.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let us go to Paragraph 53 of your witness statement.

Can you explain those tenders and the issues you are raising about it?

**Hon. Abdullahi Isaack Mohammed:** On Paragraph 53, these are adverts that were placed on local dailies.

See annex A121 on page 319. This is a tender notice by the County Government of Wajir. According to the budget that was appropriated for Wajir County for the Financial Year 2021/2021, there was no provisions or no budget for construction of mega dams. As you can see here, there was an advert of four mega water pans that were to be constructed in four sub counties. This issue clearly shows that the Governor had gone out of budgets. The role of County Assembly of Wajir is to appropriate budgets. For you to change the budget, you have to seek the approval of the Assembly.

They advertised for these projects. Some of the projects were tendered, awarded and paid while other companies were not paid. For example, in paragraph 62 of my witness statement regarding the same issue, there is a company that was contracted by Wajir County Government to provide service. It provided service at a cost of Kshs18 million. On 22<sup>nd</sup> May, the company completed the work and was given a letter of completion by the engineer. This company was not paid. It sought legal redress and it was

given Kshs21 million as damages and costs on 26<sup>th</sup> November. See the annexures A23 on page---

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Hon. Isaack Mohammed, let me take you back to paragraph 53.

**Hon. Abdullahi Isaack Mohammed:** I want to bring out clearly the issue of misappropriation of funds and favouritism. This supplier provided service to the county government. He has waited for his money for almost four years. He went to court. He was supposed to be paid his money on 26<sup>th</sup> November. However, these companies that were awarded contracts on December were paid their monies on 1<sup>st</sup> of February, 2021, and 21<sup>st</sup> of April, 2021. These companies are Fortune Enterprise and Lely general Constructors Ltd. This clearly shows there is favouritism and abuse of office by the Governor.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let us go to another issue at paragraph 56. Can you explain to this Committee the issue you are raising?

**Hon. Abdullahi Isaack Mohammed:** Paragraph 56 is in regard to Department of Medical Service and Public Health. The County Assembly of Wajir has allocated over Kshs2.4 billion in the last three financial years. See annexed page 320, Wajir supplementary budget. The issue that will be captured clearly by my colleague Hon. Hussein in his witness affidavit shows that Wajir County Assembly appropriated Kshs2.4 billion to the Department of Health. That is in line with the National Health Policy requirement of 20 per cent.

As I speak now, the renal unit of Wajir Referral Hospital is closed because the employees of Wajir Health Department are on strike. We appropriated Kshs2.9 billion to provide those services. This is a clear misuse of public funds.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): The lawyers for the Governor said that this issue of health was not captured in your Notice of Motion. Can you show this Committee where that was captured in Notice of Motion?

**Hon. Abdullahi Isaack Mohammed:** If you go to my Notice of Motion---

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Say the page.

**Hon. Abdullahi Isaack Mohammed:** It is on page 11 - Notice of Motion. My Notice of Motion clearly captures the issue of Department of Medical Service and Public Health.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It goes up to page 12.

**Hon. Abdullahi Isaack Mohammed:** It goes up to page 12.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): The other witness will capture. Let us go to paragraph 59. Are you there?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): What are the allegations you make in paragraph 59?

**Hon. Abdullahi Isaack Mohammed:** In paragraph 59, the allegations I am making is that the Governor is in abuse of power and authority contrary to Article 236 of the Constitution.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** What do you mean?

**Hon. Abdullahi Isaack Mohammed:** The Governor has reshuffled almost six times chief officers in the Department of Finance. This is a very critical department. We believe that he was doing in concealing important information in the docket of finance where every chief officer who comes in is transferred. There is no accountability.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** At paragraph 60, what do you say?

**Hon. Abdullahi Isaack Mohammed:** At paragraph 60, the Governor had delegated his duties to his wife Mrs. Kheira Omar.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** What do mean by delegated? Can you explain?

**Hon. Abdullahi Isaack Mohammed:** The Governor has not only allowed Mrs. Kheira Omar to run the county, but has also left the roles that are supposed to be performed by him to her. For example, as an Assembly, every time we meet the Governor or in every sitting where the Governor is supposed to address the Assembly, the issues that are raised are raised by Her Excellency the first lady.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** Does she participate in the meetings.

**Hon. Abdullahi Isaack Mohammed:** She participates in the meetings. She makes decisions on behalf of the Governor. Sometimes, the meetings are chaired by the first lady.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I want that to be clear. Are you saying that she chairs meetings?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, that testimony is not captured in either the witness statement or the Motion.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Your honour, my learned friend is being disruptive. We do not have to capture each and every issue. It will run into pages and pages. We are raising an issue. It is for the witness on the stand to expound on that and give us incidence of the issue. My learned friend is out of order.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, the Governor is entitled to a response.

**The Chairperson** (Sen. Omogeni): Just a minute. Senior Counsel, the issue that the counsel for the Governor is raising, it is good that the HANSARD capture it. He says that this particular allegation was not raised before the County Assembly. Is that what I am hearing you say Mr. Nyamodi?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I am saying it was not raised before the County Assembly and it is not raised in any of the witness statement or depositions we have. The Governor is entitled to a response.

**The Chairperson** (Sen. Omogeni): What I want the witness to show is where it was raised before the Assembly or where it appears.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Page 12 (ii).

**The Chairperson** (Sen. Omogeni): Let us move to page 12 (ii). I am reading. It a violation of Article 73 of the Constitution. It says: “The Governor has allowed his wife---“ Counsel Nyamodi, it is there.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I have to make the point, is it not clear when the witness statement and the Motion says---

**The Chairperson** (Sen. Omogeni): I have seen it.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I want to emphasize because I want to show how frivolous these interjections are. It says ‘the Governor has allowed his wife to literally run the affairs of the county as the de facto authority.

**The Chairperson** (Sen. Omogeni): Counsel, if you go to page 12(ii), are we together?

**The Advocate for Wajir County Governor** (Mr. Nyamodi) Mr. Chairman, Sir, we are together.

**The Chairperson** (Sen. Omogeni): They say that the Governor has allowed his wife to literally run the county affairs as the de facto authority.

**The Advocate for Wajir County Governor** (Mr. Nyamodi) Mr. Chairman, Sir, that is the extent, with tremendous respect of the testimony. The addition that she chairs executive committee meetings is not in any testimony and that is where my objection comes from.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No! No! Read it.

**The Chairperson** (Sen. Omogeni): Excuse me, let us have decorum. If you read through, they say that she unilaterally makes - I do not know what that means - based on her own wishes and judgements without due regard to any law. You can counter the evidence, but what they are trying to do is to adduce evidence in support of that allegation.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): It is okay. We shall deal with him during cross examination.

**The Chairperson** (Sen. Omogeni): You can proceed.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You were explaining to the Chairman and the Committee that there are certain meetings where the wife of the Hon. Governor presides. Can you elaborate that point?

**Hon. Abdullahi Isaack Mohammed:** I want to make a correction on the statement made by the Counsel of the Governor. I did not mention the issue

of the executive meetings. I said in our meetings as MCAs when we are meeting the Governor. This is not an executive committee meeting, but a meeting between the Assembly and the Governor.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir, we might have to seek your directions once more. How do we deal with scandalous evidence that has gone on record and we do not have an opportunity of response? The question of scandalous evidence is an issue here. It is not protected under the evidence Act. We seek your guidance.

**The Advocate for Wajir County Governor** (Mr. Nyamodi) Mr. Chairman, Sir, another item of guidance with a witness like this, I do not know what we would need to do to have recourse to the HANSARD of this committee meeting. Since he is saying one thing and jumps to the other side and says something else.

**The Chairperson** (Sen. Omogeni): For clarity, hon. Isaac, what do you want us to take on record?

**Hon. Abdullahi Isaack Mohammed:** I want you to take on record as me saying that she sits in the sittings between the Assembly and the Governor.

**The Chairperson** (Sen. Omogeni): Not in the Executive?

**Hon. Abdullahi Isaack Mohammed:** Not in the Executive, I have not mentioned the Executive meetings.

**The Chairperson (Sen. Omogeni):** Okay, then we will order the other part which refers to the executive to be expunged from the HANSARD and we take what you have said.

**Hon. Abdullahi Isaack Mohammed:** For further elaboration and deliberation, this can be done by witness Hon. Shayid, who will take on that one.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** If you look at your petition and the witness statements, there is the line that says, ‘the Governor has allowed his wife to literally run the county affairs as the de facto authority,’ what do you mean?

**Hon. Abdullahi Isaack Mohammed:** Mr. Chairman, Sir, orders to the employees of the county are given by the first lady. Although it is not done formally, the orders are given by her. It is clear and is known to everybody in Wajir that she rules with an iron fist. She is the one who is in charge of the county.

**Sen. Outa:** On a point of order Mr. Chairman, Sir.

**The Chairperson (Sen. Omogeni):** Senior Counsel, Ahmednassir, proceed.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): In page 12(ii), you say, he ceremoniously officiates and signs off where necessary for decisions unilaterally made; makes decisions on her own wishes and judgement without due regard of the law. Explain, because I want to ask a question on that. What do you mean by that?

**Hon. Abdullahi Isaack Mohammed:** The Governor's responsibility is just to sign the documents like the budget documents. The execution of the budget, the person who handles the Chief Officer Finance, County Executive Committee Member (CECM) Finance is the Governor's wife.

**Sen. Outa:** Mr. Chairman, Sir, on a point of order.

**The Chairperson** (Sen. Omogeni): Sen. Outa, you have an intervention?

**Sen. Outa:** Mr. Chairman, Sir, I want to get some clarifications on whether these meetings were formal or informal where the first lady was attending? Is she part of Executive?

**The Chairperson** (Sen. Omogeni): Sen. Outa says when you make an allegation, if you look at your Standing Orders what we are looking for is substantiation. You will not substantiate if you do not make reference to where that evidence can be found in your bundle. When you say, she signs off where necessary decisions unilaterally. You need to guide us and say,

this can be found in page this of this bundle. Otherwise, if you just say, how do we say this allegation has been substantiated before us?

**Hon. Abdullahi Isaack Mohammed:** These allegations can be further substantiated a third witness who will appear before you.

**The Chairperson** (Sen. Omogeni): Is that what you want to go on record that you are not able to substantiate what you were saying, but the next witness will substantiate?

**Hon. Abdullahi Isaack Mohammed:** Yes, he has a sworn affidavit and will substantiate further.

**The Chairperson** (Sen. Omogeni): Okay, we will record it as such. Sen. Kihika, proceed.

**Sen. Kihika:** A quick one. I know the witness is saying that another witness will come and substantiate. However, when he tells us that the first lady or the Governor's wife calls for meetings; is there anything signed? Minutes signed? Like beyond him saying that, what do we have?

**The Chairperson** (Sen. Omogeni): The Senators are trying to make life easier for you. When the House tells us go and check whether this can be substantiated, we need some evidence. You have arranged your documents nicely. You say, 'CA3, this page is where the first lady directed A, B and C be done and those are the signatures' that is what Sen. Kihika is trying to

draw to your attention. If it is not there, we will take it that the next witness is able to do the substation as you have said. Then we can leave it there.

**Hon. Abdullahi Isaack Mohammed:** The substantiation regarding this issue will be done by the next witness.

**The Chairperson** (Sen. Omogeni): That is enough. We will leave it there. We will get more meat when we get the next witness.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Before we leave, is it your evidence that this---

**The Chairperson** (Sen. Omogeni): Sen. Were, proceed.

**Sen. Were:** Thank you, Mr. Chairman, Sir. On the issue of substantiation, the Senator for Kisumu asked if your meetings with the Governor as a County Assembly in which the first lady attended were formal or informal. If they were formal, were there minutes written? Is there some reference in your documents to those minutes? If they were informal, do you have some photos and videos? We have facilities which can help you put up the video or photo so that we have evidence that such a meeting happened and she attended.

**Hon. Abdullahi Isaack Mohammed:** The meetings attended by the Governor's wife were *Kamukunji* meetings between us and the Governor. They were not formal. This is the Senate and you run things sometimes

through *Kamukunji* meetings before taking things to the House. Am I right or wrong?

**The Chairperson** (Sen. Omogeni): Let us leave it at that.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You are the witness, tell us.

**The Chairperson** (Sen. Omogeni): Excuse me, Counsel Ndegwa, we leave it at that. You can proceed to the next—

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): A follow up question on that, I think that is important, whether it was formal or informal. Did you participate in any meeting where you were present and she was present?

**Hon. Abdullahi Isaack Mohammed:** I have participated in several meetings.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It is also your testimony that abuse of office, gross misconduct has been captured in your petition?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): When you went to the County Assembly, were all issues in the Notice

of Motion ventilated? I want to refer you to the proceedings that appear from page 21 to 62 of your document. What is that? Can you explain?

**Hon. Abdullahi Isaack Mohammed:** Page 21 of my witness statement?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Yes, from page 21 to 62. Look at it. What are those proceedings for?

**Hon. Abdullahi Isaack Mohammed:** This is the process that I am supposed to go through. On page 21 we have Communication from the Chair, who was the Speaker, regarding the impeachment. The next is the HANSARD report of what happened in the Assembly on the day of impeachment which was 27<sup>th</sup> April, 2021.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, your Notice of Motion was fully ventilated?

**Hon. Abdullahi Isaack Mohammed:** It was fully ventilated. After the debate, 37 MCAs voted in favour of the Motion, 10 voted against while two were absent.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, all your evidence is captured in witness statement and the annexures?

**Hon. Abdullahi Isaack Mohammed:** To the truth of my knowledge, yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You want the Committee to look into that?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Your honour, most obliged. That is the end of evidence-in-chief.

**The Chairperson** (Sen. Omogeni): Thank you hon. Isaack. You will remain there so that the Governor's side can also cross examine you. As an indication, how many minutes do you need?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): It is difficult to tell because you do not know how long it will take to get the answers.

**The Chairperson** (Sen. Omogeni): Unfortunately, we must manage time. I must get an indication so that I also give you direction. Remember this committee must tender its report to the Floor on Monday and those are constitutional timelines. So, we must agree on how we manage time.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): He has testified-in-chief for about 80 minutes. I will ask for a similar amount of time for cross-examination.

**The Chairperson** (Sen. Omogeni): We may not give you 80 minutes for cross-examination but I can exercise discretion and give you 45 minutes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Let me see what I can do in the allocated time.

**The Chairperson** (Sen. Omogeni): Timekeeper, I told you this is like a presidential election petition in the Supreme Court where we must limit time. Otherwise we will not be able to meet the constitutional timelines.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I have done a few of those, Chair and I know exactly what you mean.

**The Chairperson** (Sen. Omogeni): Thank you.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): With your permission, may I remove my mask so that I am audible from where I am?

**The Chairperson** (Sen. Omogeni): If your neighbour is comfortable, you can do so.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I have two neighbours.

**The Chairperson** (Sen. Omogeni): The one to the left is comfortable. I do not know about your neighbour to the right. It is okay if you are comfortable.

Timekeeper, you keep on reminding him when he has done like 30 minutes so that he is aware that he has 15 more minutes. You may proceed.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Thank you. Bw. Isaack, good afternoon? My name is Paul Nyamodi. I lead the legal team for the Governor. I just want to quickly start from where you finished before we go back to the beginning.

In respect of the allegation that you attended meetings of whatever sort where the first lady of Wajir was in attendance, does your statement state any particulars of such meetings that you attended?

**Hon. Abdullahi Isaack Mohammed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Now I want us to go back to the beginning of your statement. I want you to look at paragraph 3 of your statement where you have stated that the Notice of Motion is dated 20<sup>th</sup> April and it is duly signed by yourself. Are we together?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): You stated that the Notice of Motion is dated 20<sup>th</sup> April?

**Hon. Abdullahi Isaack Mohammed:** Pardon.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Just read the last two sentences of paragraph 3.

**Hon. Abdullahi Isaack Mohammed:** Are you talking about the annex?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): The last two lines of paragraph 3.

**The Chairperson** (Sen. Omogeni): I am sorry counsel but we need to be together. Are you referring to the affidavit or what?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I am referring his witness statement, the affidavit.

**The Chairperson** (Sen. Omogeni): The one which is on the first page?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Yes. The one marked CA-3.

**The Chairperson** (Sen. Omogeni): Hon. Isaack, are you there? That is the first page of your affidavit.

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Chairperson** (Sen. Omogeni): He is referring to paragraph 3. Can you quickly respond to his question then?

**Hon. Abdullahi Isaack Mohammed:** Are you talking about the sentence beginning with “Annexed here---”

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I have asked you to read the last two lines of paragraph 3. Just read them.

**Hon. Abdullahi Isaack Mohammed:** Why do you not read for me so that I can see?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): It is not my witness statement. Just read the last two lines of paragraph 3.

**Hon. Abdullahi Isaack Mohammed:** Can you show me then?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): This is your witness statement.

**Hon. Abdullahi Isaack Mohammed:** Yes, it is my witness statement.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): There is a paragraph 3 in between paragraphs 2 and 4.

**Hon. Abdullahi Isaack Mohammed:**I am there.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Please read to the committee the last two lines.

**Hon. Abdullahi Isaack Mohammed:** Annexed here and marked A(1) is a copy of Notice of Motion dated 20<sup>th</sup> April, 2021, duly signed by myself.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Very good. Let us go to page 1. What is that?

**Hon. Abdullahi Isaack Mohammed:** It is a Notice of Motion.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): When is it dated?

**Hon. Abdullahi Isaack Mohammed:** It is dated 19<sup>th</sup>.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): And who is it signed by?

**Hon. Abdullahi Isaack Mohammed:** Abdullahi.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is it a different document from the one you referred to in paragraph 3?

**Hon. Abdullahi Isaack Mohammed:** A Notice of Motion was presented on 20<sup>th</sup>.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): What does it say about the date of the Notice of Motion in paragraph 3?

**Hon. Abdullahi Isaack Mohammed:** This is when I presented my Notice of Motion.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Just answer my question. What does it say about the date of the Notice of Motion in paragraph 3?

**Hon. Abdullahi Isaack Mohammed:** It is 19<sup>th</sup> April, 2021.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is document one the Notice of Motion?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is it dated the 20<sup>th</sup>?

**Hon. Abdullahi Isaack Mohammed:** On top it is dated 20<sup>th</sup>.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Does it bear the date 20<sup>th</sup>?

**Hon. Abdullahi Isaack Mohammed:** It bears.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): You signed it with your hand?

**Hon. Abdullahi Isaack Mohammed:** I signed on 19<sup>th</sup> but I presented on 20<sup>th</sup>.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is it dated 20<sup>th</sup>?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is it dated by you the 20<sup>th</sup>?

**Hon. Abdullahi Isaack Mohammed:** By me it is dated 19<sup>th</sup>.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Thank you.

Let us move to paragraph 9. I want to ask you a question as an experienced Member of the Wajir County Assembly. The Wajir County Assembly is of course bound or enjoined to carry out the provisions of Article 118 of the Constitution of this Republic. It deals with public participation. The Wajir County Assembly publishes Bills and does other activities in furtherance of

its legislative mandate. How does the Wajir County Assembly normally publicize its Bills and other activities in furtherance of its legislative mandate?

**The Witness for the County Assembly (Hon. Mohammed):** There are many ways of doing it.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Such as?

**Hon. Abdullahi Isaack Mohammed:** Through public memoranda and adverts like this one through local stations and public halls.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** I want us to look at paragraph 9 of your witness statement where you state that “Accordingly, a notice was placed in the local daily calling for the submission of memoranda, public participation and appearance of the Governor of Wajir before the County Assembly.” Was there any other form of public participation conducted in respect of this matter? Were there any local memorandums or announcements in local halls?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Does your witness statement state that?

**Hon. Abdullahi Isaack Mohammed:** No.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Without downplaying the status of a county like Wajir, what is the uptake of

newspapers within Wajir? These newspapers you regularly describe as local dailies? What is their uptake in the County of Wajir?

**Hon. Abdullahi Isaack Mohammed:** It is huge. The uptake is big.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Such as? How big?

**Hon. Abdullahi Isaack Mohammed:** I do not have the statistics but it is big.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Was this mode of public participation the most effective?

**Hon. Abdullahi Isaack Mohammed:** It is the only use in our public participation.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** You have told the Committee already that you use more than this one and in this one, the only testimony you have is that this is the mode you use. Is this the most effective?

**Hon. Abdullahi Isaack Mohammed:** This is not the only mode we use.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Does your witness statement state that you use any other mode?

**Hon. Abdullahi Isaack Mohammed:** It is not captured in my witness statement, the other modes we used.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Now I want us to go to page 20. Are we together? Your annexure AI4

**Hon. Abdullahi Isaack Mohammed:** Page?

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Page 20. The document that says "County Assembly of Wajir" at the top and the bottom says "Scanned with scam scanner".

**Hon. Abdullahi Isaack Mohammed:** Yes

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Now I want you to look at that document and I want you to look at paragraph 9 at the same time. I want to ask you the question: Does paragraph 9 state which local daily this advertisement was purported to be placed in?

**Hon. Abdullahi Isaack Mohammed:** Paragraph?

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Nine. You are eating into my time.

**Hon. Abdullahi Isaack Mohammed:** I am reading through the paragraph. No.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Okay. Does the document on page 20 state which local daily it was place in?

**Hon. Abdullahi Isaack Mohammed:** It is not captured here but it states.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Does it state which daily it appeared in?

**Hon. Abdullahi Isaack Mohammed:** It was placed in a local daily but it has not been captured here.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** I want us to move on and I want to get into the evidence you gave under the grounds of impeachment and I want you to look at paragraph 16 of your affidavit. How long have you been a member of the Wajir County Assembly?

**Hon. Abdullahi Isaack Mohammed:** From August, 2017.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** You are a first term member of the county assembly?

**Hon. Abdullahi Isaack Mohammed:** Yes

**The Advocate for Wajir County Governor (Mr. Nyamodi):** What are some of the roles that county assemblies play in the devolved system in this republic?

**Hon. Abdullahi Isaack Mohammed:** There are many roles we play.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): What are some of the notable or important ones?

**Hon. Abdullahi Isaack Mohammed:** We do oversight roles through committees. We do approval of budgets.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Okay. Oversight and approval of budget?

**Hon. Abdullahi Isaack Mohammed:** Yes

**The Advocate for Wajir County Governor** (Mr. Nyamodi): The oversight role is exclusively carried out by the assembly?

**Hon. Abdullahi Isaack Mohammed:** Yes

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Now I want you to look at the third line from the bottom and read for me the sentence that starts with “The governor”.

**Hon. Abdullahi Isaack Mohammed:** “The governor has the oversight authority of the county. In performing the functions under Section 30(2) he is accountable for management and use of county resources.”

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Does the governor or the executive perform any oversight function?

**Hon. Abdullahi Isaack Mohammed:** In dealing with his staff.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): He performs an oversight function?

**Hon. Abdullahi Isaack Mohammed:** He is in charge of the Executive.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): That is true. That is very true, but in the county government setup is oversight carried out by the assembly or by the executive?

**Hon. Abdullahi Isaack Mohammed:** By the assembly.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I want us to move on to paragraph 17. I want to draw your attention to the middle of paragraph 17. Listening to what you have been saying---

**The Chairperson** (Sen. Omogeni): Counsel, just for my clarification and the Members, which Act are you referring to when you say Section 30(2)? In paragraph 16 you have said functions under Section 30(2). This is in which statute are you referring to?

**Hon. Abdullahi Isaack Mohammed:** The County Governments Act.

**The Chairperson** (Sen. Omogeni): Thank you. Proceed.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Listening to the testimony that you have rendered this afternoon, you have placed the blame for everything that has gone wrong or may have gone wrong in your view in the County of Wajir squarely at the doorstep of the Governor.

**Hon. Abdullahi Isaack Mohammed:** Pardon?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I have asked you a question that; listening to your testimony you have squarely placed the blame for anything that may have gone wrong in the County of Wajir squarely at the doorstep of the Governor.

**Hon. Abdullahi Isaack Mohammed:** You have not clarified where---

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I am heading there. I am not there yet. The general trajectory of your testimony is that anything and everything that has gone wrong in the County of Wajir is the responsibility or must be blamed on the Governor.

**Hon. Abdullahi Isaack Mohammed:** On the county executive side, yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Now I want you to read the sentence to the Committee. It is the fourth sentence beginning with: "The Governor through---

**Hon. Abdullahi Isaack Mohammed:** "The Governor through the respective accounting officer has failed to provide quarterly expenditure

reports to the county assembly in blatant disregard of Article 201(a) and 183(3) of the Constitution and Section 149 and 166 of the Public Finance Management Act, 2012.”

**The Advocate for Wajir County Governor** (Mr. Nyamodi): When you say “The Governor through the accounting officer” what do you mean?

**Hon. Abdullahi Isaack Mohammed:** The Governor performs his role through his executive committee members.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Therefore?

**Hon. Abdullahi Isaack Mohammed:** He performs his role through the executive committee members. That is what I meant.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Does the county assembly have the ability to summon executive committee members?

**Hon. Abdullahi Isaack Mohammed:** Yes

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is there any evidence in your witness statement that this accounting officer that you referred to in paragraph 17 has been summoned by your assembly at any time?

**Hon. Abdullahi Isaack Mohammed:** There are several summons we sent.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): In your witness statement is there any such evidence?

**Hon. Abdullahi Isaack Mohammed:** There are several summons we sent to the extent that we even impeached a CEC for failing to perform his roles. However, the CEC still---

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I acknowledge that that is the authority of the assembly but this accounting officer that you referred to in paragraph 17, you do not state who he is. Is there any evidence in your witness statement that you have summoned him?

**Hon. Abdullahi Isaack Mohammed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I want us to move on to the issue of pending bills. I want to refer you to paragraph 22 of your witness statement where you state at the top: “The actions on the part of the Governor.”

I want to ask you the question: What actions have you referred to in respect of pending bills before you referred to paragraph 22? What actions have you referred to in your statement? What actions of the Governor have you referred to?

**Hon. Abdullahi Isaack Mohammed:** We are talking about the accrued pending bills that were not paid. So, it is the actions of the Governor not to pay the pending bills.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Have you referred to that in your witness statement?

**Hon. Abdullahi Isaack Mohammed:** Yes

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Where have you referred to that?

**Hon. Abdullahi Isaack Mohammed:** I said to date the same has not been paid exposing the County Government of Wajir to unsustainable debt.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Precisely, but you have not said that it is the Governor who has not paid, have you?

**Hon. Abdullahi Isaack Mohammed:** Who else is supposed to pay?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): No, have you said it?

**Hon. Abdullahi Isaack Mohammed:** It is the Governor, of course.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Have you said it? Let us move on and I will ask the Committee to note your silence.

**The Chairperson** (Sen. Omogeni): Is there an answer so that we know what to record to that question?

**Hon. Abdullahi Isaack Mohammed:** I have mentioned here on paragraph 21: “To date the same has not been paid exposing the County Government of Wajir---“

Has not been paid, exposing the county Government of Wajir to unsustainable debt. The governor in his capacity as the Chief Executive Officer (CEO) of the county and the Chair of the County Executive Committee as per Section 30(2) (H) is mandated and responsible to ensure that members of the county executive perform their functions. That is where I referred.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Have you stated that action of Governor is not paying bills? That is the function of the Governor.

**Hon. Abdullahi Isaack Mohamed:** I have stated here clearly that the Governor is the CEO of the county.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): What is the action? That is a function.

**Hon. Abdullahi Isaack Mohamed:** He is the overall. The buck stops with him.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): What action have you referred to in that paragraph that is a function under the Act?

**Hon. Abdullahi Isaack Mohamed:** What are you asking?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): He is taking me round.

**The Chairperson** (Sen. Omogeni): Hon. Isaack, there is a way we conduct business. When you are asked a question you answer. You do not answer by asking another one. Just provide the information that is being asked for and tell us where to find it.

**Hon. Abdullahi Isaack Mohamed:** Okay.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Thank you, Mr. Chairman, Sir. In paragraphs 23 and 24 you referred to an *ad hoc* Committee of the County Assembly that was put together to audit certain pending bills. I refer you to page 98-117 and ask you whether this is the report of that Committee.

**Hon. Abdullahi Isaack Mohamed:** Yes, this is the report.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I refer you to page 116 of that document from the part headed conclusion and recommendations. If I recall your testimony, you stated that this was the report that indicated that there were massive problems with pending bills in the County of Wajir.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): In your own words, I want you to read from the top Paragraph 6.0.

**Hon. Abdullahi Isaack Mohamed:** Conclusions and recommendations?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Yes.

**Hon. Abdullahi Isaack Mohamed:** “The question of pending bills has bedeviled most counties since inception of devolution and county government of Wajir is no exception.”

**The Advocate for Wajir County Governor** (Mr. Nyamodi): You are saying that the issue of pending bills is common through all the 47 counties and this Committee acknowledges that.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): It acknowledges that the issue of pending bills is not unique to Wajir County.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Okay. Go on.

**Hon. Abdullahi Isaack Mohamed:** “Further continued non-payment of bills to contractors and suppliers not only dented the image of the county Government but has affected its economy and disrupted its operation. This also exposes the county to risk of litigation.”

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Those are the general observations that you made.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Continue to the next paragraph.

**Hon. Abdullahi Isaack Mohamed:** “The Committee is of the considered opinion that the recommendations contained in this report will go a long way in ensuring that the issue of pending bills will not arise again. However, the Committee wishes to note that pending bills have arisen largely due to lack of clear operational procedures or failure to comply with such procedures wherever they existed.

It is therefore necessary to ensure continued adherence to operational procedures across all department of the county Government.”

**The Advocate for Wajir County Governor** (Mr. Nyamodi): What is the remedial action that is proposed by the Committee in this paragraph?

**Hon. Abdullahi Isaack Mohamed:** The Committee has now concluded from there.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): No, the paragraph you have just read. What is the action the Committee proposes?

**Hon. Abdullahi Isaack Mohamed:** Is it not that it is necessary to ensure continued adherence to operations procedures across all departments of the county government?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): That is what you point out after noting what is going on.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Alright. Let us go to the next paragraph. Continue.

**Hon. Abdullahi Isaack Mohamed:** The Committee has not concluded the pending bills verification exercise and has recommended the following:

- (1) An independent internal audit section be established by end of June, 2020 to undertake the regular system audits on various operational processes including staff recruitment and promotion, procurement of goods and services, issuance and surrender of

imprest, payment procedures, fleet management, revenue collection among others.

- (2) There is need to ensure the recommendations contained in this report are implemented fully if pending bills are to be avoided in future. The Committee therefore recommends that His Excellency appoints a small team of not more than four persons from among the county government staff to oversee implementation of the recommendations herein.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): That is a recommendation you make directly vectored at the Governor that he appoints a small Committee.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Okay go on.

- (3) The Chief officer of water resources development, health roads department have committed budgets outside their allocations in the Annual Development Plan(ADP) and CFSB. The Chief Officers are Yussuf Ali, Abdullahi Mohamed Hasan, Noor Mohamed Sheikh of water, Public health and roads.

This is in contravention to Regulation 55(2) (B) of the Public Finance Management, County Governments Act 2015 which stipulates that the finalized and signed contracts are budgeted for first before new projects are considered by the accounting officer for the county government entity. The above mentioned officers must be investigated by the Ethics and Anti-Corruption Commission (EACC) and the Public Procurement Oversight Authority (PPOA).

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Why does the report here focus on Chief Officers?

**Hon. Abdullahi Isaack Mohamed:** They are the accounting officers.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): They are the ones who are responsible for the money?

**Hon. Abdullahi Isaack Mohamed:** Which is why this recommendation is made to the Chief officers?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is the recommendation made in your report in respect of the Governor?

**Hon. Abdullahi Isaack Mohamed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Let us go on to the next page.

**Hon. Abdullahi Isaack Mohamed:** The pending bills Committee further has come up with recommendations that will address various weakness and inadequacies that were observed in the course of undertaking this exercise which if implemented will go a long way in improving service delivery.

The Committee submits this report to H. E the Governor, in the hope that it will be of assistance to the County in its continued search for better ways to serve its citizens.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): We will come back to report in a minute but there are some documents I had difficulty with the ones on page 118, 119 and 121. What are these

documents? They are in your witness statements but you did not introduce them.

**Hon. Abdullahi Isaack Mohamed:** These are part of the report of the Ad hoc Committee and the annexes.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** For example, what is the one on page 118?

**Hon. Abdullahi Isaack Mohamed:** This is a letter sent to the CEC Finance requesting submission of pending bills of all departments of the county Government of Wajir.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Look at the third paragraph. Is it not a summon that he appears before the Committee?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Aright. Look at the beginning of the fifth paragraph on page 119. What is the purpose of this letter?

**Hon. Abdullahi Isaack Mohamed:** It is in this regard that you are required to submit detailed list of pending bills of all departments of the county government of Wajir on or before Friday 29<sup>th</sup> November, 2019.

**The Advocate for Wajir County Governor (Mr. Nyamodi):** Good. That is a letter to the CEC Finance.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Okay. Page 121. This is an invitation to appear before the Committee on pending bills. This is the County Secretary.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): This is to the county secretary.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): You say these are all part of the report.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Are any of those letters addressed to the Governor?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Are any of those letters addressed to the Governor?

**Hon. Abdullahi Isaack Mohamed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Why are they addressed to the officers that they are?

**Hon. Abdullahi Isaack Mohamed:** They are in charge of those departments.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Good. But this report is produced in your affidavit or witness statement as evidence why the Governor should be impeached.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Okay. I want you to look at the report that we have spent a few minutes on. I want to ask you: what is the tone of this report?

**Hon. Abdullahi Isaack Mohamed:** Pardon.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is it accusing the Governor?

**Hon. Abdullahi Isaack Mohamed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is it making recommendations for the better functioning of the County Government of Wajir?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Good. So, that is the purpose of this report?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Good. I want us to look at Paragraphs 27 and 28. You produced two letters here, AI 9 and AI 10, which are on Page 179 and 180. You referred to them.

**Hon. Abdullahi Isaack Mohamed:** Paragraph 27?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Yes. The annexure on Paragraph 27; you referred to AI 9 and AI 10. Is that correct?

**Hon. Abdullahi Isaack Mohamed:** Yes, on Page 180.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): In Paragraph 29, you then state that the actions on the part of the Governor is clear violation of Articles 176 (1) and 185 of the Constitution.

**Hon. Abdullahi Isaack Mohamed:** On Paragraph 29?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Yes.

**Hon. Abdullahi Isaack Mohamed:** The action on the part of the Governor is a clear violation of Articles 176 (1) and 185 of the Constitution of Kenya.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Yes. That is your testimony?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I want you to look at Page 179. I want to ask you the question; what was the action required of the Governor by the letter on Page 179? Who is it addressed to?

**Hon. Abdullahi Isaack Mohamed:** It is addressed to the Head of Treasury.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): From who?

**Hon. Abdullahi Isaack Mohamed:** From the Controller of Budget (CoB).

**The Advocate for Wajir County Governor** (Mr. Nyamodi): What action is required of the Governor?

**Hon. Abdullahi Isaack Mohamed:** Pardon.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): What action is required of the Governor by this letter?

**Hon. Abdullahi Isaack Mohamed:** The action of the Governor through the County Treasury is to release funds.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): On the face of this letter, is there any action that is apparent of the Governor? Is the CoB asking the Governor to do anything?

**Hon. Abdullahi Isaack Mohamed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): All right. I want us to go to Page 180. In respect of Page 180, I will ask you the question again. Who is the letter addressed to?

**Hon. Abdullahi Isaack Mohamed:** The letter is addressed to the director of banking service.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Good. Where?

**Hon. Abdullahi Isaack Mohamed:** Pardon.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): The director of banking service where?

**Hon. Abdullahi Isaack Mohamed:** At Central Bank of Kenya (CBK)?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Alright. Who is the letter by?

**Hon. Abdullahi Isaack Mohamed:** It is from the County Treasury, the County Executive Committee Member (CECM) for Finance.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is there any action required by or of the Governor by the letter on Page 180?

**Hon. Abdullahi Isaack Mohamed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Okay. I want to take you further back. I want to refer you to Paragraph 25 of your affidavit. I just want you to read the first sentence of Paragraph 25.

**Hon. Abdullahi Isaack Mohamed:** There has been a failure--- That is first sentence of Paragraph 25.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Yes.

**Hon. Abdullahi Isaack Mohamed:** There has been a failure to draft the medium term strategy for Financial Year 2020/2021, in contravention of Section 123 of Public Finance Management Act, 2012.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): That is your testimony in chief?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for the Governor** (Mr. Nyamodi): This is important because one of the grounds that you have stated that the Governor should be impeached for is gross violation of the law. I want to refer you to Section 123 of the Public Finance Management Act, and just want you to read it out loudly to the Committee.

**The Chairperson** (Sen. Omogeni): Senators, anybody who wants to follow on the law, we have the statutes here. Go ahead.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Please, read out Section 123 of the Public Finance Management Act.

**Hon. Abdullahi Isaack Mohamed:** Section 123 of the Public Finance Management Act says-

“County Treasury to submit county government’s debt management strategy to county assembly. On or before 28<sup>th</sup> February in each year, the County Treasury shall submit to the County Assembly a statement setting out the debt management strategy of the County Government over the medium term with regard to its actual liability and potential liability in respect of loans and its plans of dealing with those liabilities.”

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Now, Mr. Isaak, you will agree with me that what is referred to is a debt management strategy.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): That is not what you referred to in Paragraph 25. You made reference to Section 167 of

the same Act in your testimony-in-chief. I want to quickly just refer you to that provision. The testimony you gave in respect of Section 167 was to accuse the Governor of not accounting to the Assembly for the County Emergency Fund (CEF). I will just ask you again. What does Section 167 of that Act provide?

**Hon. Abdullahi Isaack Mohamed:** Which one? One, two or three?

**The Advocate for Wajir County Governor (Mr. Nyamodi):** All of them.

**Hon. Abdullahi Isaack Mohamed:** Section 167 says:

“Annual reporting by administrators of county public funds.

The administrator of a county public fund established by a Constitution, an Act of Parliament of county legislation shall prepare financial statements for the fund for each financial year in form prescribed by the accounting standards board. In preparing financial statements for a county public fund, the administrator shall ensure that the report contains information on the financial and non-financial performance of a fund. Not later than three months after the end of each financial year, the administrator of a county public fund shall submit the financial statements prepared under this Section to the Auditor General. The administrator shall submit a copy of the report to the report to the CECM responsible for the fund.”

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Thank you. Section 167 consistently makes reference to the administrator of the fund.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Would be the administrator of the fund be the same as the accounting officer?

**Hon. Abdullahi Isaack Mohamed:** For this fact, he is the accounting officer.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I beg your pardon.

**Hon. Abdullahi Isaack Mohamed:** The accounting officer.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Okay. In your experience---

**The Chairperson** (Sen. Omogeni): Counsel, where is that mentioned in the affidavit? Which paragraph?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman Sir, no, this is his testimony-in-chief.

**The Chairperson** (Sen. Omogeni): Okay.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, he said this of his own mouth.

**The Chairperson** (Sen. Omogeni): Okay. Proceed.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is the Governor an accounting officer in any instance?

**Hon. Abdullahi Isaack Mohamed:** The Governor is the Executive Chief Officer (CEO) of the county.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Please, answer my question. Is the Governor an accounting officer in any instance?

**Hon. Abdullahi Isaack Mohamed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): So, does Section 167 of the Public Finance Management Act refer to the Governor?

**Hon. Abdullahi Isaack Mohamed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Alright. I am getting to the tail-end of my cross examination and the rest will not take very long. I want to refer you to Paragraph 59 of your statement on Page 13 at the bottom. Paragraph 59 under the heading “Abuse of Office: Gross

Misconduct.” You make the complaint here that the Governor has reshuffled Chief Officers (COs) in the Finance Department six times.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I want to ask you the question: Is the Governor allowed to reshuffle Chief Officers? Is the Governor doing anything that he cannot do by reshuffling his Chief Officers?

**Hon. Abdullahi Isaack Mohamed:** He is allowed to.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Okay. Does he do it in consultation with the County Assembly?

**Hon. Abdullahi Isaack Mohamed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): So, what is the basis of your complaint?

**Hon. Abdullahi Isaack Mohamed:** The basis of my argument is that the finance docket being the mother of all dockets in that county, it has to have stability.

**Hon. Abdullahi Isaack Mohamed:** When you constantly change chief officers, you are giving room for malpractices and unaccountability.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): With tremendous respect, are you the Governor of Wajir County?

**Hon. Abdullahi Isaack Mohamed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is it the Governor's responsibility to organize his chief officers?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Thank you.

I want you to look at paragraph 61 of your witness statement. I want to ask two questions. One, the recommendation in the judgment in ACC47 of 2018 is that His Excellency the Governor (Amb.) Mohamed Abdi Mahamud be investigated for abuse of office in relation to the case. This is the question. Do you know whether the Governor has been investigated?

**Hon. Abdullahi Isaack Mohamed:** No.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Do you know the outcome of the investigation if it has taken place?

**Hon. Abdullahi Isaack Mohamed:** No.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I will ask you the next question, and this is an important question. Here you annexed a judgement. Is that not? That judgement appears towards the end of your annexes.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I want you to please show me that judgment in the Motion before the Assembly.

**Hon. Abdullahi Isaack Mohamed:** Pardon?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Here you have annexed the judgment. Is that not?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I want you to show me the same judgment in the Motion before the Assembly.

**Hon. Abdullahi Isaack Mohamed:** It is not in my Motion.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): So, it is here for the first time?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Alright. I want us to move on. We are now making good progress. Paragraph 62 is on Batato Construction Company Ltd. We spent some time with you on the report of the *ad hoc* Committee on pending bills. However, in support of your Motion for Impeachment against the Governor, you picked out just this company.

**Hon. Abdullahi Isaack Mohamed:** I picked it because it is in relation to the Department of Water and to awards of contract to these four companies.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I put it to you that you are debt collecting for this company.

**Hon. Abdullahi Isaack Mohamed:** Come again?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): That is why out of the several pending bills and contractors who have not been paid in Wajir County, you chose this one.

**Hon. Abdullahi Isaack Mohamed:** Let me tell you something about---

**The Advocate for Wajir County Governor** (Mr. Nyamodi): I have put it to you, so it is yes or now.

**Hon. Abdullahi Isaack Mohamed:** It is no. I am not debt collecting for this company.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Very well. That is all the cross examination that I wish to subject this witness to. I cede the rest of my time to my learned colleague, Mr. Ndegwa.

At this juncture, I plead for a slight extension because it took a longer time to get the answers that we desired from this witness.

**The Chairperson** (Sen. Omogeni): Counsel, you had only five minutes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): My Lord--- sorry.

**The Chairperson** (Sen. Omogeni): You are wishing me well.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Perhaps one day.

Mr. Chairman, Sir, this is an important witness because he is the Mover of the Motion. We plead for a little more time so that we can test his evidence.

**The Chairperson** (Sen. Omogeni): We are not doing very well with time. It is 4.30 p.m., but I will exercise my discretion and give you ten more minutes, so you have 15 minutes. Timekeeper, please.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Witness, good afternoon.

**Hon. Abdullahi Isaack Mohamed:** Good afternoon.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiiru): You have testified lengthily about the question of pending bills, yes?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Is the question of pending bills a legislation or a directive?

**Hon. Abdullahi Isaack Mohamed:** Can I say what was also said about pending bills?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): I am asking you, is the question of pending bills a legislation or policy directive?

**Hon. Abdullahi Isaack Mohamed:** Pending bills?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiiru): Yes.

**Hon. Abdullahi Isaack Mohamed:** On our side, it is a legislation.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiiru): Is it a national legislation, yes or no.

**Hon. Abdullahi Isaack Mohamed:** I cannot get your question clearly.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Do we have any law that regulates the issue of pending bills in this country that the National Assembly or the Senate has legislated on?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Would you lead us to that particular section?

**Hon. Abdullahi Isaack Mohamed:** The issue of pending bills?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Yes.

**Hon. Abdullahi Isaack Mohamed:** That has been legislated by the Assembly?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): I am asking, has the Senate or the National Assembly legislated on issues of pending bills?

**Hon. Abdullahi Isaack Mohamed:** There are now laws on the issue of pending bills, but---

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): There are no laws?

**Hon. Abdullahi Isaack Mohamed:** Yes, but there is a circular.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): So, here you are indicting the Governor on an issue that has not been legislated, yes?

Mr. Witness, it is your averment that the County Government has accrued unsustainable debt, yes?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): What is the threshold of sustainability of a debt by a county?

**Hon. Abdullahi Isaack Mohamed:** It depends on the budget.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): What is the threshold? Is there, or is there no threshold?

The threshold is what they can pay.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): It is not there, yes?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You have also said that the Governor has violated Articles 176(1) and 181 of the Constitution, yes?

**Hon. Abdullahi Isaack Mohamed:** Where did I say that?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): In part (d). Do you have your Notice of Motion?

**Hon. Abdullahi Isaack Mohamed:** Yes, I have it.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Kindly refer to (d). What is the averment there? You said that he has undermined the authority of the Assembly, yes?

**Hon. Abdullahi Isaack Mohamed:** Just a minute. Let me go to my Motion.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Is that your testimony?

**Hon. Abdullahi Isaack Mohamed:** It says, violation of Article 176 (1) and 185 of the Constitution by disregarding the County Assembly, an arm of the County Government.

**The Advocate for Wajir County Governor (Mr. Ndegwa Njiru):** You cited a particular letter before this Committee where the Speaker invited the Governor to give them an address. Yes?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for Wajir County Governor (Mr. Ndegwa Njiru):** Is the address given at the behest of the Speaker, or is it voluntarily given by the Governor?

**Hon. Abdullahi Isaack Mohamed:** It is a requirement. The Governor has to give---

**The Advocate for Wajir County Governor (Mr. Ndegwa Njiru):** I am asking whether it is given at the behest of the Speaker. Is the address solicited by the Speaker?

**Hon. Abdullahi Isaack Mohamed:** It is given in accordance with the law.

**The Advocate for Wajir County Governor (Mr. Ndegwa Njiru):** Mr. Witness, kindly, answer me. As per Section 30 of the County Government Act, is this address capable of being solicited by the Speaker?

**Hon. Abdullahi Isaack Mohamed:** Before I respond, can you read---

**The Advocate for Wajir County Governor (Mr. Ndegwa Njiru):** Is it capable, yes or no.

**Hon. Abdullahi Isaack Mohamed:** Can you read for me Section 30?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You have kept on referring to the County Government Act. I want you to show us where Section 30 requires the Speaker to write to the Governor soliciting for an address.

**Hon. Abdullahi Isaack Mohamed:** Section 30?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Yes.

**Hon. Abdullahi Isaack Mohamed:** I will refer you Section 30 (2) (j).

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Yes.

**Hon. Abdullahi Isaack Mohamed:** It says: “Submit to the County Assembly an annual report on the implementation of the status of the county policies and plans”

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): My question is: Is it done at the behest of the Speaker?

**Hon. Abdullahi Isaack Mohamed:** Your question was through the address. You are talking about the address to the County Assembly by the Speaker.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Witness, kindly compose yourself and listen to my question.

**Hon. Abdullahi Isaack Mohamed:** Mr. Chairman, Sir, I need your protection here. The counsel asked me about the Governor’s address.

**The Chairperson** (Sen. Omogeni): Counsel Ndegwa, maybe we need to speak from the same page. I think that the accusation by the County Assembly is that he failed to deliver the Annual State of the County Address

to the County Assembly. The accusation is not that he refused to respond to the invitation. They are two different things.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Yes, I am aware.

**The Chairperson** (Sen. Omogeni): The accusation is that there is a violation of the law.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Yes. The annexure that he has referred to is a letter in which the Speaker solicited the address. So, I am leading the witness to paint the aspect of malice on the part of the County Assembly. That is why I am putting up that question.

Mr. Witness, would you answer?

**Hon. Abdullahi Isaack Mohamed:** What are you referring to?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru) I will ask you this for the last time. Is the Speaker supposed to write to the Governor asking him to address the County Assembly?

**Hon. Abdullahi Issack Mohamed:** Since he has failed---

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Is he supposed to write?

**Hon. Abdullahi Issack Mohamed:** If he has failed in the previous years, yes, he is supposed to write.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Okay. Now, I want to take you to Ground C of your Motion; Failure to draft mid-term strategy for the financial year. Who is responsible for drafting mid-term strategy?

**Hon. Abdullahi Issack Mohamed:** The Finance Department through the CEC for Finance.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Does the Governor double up as Governor and CEC for Finance?

**Hon. Abdullahi Issack Mohamed:** No.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Yes? Mr. Witness, apart from the 2020/2021 medium term strategy, do you have any evidence where that failure has occurred?

**Hon. Abdullahi Issack Mohamed:** No.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Have you ever sought for the provision of that medium term strategy?

**Hon. Abdullahi Issack Mohamed:** I do not have to seek. It has to be provided by the Governor.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Let me take you to Ground D of your Motion but before I do that, is there any financial consequence suffered by the county because of the absence of that medium term strategy?

**Hon. Abdullahi Issack Mohamed:** Yes.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** What are the examples of legal and financial consequences that the County Government might suffer?

**Hon. Abdullahi Issack Mohamed:** You know liabilities---

**The Advocate for the Governor (Mr. Ndegwa Njiru):** What examples?

**Hon. Abdullahi Issack Mohamed:** Failure to pay their debts.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Yes? Failure to do what?

**Hon. Abdullahi Issack Mohamed:** Failure to pay their debts.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Failure to pay their debts. We have addressed that. Let us go to D of the Motion. You are accusing the Governor of having not remitted the requested County Assembly funds?

**Hon. Abdullahi Issack Mohamed:** D is on violation of Articles 176 and 184 of the Constitution by disregarding the County Assembly as an arm of the County Government and further undermining its three cardinal roles.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** I want us to deal with the question of remittance; that is D. You are accusing the Governor for failing to remit Kshs70 million as requested. Yes?

**Hon. Abdullahi Issack Mohamed:** Yes.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Do you have the requisition before the Committee?

**Hon. Abdullahi Issack Mohamed:** Evidence of requisition is there as an annexure.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Which month?

**Hon. Abdullahi Issack Mohamed:** It was in June.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Has he subsequently been able to remit?

**Hon. Abdullahi Issack Mohamed:** No.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** How does the County Assembly operate?

**Hon. Abdullahi Issack Mohamed:** The County Assembly has borrowed.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Yes?

**Hon. Abdullahi Issack Mohamed:** Yes. It has gone without the funds for that financial year; Kshs70 million is still in the balance.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** How is the County Assembly operating currently?

**Hon. Abdullahi Issack Mohamed:** That is a question for the Clerk.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** No, you are the witness.

**Hon. Abdullahi Issack Mohamed:** I am not the clerk of the County Assembly.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** You are the witness

**Hon. Abdullahi Issack Mohamed:** Operations of the County Assembly are done by the clerk.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** I am asking you as a witness. How does the County Assembly operate?

**Hon. Abdullahi Issack Mohamed:** As a witness, I know this money was not remitted. I cannot talk about the operations of the County Assembly because it is not my role.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): So, you do not know how it is operating?

**Hon. Abdullahi Issack Mohamed:** It is not in my role to know.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): You do not know you, people, are currently operating. Yes?

**Hon. Abdullahi Issack Mohamed:** The operations are done by the clerk of the County Assembly. He is the accounting officer.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): So, is it your evidence that you cannot currently testify how you are operating financially?

**Hon. Abdullahi Issack Mohamed:** My evidence here shows that Kshs70 million was not and is still not remitted. The issue of other operations---

**The Advocate for the Governor** (Mr. Ndegwa Njiru): I am not within the Kshs70 million now. I have asked you about the current status of the County Assembly.

**Hon. Abdullahi Issack Mohamed:** Mr. Chairman, Sir, am I in---

**The Chairperson** (Sen. Omogeni): Counsel, the witness says he may not tell you issues of finance and accounting because that is done by the clerk, who is the accounting officer.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): I will allow his inability to explain.

Move with me to Ground L on page no.6 of your Motion. Before I go to L, let us deal with H. You are accusing the Governor of having failed to establish an Audit Committee for the County. Yes?

**Hon. Abdullahi Issack Mohamed:** Yes.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Who is responsible of establishing these committees? Is it the Governor, CEC or the County Treasury?

**Hon. Abdullahi Issack Mohamed:** It is the CEC.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): We now move to the question of disaster and the funds that you spoke about. Do you remember?

**Hon. Abdullahi Issack Mohamed:** Yes.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): You are accusing the Governor of having failed to deal effectively with the emergency fund. Yes?

**Hon. Abdullahi Issack Mohamed:** In I.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): In I? What is the accusation?

**Hon. Abdullahi Issack Mohamed:** The Governor has never bothered to seek approval of payment out of the emergency fund.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Where have you created this fund? Is it under the PFM Act or the Wajir County Emergency Fund?

**Hon. Abdullahi Issack Mohamed:** This is under the Wajir County Disaster Management.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Under which regime; county or national legislation?

**Hon. Abdullahi Issack Mohamed:** County legislation.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): I want you to lead us in your notice of Motion, where you have specifically charged the Governor with violation of the Wajir County Emergency Fund Act in your Motion. You have it.

**Hon. Abdullahi Issack Mohamed:** County Emergency Fund is captured in my budget.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): No, I am not asking for the budget. I am asking you to lead us in your Motion, where you have specifically charged the Governor of that violation. You might want to look at the heading of your violations. Are you there? It is on page no.1.

**Hon. Abdullahi Isaack Mohamed:** Yes. Gross violation of the Constitution.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): How many statutes have you listed as having been violated by the Governor?

**Hon. Abdullahi Issack Mohamed:** There is the Constitution of Kenya, 2010; the County Government Act; the Public Procurement and Asset Disposal Act, 2015; and the PFM Act.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Is there any allegation of the violation of this Act?

**Hon. Abdullahi Issack Mohamed:** Through public---

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Is there any clear violation of the Wajir County Disaster Management Act by the Governor?

**Hon. Abdullahi Issack Mohamed:** Yes., it is in my accusation. The Governor---

**The Advocate for the Governor** (Mr. Ndegwa Njiru): I am asking the basis or grounds of what you have cited.

**Hon. Abdullahi Issack Mohamed:** The emergency fund is also captured in the PFM Act.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Witness, I have five minutes to conclude. Lead us. Do you have that specific violation? Remember the question of violation must be specific.

**Hon. Abdullahi Issack Mohamed:** It is specifically on the PFM Act.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Do you have it?

**Hon. Abdullahi Issack Mohamed:** I have the PFM Act.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Okay. I put it to you that you never charged the Governor for violation of this Act. Yes?

**Hon. Abdullahi Issack Mohamed:** On the PFM Act?

**The Advocate for the Governor** (Mr. Ndegwa Njiru): No. Wajir County Disaster Management Act where this fund is created.

**Hon. Abdullahi Issack Mohamed:** No.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Good. Now, you are saying he never sought approvals. Yes?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Which financial year?

**Hon. Abdullahi Isaack Mohamed:** For financial year 2018/2019 and 2019/2020.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Yes. Has this Act undergone amendments?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** When was it amended?

**Hon. Abdullahi Isaack Mohamed:** On financial year---

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Which specific date was the Act amended?

**Hon. Abdullahi Isaack Mohamed:** 2019/2020.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Are you aware it was amended on 14<sup>th</sup> May, 2020.

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** Previously before the amendments, was there a requirement to seek approval from the County Assembly?

**Hon. Abdullahi Isaack Mohamed:** Yes, through the PFM Act.

**The Advocate for the Governor (Mr. Ndegwa Njiru):** No. I am asking about this Act. *Wachana na maneno ya PFM Act.* I will come to that.

**Hon. Abdullahi Isaack Mohamed:** Counsel, if you are asking me to disregard, the PFM Act is bigger than the Wajir County Disaster Management Act. Do you know that?

**The Advocate for the Governor** (Mr. Ndegwa Njiru): You will have another day to teach us the law. Not today.

**Hon. Abdullahi Isaack Mohamed:** That is your---

**The Advocate for the Governor** (Mr. Ndegwa Njiru): I am asking you that specific question. Previously, was there any requirement?

**Hon. Abdullahi Isaack Mohamed:** We were following the PFM Act then.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Was there any requirement? Yes or no?

**Hon. Abdullahi Isaack Mohamed:** In the PFM Act, yes, there is a requirement.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Okay. Not under this Act?

**Hon. Abdullahi Isaack Mohamed:** Yes.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Now, you have also accused the Governor---

**The Chairperson** (Sen. Omogeni): Counsel, you can turn your eye to the timekeeper.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Just give me two or three minutes to finish.

**The Chairperson** (Sen. Omogeni): Counsel, you must ask your last question.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): I would like to ask you a question of the relationship about the First Lady.

You have said that she is the one who runs the show and that she has been attending your meetings. Yes?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Do you have any minutes to confirm that position?

**Hon. Abdullahi Isaack Mohammed:** I said---

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Do you or you do not?

**Hon. Abdullahi Isaack Mohammed:** I told the Committee about the nature of the meetings.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): I am asking you, do you have minutes confirming that?

**Hon. Abdullahi Isaack Mohammed:** *Kamukunji* meetings do not have minutes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You do not have minutes?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): When she became the First Lady of the County of Wajir---

**The Chairperson** (Sen. Omogeni): Counsel, I said that was your last question---

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): This is the last one. When she became the First Lady of the County of Wajir, was her right to liberty altered?

**Hon. Abdullahi Isaack Mohammed:** No.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): What of the right to association? Was it ever filtered?

**Hon. Abdullahi Isaack Mohammed:** No.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Good.

**The Chairperson** (Sen. Omogeni): Thank you. Any re-examination, Senior Counsel?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I will take less than three or four minutes.

**The Chairperson** (Sen. Omogeni): Thank you. Timekeeper, mark my time there. Not more than four minutes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Hon. Isaack, look at page 6 of your document. Are you there?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at paragraph J.

In your petition before the County Assembly, have you brought out the issue of the Wajir County Disaster Management Act in paragraph J?

**Hon. Abdullahi Isaack Mohammed:** Section 19 of Wajir County---

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No, just answer the question.

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let us move to the next one.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): My learned friend, Mr. Nyamodi, referred you to your paragraph 61 in relation to the judgement involving Mr. Jeff Mworira. Look at page 13 of your document. Look at roman no. III. Have you pleaded Jeff Mworira's case?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Have you said that he was convicted and sentenced to pay Kshs800,000?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at paragraph 9 of your witness statement.

This public participation, it was published in which newspaper?

**Hon. Abdullahi Isaack Mohammed:** The Standard Newspaper.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, that issue did not arise. We asked, does it state which newspaper and he said it does not. He is now testifying afresh that it was published in The Standard and that did not arise from cross-examination.

**The Chairperson** (Sen. Omogeni): You asked a question about this advert in page 20. I think what Senior Counsel is trying is to clarify the issues that arose.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I just want the witness to explain local daily, what does local mean? Which local daily were you referring to?

**Hon. Abdullahi Isaack Mohammed:** It was in the Standard newspaper.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Can we go to paragraph 16 of your witness statement?

The last sentence; the last three lines that starts with the Governor as the oversight authority of the county. What do you mean?

**Hon. Abdullahi Isaack Mohammed:** He is the chief executive officer of the county.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you.

Lastly, you have referred to the County Government Act variously. You also referred to Section 30 of that Act. Do you have a copy of that?

**Hon. Abdullahi Isaack Mohammed:** No.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Show him.

**Hon. Abdullahi Isaack Mohammed:** Functions and responsibilities of a Governor.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It says functions and responsibilities of a county governor. It lists all those. Are you familiar with those?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it your understanding that any failure pursuant to Section 40, whether it is committed by any person under him, he is fully responsible?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you very much.

I have no further questions.

**The Chairperson** (Sen. Omogeni): Thank you, hon. Isaack. You are now released.

Senior Counsel, I believe that was your star witness. You have done close to two hours on that witness.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Yes, because when two lawyers take turns it takes long.

**The Chairperson** (Sen. Omogeni): We take the next one and we give you---

For the remaining two witnesses, you divide the time. Try and see if you can do it within one hour and thirty minutes. It is five minutes to five o'clock. We will give you one hour and thirty minutes to sum up.

Sorry, before the witness is released, does any Senator have issues which need clarification?

Hon. Isaack, you may go back to the witness dock. Sorry for that omission.

If Senators have any questions on any matter that they wanted to be clarified, you can respond to them. Less than two minutes each.

I will start with Sen. Were.

**Sen. Were:** Thank you, Mr. Chairman, Sir.

I will just take two minutes since ours is to listen and determine later.

I need clarification on the first issue, the letter of the County Assembly to the Governor on the issue of state of county address. Did you get a response from the Governor?

**Hon. Abdullahi Isaack Mohammed:** No.

**Sen. Were:** Secondly, when you talk about payment of bale of *ugali*, do you mean *ugali*, the food, the flour or maize?

**Hon. Abdullahi Isaack Mohammed:** The maize flour.

**Sen. Were:** Does the County have a threshold on public participation? Is there some policy on public participation that you have or follow within the county? What guides you in public participation?

On the local daily, you said you use The Standard newspaper and did not tell us which page so that we can make reference.

Thank you.

**The Chairperson (Sen. Omogeni):** I think you have clarified the first two. You just talk about the last one.

Standard of public participation, is it just an advert on the newspaper or you also employ other forms?

**Hon. Abdullahi Isaack Mohammed:** There are many forms of public participation we do. I told the Counsel earlier that we had other forms of public participation. We had three MCAs of Wajir going to a radio station and a local Frequency Modulation (FM). It is not captured here, but we have the clips of the three Hon. Members going to Wajir FM.

The submissions here of the newspaper was on The Standard newspaper. I do not have the page now but I can still get you the page.

**The Chairperson** (Sen. Omogeni): Senator, I think it is well clarified.

**Sen. Linturi:** Mr. Chairman, Sir, very fast on that aspect of public participation. When you did put an advert inviting people to participate or give their views on whether their Governor should be impeached or not, how many participants did you get? How many respondents to that advert?

**Hon. Abdullahi Isaack Mohammed:** We received several memoranda

**Sen. Linturi:** Several is not a number.

**Hon. Abdullahi Isaack Mohammed:** We received like four memoranda.

**Sen. Linturi:** For or against?

**Hon. Abdullahi Isaack Mohammed:** The memoranda were against.

**Sen. Linturi:** Secondly, you also alluded to ---

**Hon. Abdullahi Isaack Mohammed:** Pardon, can you---

**Sen. Linturi:** I am done with that question.

**Hon. Abdullahi Isaack Mohammed:** The question you asked for or against, impeachment or---?

**Sen. Linturi:** I meant those were in support or against.

**Hon. Abdullahi Isaack Mohammed:** The four were in support of the removal of the Governor.

**Sen. Linturi:** Four of them out of the seven.

**Hon. Abdullahi Isaack Mohammed:** Yes.

**Sen. Linturi:** You alluded to the fact that in most instances, the Governor is always accompanied in the meetings that he has had with the MCAs by the wife.

Where are the meetings generally held? Is it in his house or within the County Assembly Chamber or where?

**Hon. Abdullahi Isaack Mohammed:** They are held in hotels or in his house.

**Sen Linturi:** In hotels or his house.

**Hon. Abdullahi Isaack Mohammed:** Yes.

**Sen Linturi:** Finally, can you generally explain very briefly how tenders are awarded in the County Government. This is because I have read your annexure on Page 229. This is completely in reference to a tender that was made. When you bring these allegations here, is this out of the influence by the Governor in leaping to the process of a tender or just looks up and tells his people to give company A, B, and C the work to do?

**Hon. Abdullahi Issack Mohammed:** Hon. Senator, sorry for interruption, but I cannot hear you well. The microphone there is a bit---

**The Chairperson** (Sen. Omogeni): What he is asking is on the tenders. When you alleged that the Governor directs who should be given a tender, does that emanate from a process of tendering or he violates all laws and just directs that ‘give Company X the tender?’

**Hon. Abdullahi Issack Mohammed:** On which page of my witness statement?

**The Chairperson** (Sen. Omogeni): That is a general question. Does it arise from the normal tendering process or he personally ignores the law and directs who should be given a tender?

**Hon. Abdullahi Issack Mohammed:** The normal tendering process is not followed. For example, in applying for a tender, the Governor and his people--- Four or five companies from the same individual apply for the same tender. One is already known. When you use four companies from the same applicant, one of the companies becomes the lowest bidder. There is no competition there. It is not clear.

Also, on the issue of tendering, we are talking about the split. From the reports by the Chief Executive Committee (CEC) Member in charge of Finance, most of the projects that are there are split projects; projects that are less than Kshs4 million. Those projects can easily be manipulated. For example, it does not require tendering. It is a quotation. We have a Kshs2 billion spending bill that is a split project. Those ones can easily be manipulated. They are given at the discretion of the Chief Officer. This is

because they are not advertised. A project that is worth Kshs3.9 million can be given by the Chief Officer. He has that authority.

**The Chairperson** (Sen. Omogeni): Very well. You are well answered. Thank you. I am told there is a problem with our audio system. Is it fixed? Is the system okay now? Hold on for two minutes as we try to fix our sound system.

*(There was a technical hitch)*

**Hon. Abdullahi Isaack Mohammed:** In any invitation by the Governor, whether---

**Sen. Kavindu Muthama:** The first lady.

**Hon. Abdullahi Isaack Mohammed:** I am talking about the first lady. First of all, the issue I captured here will be broadly captured in an affidavit by my colleague. However, on the invitations, whenever the Governor invites us, the first lady is there. She is the one who takes over the meeting. The invitations are done by the Governor, but the meeting is chaired by the first lady.

**Sen. Kavindu Muthama:** In the Governor's house?

**Hon. Abdullahi Isaack Mohammed:** In the Governor's house or hotels.

**Sen. Kavindu Muthama:** In the Governor's house, you expect the first lady to be there. When you say that when Governor is tendering the tenders, he does it with his people, who are these people you are calling 'his people?'

**Hon. Abdullahi Isaack Mohammed:** There is a web of companies that have been listed by my colleague, Hon. Shueb Bare, who will clearly demonstrate to you the number of companies that the Governor uses. I do not have the chart here, but it will be explained by my colleague.

**The Chairperson** (Sen. Omogeni): Very well. Thank you, Senator.

**Sen. (Eng.) Hargura:** Thank you, Mr. Chairman, Sir. I would like to get some clarification. The issue of tendering where we have tender---

**The Chairperson** (Sen. Omogeni): Please, speak on the microphone?

**Sen. (Eng.) Hargura:** There is a tender on supply of relief food. You said the tender was awarded to Lely Construction Company, which is associated with the Governor and his family. Do you have that evidence of association? The Director of the Company?

**Hon. Abdullahi Isaack Mohammed:** Yes.

**Sen. (Eng.) Hargura:** Is it provided anywhere within the documents?

**Hon. Abdullahi Isaack Mohammed:** It is provided in the affidavit of my colleague, Hon. Shueb Bare.

**Sen. (Eng.) Hargura:** Okay. The approved budget where you said that the four dams have not been factored in, do you have a copy of the budget which shows---

**Hon. Abdullahi Isaack Mohammed:** We have the copy of the budget that was approved by the Assembly in the FY 2020/2021. In the Motion that was supplied to the Senate, it is in Annexure E.

**The Chairperson** (Sen. Omogeni): That is at which page? The Senator wants to know the page. Counsel, you can help your client to pick out the page.

**Hon. Abdullahi Isaack Mohammed:** Page 320.

**The Chairperson** (Sen. Omogeni): Senator, are you good?

**Hon. Abdullahi Issack Mohammed:** If you go to Page 320, the Department of Water, there are no votes that provide for that kind of projects for the FY2021/2022.

**The Chairperson** (Sen. Omogeni): Answer the question from Sen. (Eng.) Hargura.

**Hon. Abdullahi Isaack Mohammed:** Page 320.

**The Chairperson** (Sen. Omogeni): Your documents do not have Page 320.

**Hon. Abdullahi Isaack Mohammed:** Sorry, it is Page 278 of my documents; budgeted narration for the Department of Water for the FY 2020/2021.

**The Chairperson** (Sen. Omogeni): Sen. (Eng.) Hargura, it is on Page 278. Do you have any other follow up question?

**Hon. Abdullahi Isaack Mohammed:** If you look at the current year on Page 279, excavation of water pans, the highest is Kshs3,800,000. There was nowhere such budget is captured in the budgets that we appropriated for the FY 2020/2021.

**The Chairperson** (Sen. Omogeni): We are good.

Sen. Mwangi Githiomi?

**Sen. Mwangi:** The witness has told us that most of the construction works or the development projects in Wajir County were awarded to one contractor. Can he prove to us that those companies belonged to the person who gets the jobs? We need to have evidence to the effect that the companies have C12s associated to that contractor.

**Hon. Abdullahi Isaack Mohamed:** On the issue of the companies relating to the Governor, I specifically mentioned that we have a witness who has a sworn affidavit by the name Hon. Shweib Berer Ahmed.

**The Chairperson** (Sen. Omogeni): That is clear. Sen. Outa, proceed.

**Sen. Outa:** Thank you, Mr. Chairman, Sir. I just want to ask the witness, when he said that they normally have informal meetings where the first lady is alleged to have been privileged to be taken as an executive. On whether there is such a meeting we refer as a *kamukunji* here, do they get a memo? Is it from the Speaker or the Governor? Here we have *kamukunji* where we get a memo from the Speaker. Then we will retreat to have a meeting which is not formal.

**Hon. Abdullahi Isaack Mohamed:** Hon. Senator, on the issue of meeting with the first lady has taken over the whole issue. The major issue I wanted

to bring out is on the Assembly side. However, the first lady is implicated in almost all dealings of the county government. That will be clearly explained by my colleague.

The issue I wanted to bring out is her involvement in other sectors of the county. For example, the department of finance, their dealing and payments made. If you closely look at it, you will find that the companies paid are mostly in relation to the first lady. The issue of the meeting was from the side of the Assembly. However, the dealings the first lady has with the county government as stated by my counsel has tentacles through every department of the county government. This will be brought clearly by the signed affidavit by my colleague.

**The Chairperson** (Sen. Omogeni): Thank you. That is, it. You are now released. We can take the next witness.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I would like your clarification. I know time is not on our side in terms of the witnesses we have and those we have left. However, today is the last day of Ramadhan and tomorrow is Eid-al-Fitr. I want your direction on when we break. If it was any other day, I would not mind

proceeding, but being the last day, there are special feelings one gets. I was of the view that we break at 6:00 p.m.

**The Chairperson** (Sen. Omogeni): Are you able to manage your witnesses up to 6:00 p.m.?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Not all of them; just one of them.

**The Chairperson** (Sen. Omogeni): Counsel, we must conclude your case today.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How early can we sit tomorrow?

**The Chairperson** (Sen. Omogeni): I do not know. The Muslims said they would like us to begin at 10.00 a.m.

**Sen. (Eng.) Hargura**: We said tomorrow we sit at 10.00 a.m.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Then how late can we sit tomorrow? Tomorrow, we can sit as late as your rules allow.

**The Chairperson** (Sen. Omogeni): Today, you want us to break at 6.00 p.m.?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Yes.

**The Chairperson** (Sen. Omogeni): We will consult and come back to you.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let me lead the witness examination-in-chief, then we stop and then my learned friend can take over tomorrow when we start for cross examination.

**The Chairperson** (Sen. Omogeni): I will have to consult because we need to try and have those concluded tomorrow. Counsel Nyamodi, how many witnesses were you calling?

**The Advocate for Wajir County Governor** (Mr. Nyamodi) Mr. Chairman, Sir, we are calling six witnesses all together.

**The Chairperson** (Sen. Omogeni): You estimate each to take how long?

**The Advocate for Wajir County Governor** (Mr. Nyamodi) Mr. Chairman, Sir, they are not long witnesses they are coming to make response to technical issues. Perhaps, I just want to add my voice to my learned senior's request. There is one witness he has, which I am unable to cross examine today. The reason I am unable to cross examine him is because we have just received his statement and the additional information has only just come. I

would request that if that is the witness, he can be lead in chief and I start with cross and I promise to be straight to the point tomorrow morning.

**The Chairperson** (Sen. Omogeni): Let me see by indication, how long will you need for your six witnesses each?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, about 30 minutes each.

**The Chairperson** (Sen. Omogeni): That is a total of three hours.

**The Advocate for Wajir County Governor** (Mr. Nyamodi) Mr. Chairman, Sir, on an average of thirty minutes but there are some whom it might be shorter.

**The Chairperson** (Sen. Omogeni): Senior Counsel Ahmednassir, your cross examination?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, they will be addressing technical issues.

**The Chairperson** (Sen. Omogeni): How long will you take?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I will take ten minutes for cross examination.

**The Chairperson** (Sen. Omogeni): If we give you 30 minutes each, that is three hours, then senior counsel cross examination one hour, so about four hours. Let us see how far we can go. You can call your witness.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I will call Hon. Shweib Berer Ahmed.

**The Chairperson** (Sen. Omogeni): Senior Counsel Ahmednassir, you wanted us to start earlier than 10.00 a.m. tomorrow?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I will be guided by the Chair.

**The Chairperson** (Sen. Omogeni): The Senators who are Muslims had expressed their wish that we start at 10.00 a.m. The only thing you can do is help us with time management tomorrow. You limit your cross examination and make your witnesses brief, prepare them on the pages you want them to cite so that we move faster.

**The Advocate for Wajir County Governor** (Mr. Nyamodi) Mr. Chairman, Sir, we will do our part.

**The Chairperson** (Sen. Omogeni): Okay, that is a professional undertaking. Sen. Linturi, proceed.

**Sen. Linturi:** Mr. Chairman, Sir, for purposes of managing time, if the witnesses were to adopt their statements and are then cross examined, we would save a lot of time.

**The Chairperson** (Sen. Omogeni): There is another request, if they can adopt their statements, then they go direct to cross examination; those who are technical.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir. That would be applicable only with one exemption to one witness who is technical.

**The Chairperson** (Sen. Omogeni): You are all respected counsel, I want to trust your word that you will try and make it easier for us so that we conclude tomorrow. We also need to accommodate our Muslim brothers who need to leave at 6.00 p.m. Let us proceed.

*(Hon. Shueb Baree Ahmed took the Oath)*

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, we are looking at CS-7.

**The Chairperson** (Sen. Omogeni): Senators, do you have CS-7? Okay, we can proceed.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you very much, Mr. Chairman, Sir.

Mr. Ahmed, briefly introduce yourself to the Committee.

**The Witness for Wajir County Assembly** (Hon. Ahmed): Mr. Chairman, Sir, my name is Shueb Baree Ahmed, the MCA for Diff Ward and the Chair for Roads, Transport and Infrastructure Committee of Wajir County Assembly. I am the Secunder of this Motion on the impeachment of the Governor of Wajir County which is before this honourable Senate Committee.

**The Advocate for Wajir County Assembly** (Mr. Abdullahi): Your affidavit is 27 paragraphs but you have basically talked about the first lady. Can you tell Members the main features of your complaint against the first lady?

**The Witness for Wajir County Assembly** (Hon. Ahmed): Basically my evidence revolves around the first family and specifically the first lady and the Governor at times because of the misdoings in the county. I may say it is impunity of the highest order being practiced there.

Mr. Chairman, Sir, I am on oath and I have my statement and affidavit here. Whatever I say is the truth to the best of my knowledge. The misdoings in Wajir County have reached a point that we, as Members cannot take any more. Our constitutional mandate gives us the oversight role.

There are a lot of investigation agencies in this country that have taken steps at least to try and bring order and sanity in Wajir County. The EACC has conducted many raids in Wajir County. Although that is not in my affidavit, however, it has been in the news and other social media platforms. The County Headquarters of Wajir has been raided over six times because of malpractices and corruption issues.

We found it necessary, as MCAs performing our constitutional duty, to carry out an impeachment process. That is why I am here today.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Explain the main complaints you put in your affidavit in terms of corruption and other issues as they relate to the first lady.

**The Witness for Wajir County Assembly** (Hon. Ahmed): In paragraph 5 of my affidavit, I have indicated that the Governor has literally allowed his wife to run the county affairs as a *de facto* authority. Why do I say so? It is because devolution has come with many good things for Wajir County because we never had a lot of resources coming to our people. At least, we expected life to change by seeing developments especially in the water, roads and health sectors. The County Government does not do that itself. It contracts people to do development projects. Others are advertised while others are given through quotations.

It has come to a point where for you as a supplier or contractor to secure a contract with the County Government of Wajir, you must first part with money. After doing the work, when you request for payment, again you have to give a bribe. It is called 10 per cent in Wajir. That is for any project that you do. That is what you do prior to getting a tender and after. It becomes a big problem for you to be paid.

We have issues with the first lady. She has been taking bribes. We have evidence of money that was deposited into her accounts. For instance, if you look at paragraph 7, you will see that on 9<sup>th</sup> October, 2017, a sum of Kshs6 million was deposited into her account ending with 7550.

I will take you to my second affidavit. I am sorry it is not paginated but I think everybody has it. That is the statement of the account of Kheira Omar Maalim. On 9<sup>th</sup> October, 2017, a sum of Kshs6 million was deposited to her account. That was a kickback. On 11<sup>th</sup> October, 2017, a sum of Kshs2,600,000 also reflected in the account statement. Again, on 27<sup>th</sup> October, 2017, a sum of Kshs4,600,000 was deposited to the account ending with 7550.

Further, according to our investigations as an oversight body---

**The Chairperson** (Sen. Omogeni): There is an intervention from Sen. Linturi.

*(Sen. Linturi spoke off record)*

Counsel for the Governor, any comment?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Thank you, Mr. Chairman, Sir. Those are some of the issues that we were going to take up in cross-examination. At face value, it is not a bank statement. The person who seeks to produce it as a bank statement does not state where and from which bank it came from. That formed the substance of our objection earlier on. If the Committee wishes to entertain it as what the witnesses says it is, that is up to the Committee but we have certain stringent objections and we want to test this evidence by cross-examination, hence my request to reserve my cross until tomorrow.

**The Chairperson** (Sen. Omogeni): I think you have heard the issue raised by Sen. Linturi. The burden is on the County Assembly to convince this Committee that this is indeed a bank statement. So, proceed bearing that in mind.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Just continue, you will answer those questions later.

**The Witness for Wajir County Assembly** (Hon. Ahmed): On 11<sup>th</sup> November, 2017, that is paragraph 11 of my affidavit, Osman Abdi Jimale who I will talk about in detail, also deposited a sum of Kshs1 million into Kheira Omar's bank account ending with 7550.

On 18<sup>th</sup> December, 2017, Omar Abdullahi who is a contractor and director of a company called FATCO deposited a bribe of Kshs9 million into the account of Kheira Omar for him to get a tender for construction of a 60 cubic metre water pan at Subidir. That is also shown in the statement that I have here.

On paragraph 12, we also have the following deposits that were made by one Isak Abdirizak Issa to Kheira's account on 15<sup>th</sup> December; a sum of Kshs625,000 on 1<sup>st</sup> March, 2019; a sum of Kshs800,000 on 16<sup>th</sup> April, 2019 and a sum of Kshs900,000 deposited in her account.

On 25<sup>th</sup> May, 2019 a sum of Kshs800,000 was deposited into her account. On 7<sup>th</sup> November, 2019, a sum of Kshs900,000 was deposited. On 28<sup>th</sup>

November, 2019 a sum of Kshs900,000 was deposited into her account. The total amount of money that came from Abdirizak Issa and deposited into the account of Kheira is Kshs4,925,000.

**The Advocate for Wajir County Governor** (Mr. Njiru Ndegwa): Mr. Chairman, Sir, I would like to seek your guidance as to whether or not it would be prudent for us to ascertain the authenticity of these documents before the witness testifies on it so that if the document is relied upon and goes on record, then it turns out that the document is unreliable and inadmissible where shall it leave the character of the person being referred to here?

When I address the question of the character, I am alive to the fact of Article 28 which provides that everybody has a right to have dignity and that dignity should be upheld and respected.

If all this goes on record and the authenticity of this document turns out to be questionable, where shall we leave the right of Article of the person being referred to? Much obliged.

**The Chairperson** (Sen. Omogeni): Counsel, your sentiments are noted and as your leading counsel Mr. Nyamodi pointed out, once you do cross examination, as a Committee we will know the kind of weight to accord this particular document. However, as I said, the burden is on the county assembly to convince this Committee that this indeed is a bank statement. Bear in mind that burden.

Proceed.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, I think what my learned colleague is saying is slightly broader than what I had said. He is saying that there are allegations being made here about people and the basis of the allegations is what purports to be bank deposits and yet those bank statements have not been authenticated. The question he is asking is that, this witness will give testimony and we know that this is a political process and so, the information will be out there. What then will be done to heal any damage that will have been done by the admission of whatever these documents purport to be?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, can I express myself because I think my learned friend wants to have both ways. They elect not to call these witnesses. They are pontificating. They have put themselves under a certain pedestal, then they want to lecture us on this.

As I said this morning, Kheira is the most pivotal witness in these proceedings. Everything rotates around her. She is the centre of gravity. She is the fulcrum of all these things. This Committee in its wisdom said that you will not call her but everything, all the allegations on this matter touch on her. Now that she is not being called, either voluntarily or involuntarily, they cannot come here every time and talk about human dignity.

At the right time, we will address the legal issues that come out of this. It is very simple. It is for us to show this Committee persuasively that this is a proper document that is admissible in law.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, let me make a suggestion that will perhaps advance this

matter and that suggestion is this: The proceedings of this Committee are serious proceedings. The proceedings of this Committee enjoy the privilege that proceedings before this House enjoy.

If this Committee finds that the documents that purport to be bank statements are not authentic, then I urge the Committee to restrict that privilege so that appropriate action can be taken against those who bring documents such as these and seek to abuse the privilege of this House.

That is the recommendation that I urge that you make. If they cannot authenticate these documents then let them face the full force of the law. This is not a game; it is a very serious affair.

**The Chairperson** (Sen. Omogeni): As I have said, finally as we conclude, this Committee will look at the veracity and authenticity of this document. We will deliberate on what weight to accord this document. For now, let us proceed.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I think I will make more sense if I guide the witness. When you have looked into these bank statements, I can see there is an attachment on that affidavit; the document. Can you explain that last document to the Committee? Is it an attempt to create a nexus between all these companies, money and Kheira?

**Hon. Shueb Bare Ahmed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Explain briefly what it means.

**Hon. Shueb Bare Ahmed:** At the top is the National Treasury where we receive money from the Exchequer. Then it trickles down to the County Treasury that is based in Wajir. From there we have the suppliers or contractors who have been awarded contracts and are being paid.

Here I have got one director by the name of Osman Abdi Jimal who has seven companies. He is among those who I said in my affidavit, is an associate or runs proxy companies for the Governor and his wife. He is paid a total of Kshs305,447,589. That is just one director.

A single release from the Treasury he can be paid five to six companies when in 2017 at the start of this county government administration, we have suppliers who have not been paid for a project of Kshs1 million. So you can ask yourself how connected this person is for him to be paid Kshs305 million when a supplier from 2016 or even 2015 from the previous administration could not even be paid Kshs1million.

Number two, is another director who owns four companies; Haja Construction, Blue Valley Investment, Triple Issa and Sabahu Investments. This is a boy who runs errands; I know him because I am from Wajir County. He runs errands for the First Family. We also call him “10 percent” because of that. He is the one who deposits money into the accounts of Kheira as I said before. His companies are not even two years old for them to be given such projects. However, because of the connection and the proxy companies that he runs, he is paid Kshs110 million.

In one single release if I may refer you to pages 40 and 41, this contractor was paid 13 times per single director. A single director from a release of

Kshs199 million, he spent Kshs49 million when we have over 1000 suppliers in Wajir. That is on page 40(A) and page 41.

If I may go through, the companies are: Blue Valley Investments, paid Kshs2,663,000, Blue Valley Investments - Kshs2,846,597, Blue Valley Investments - Kshs3,120,000 and Blue Valley Investments - Kshs3,122,000; Sabal Construction Kshs3,213,000, Triple Viza Kshs321300, Ajua Construction company Limited Kshs3,305,000, Kshs3,382,000 and Kshs3,397,000; Sabal Kshs3,489,000; Blue Valley Investments Kshs3 million; Ajua Kshs---

Another Ajua, and Sabal Construction Limited Kshs3,489,000.

Going on to page 35, we find the CR12 for Triple Viza. The Director is Abdul Isak Isa Mohamed. On page 36, the director of Blue Valley Investment is Mr. Abdul Isak Isa Mohamed.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Tell the Committee when those companies were registered.

**Hon. Shueb Bare Ahmed:** From page 35, these companies were registered on 14<sup>th</sup> August, 2019, 1<sup>st</sup> August, 2019 and Page 37, 22<sup>nd</sup> July, 2019.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at this company called FATCO Company Limited. You said that Omar Abdullahi paid the above company a bribe amounting to Kshs9 million and there is a diagram showing that. How do you know it was Omar that paid that money?

Tell the Committee how you made that conclusion that Kshs9 million was paid by Omar.

**Hon. Shueb Bare Ahmed:** We will just look at the dates when that contract was being advertised and the date that deposit was made to the account of FATCO Company and we will correlate. Again, there is an active file at the EACC where FATCO has already been investigated.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it your testimony that looking at the date when that was paid by the County Government---

**Hon. Shueb Bare Ahmed:** This kickback of Kshs9 million was for him to be awarded the project not after payment but a prior one.

**The Chairperson** (Sen. Omogeni): On that question that Senior Counsel has asked, how do you link the fact that money was deposited in cash and the allegation that it came from FATCO?

**Hon. Shueb Bare Ahmed:** The information I have is privileged and I will not disclose my source.

**The Chairperson** (Sen. Omogeni): That question has come from your lawyer and you need to answer it.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Answer to the best of your knowledge.

**Hon. Shueb Bare Ahmed:** There were complaints because this tender that Omar gave the bribe, because he was not the lowest bidder. There were two lower bidders than him who could not get that tender. From investigations, we came to know that it was because of the kickback that was given that he was given that project.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it your evidence now that ---

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): It would have been a lot neater if those explanations were included in the Statement because they are now being introduced in gaps in the Statement. I am not sure whether that is procedural.

**The Chairperson** (Sen. Omogeni): Was that anywhere in your Statement? Can you clarify?

**Hon. Shueb Bare Ahmed**: Yes, Mr. Chairman, Sir. It is in my affidavit.

**The Chairperson** (Sen. Omogeni): Which paragraph?

**Hon. Shueb Bare Ahmed**: It is in paragraph 11(B). It says on 18<sup>th</sup> December, 2017, Omar deposited of Kshs9 million to--- bank.

Mr. Omar was one of the directors of one of the companies who have been awarded tenders in Wajir County Government. That specific tender No. WCG/T/393/2017/2018 was advertised on November, 16<sup>th</sup>, 2017 for the construction of 60,000 metric cubic water pan at Wajir South.

**The Chairperson** (Sen. Omogeni): Counsel Nyamodi, I think there is some explanation there.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): The question he was asked and where he is struggling to fill the gaps is how he came to know that.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It is not the law and has never been and I do not think it will ever be;

that a witness can be shackled by the witness statement he gives. He can expound on it. That is the law. There is nothing that stops him from giving more evidence from the witness stand.

**The Chairperson** (Sen. Omogeni): Counsel Nyamodi, I think he says that on 18th December, Mr. Omar Abdullahi deposited Kshs9 million into---bank account. So, you can also test the veracity of that Statement. The allegation is made.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): If he could be so kind he could answer the question that his advocate asked him on how he knew that.

**The Chairperson** (Sen. Omogeni): Proceed.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): There was a lot of other evidence you gave in relation to this matter. Look at paragraph 14 and 15 of your witness statement. Explain what you mean in those paragraphs including paragraph 16.

**Hon. Shueb Bare Ahmed**: Sometimes in mid January 2018, after the Governor exhausted his budget, he instructed his former Chief Finance Officer (CFO) to use a substantive portion of his department's budget for purposes of purchasing a motor vehicle for the Governor.

**The Advocate for Wajir County Governor** (Mr. Njiru): Mr. Chairman, Sir, allow me to interject. I seek your guidance. When the witness took the stand, he took the oath. The nature of the document that we are having here is a statutory deponent.

We are having two situations where a witness has taken oath vide a statutory declaration. We will be at a loss to know exactly how we shall test the veracity. That is why it would have been prudent for a witness who has taken oath to do an affidavit; just adopt it and then it is put to examination.

The witness who has to taken oath and has just done a mere statement can then be taken through the process of examination-in-chief. For purposes of having some tidy work.

**The Chairperson** (Sen. Omogeni): Now that we are where we are, let us proceed for purposes of tidiness. Proceed.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Continue explaining paragraphs 14-17 and do it quickly.

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, if I am interjected a lot, I will also lose. I also request to be given some time at least to explain myself.

**The Chairperson** (Sen. Omogeni): Just try. They say you should scale the stairs and chew gum at the same time. So, just try. They also have the interest of their client so they want to be sure that what we are doing will not be prejudicial to their client. Just try to bear with the situation.

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, okay. Let me go back. Some times in mid-January 2018 after the Governor exhausted his budget, he instructed the former County Executive Committee Member (CECM) for Finance to use a substantial portion of his department's budget.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Without reading, just explain what is the issue in Paragraphs 14, 15, 16, and 17.

**The Chairperson** (Sen. Omogeni): We will be able to read the affidavit, but you can make small explanations. We will read through.

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, the Governor and his wife gave orders that they needed a vehicle but they did not have the budget. The CECM Finance, was forced to do it but he said: “No I do not have”. However, because of the executive powers vested with the Governor, he went ahead and instructed the department of procurement to make the advertisements. However, there was a protest by the CECM that that is an irregular process. Eventually a vehicle was bought, KCQ 004 U, a Toyota Land Cruiser.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi): So, what is the problem if they buy that Land Cruiser? What is the point you are making?

**Hon. Shueb Bare Ahmed:** The point I am making is that the purchase of the vehicle was unilateral, irregular and had not gone through the normal process of budgeting and approval.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How much do you speak of to your knowledge?

**Hon. Shueb Bare Ahmed:** The amount of money that was used on the vehicle was Kshs26 million. On the 2<sup>nd</sup> July, Dayo Construction Company Ltd., was given a tender. In that tender, after payment of that money to

Dayo's account, on the 3<sup>rd</sup> July, Dayo Construction Company Ltd., transferred a sum of Ksh2,220,000 to Mr. Yusuf Mohamed Abdi's account, ending with 0967. On the same day Cosmos Cars Ltd. was paid a sum of Kshs14 million from Dayo Construction Company Ltd.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Your evidence is that this matter is being investigated?

**Hon. Shueb Bare Ahmed:** Yes. This matter is being investigated by the Ethics and Anti-Corruption Commission (EACC) and the vehicle is still being held. I know it.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Why is it being held?

**Hon. Shueb Bare Ahmed:** It is being held pending investigations by the EACC.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): At Paragraph 21, there is this company called Arag Construction Ltd.

**Hon. Shueb Bare Ahmed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): What is your complaint?

**Hon. Shueb Bare Ahmed:** The complaint is that Arag Construction Ltd., is a company associated with the Governor. It has just been awarded a ghost project of renovation of water works at Habaswein. It is a project that has never been done.

It does not even exist and has not even been implemented but money has been paid to the directors of that company, a sum of Kshs3,376,684. If you even go now to Habaswein, there is no project of this type in that place.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Paragraph 22 on Haska Company Ltd.?

**Hon. Shueb Bare Ahmed:** Haska Company Ltd., was also awarded to supply food to the county government. A sum of Kshs23,530,517 was paid to that company. In Haska's account, that money was reflected. On the 29<sup>th</sup> June, 2019, Ms. Farhiya Mohamed, a daughter of the Governor of Wajir County was sent the sum of Kshs4,500,000.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it your testimony that the money was paid on 27<sup>th</sup> June then the money to Ms. Farhiya was sent on 27<sup>th</sup> June and it was sent by Haska Company Ltd.? Is that your evidence?

**Hon. Shueb Bare Ahmed:** Yes, if you go to Pages 7 and 8, you will find on the 29<sup>th</sup> Ms. Farhiya's bank statements a sum of Kshs4,500,000.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let us go to Paragraph 23.

**Hon. Shueb Bare Ahmed:** Before you go to Paragraph 23, Paragraph 20 on the money paid to Dayo Constructions Company Ltd., for the motor vehicle, a sum of Kshs4 million was sent to Townsville Holding Ltd., and Townsville Holding Ltd., again sent back that money to Ms. Farhiya's account. That was on the 3<sup>rd</sup> July.

That is when Dayo Constructions Ltd., sent that money to Townsville Holding Ltd. Then on 10<sup>th</sup> September, 2018, Townsville Holding Ltd., sent Kshs4 million to Ms. Farhiya's account.

If you go to Page 7, you will find it. It was on 10<sup>th</sup> September, 2018 that Kshs4 million was deposited into Ms. Farhiya's account.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is this considered the content of your affidavit? Is it your evidence that any contract given in Wajir County, the family of the Governor, himself, his wife or his kids get a cut?

**Hon. Shueb Bare Ahmed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it your evidence that these bank statements, both from the Central Bank of Kenya (CBK) account and these other banks are testimony to that.

**Hon. Shueb Bare Ahmed:** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Would you like to adopt your evidence and annexures as evidenced before this Committee?

**Hon. Shueb Bare Ahmed:** For sure, yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): That is all we have. My learned friend can start.

**The Chairperson** (Sen. Omogeni): Thank you, Hon. Bare Ahmed. You still have about five minutes. Counsel Mr. Nyamodi, you requested to reserve your cross-examination to tomorrow.

Hon. Senators, we have five minutes if you have any clarification before we adjourn at 6.00 p.m. Is there anybody who wants to seek a clarification? Sen. Were, proceed.

**Sen. Were:** Mr. Chairman, Sir, just one clarification. You said Arag Construction Company directors are associated with the Governor. What relation is there between those directors and the Governor? At least you were able to prove about the wife and the daughter Ms. Farhiya. What about the directors of Arag Construction?

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, these are family relations.

**The Chairperson** (Sen. Omogeni): Where can we get that in your documents? That evidence of the relation the way you are being asked by Sen. Were.

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, I said they were associated but I did not specifically say---. I know when I say they are associated---

**The Chairperson** (Sen. Omogeni): You do not have any evidence on what we have before us?

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, I do not have the birth certificates to prove that.

**The Chairperson** (Sen. Omogeni): Okay. Thank you. Anybody else? Sen. Kavindu Muthama, proceed.

**Sen. Kavindu Muthama:** Mr. Chairman, Sir, thank you. This document that the witness is reading for us as a bank statement, I can see a stamp of EACC. Does it mean that this document is from there?

**The Chairperson** (Sen. Omogeni): You got the question?

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, yes.

**The Chairperson** (Sen. Omogeni): Can you answer?

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, the documents are stamped EACC but these are copies. I do not have the originals but these are copies I got.

**The Chairperson** (Sen. Omogeni): She is asking; did you get them from EACC?

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, no, I did not get them from EACC.

**The Chairperson** (Sen. Omogeni): Sen. Kavindu Muthama, are you satisfied with the answer?

**Sen. Kavindu Muthama:** Mr. Chairman, Sir, he has them and he did not get them from EACC. How did he get them?

**The Chairperson** (Sen. Omogeni): Yes, she wants you to clarify how you got them if you are able to explain.

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, I got them from my source.

**Sen. Kavindu Muthama:** Mr. Chairman, Sir, that is not an answer.

**The Chairperson** (Sen. Omogeni): I think that is okay. We will put it on record that you got them from a source.

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, yes.

**The Chairperson** (Sen. Omogeni): Sen. Kihika, proceed.

**Sen. Kihika:** Mr. Chairman, Sir, I hear the witness saying that they got them from their source but at the same time like somebody said it is a really important hearing that we are having.

For us to give any probative value to these documents we need some seriousness. First, there is not even a letter head. You could have made it in River Road, probably the other counsel will handle that.

If the only stamp there is that of the Ethics and Anti-Corruption Commission (EACC), but you also say that they did not give them to you, forgive me but it just seems very prejudicial to the other side if you cannot in any manner help us to understand their legitimacy.

**The Chairperson** (Sen. Omogeni): Hon. Bare, some doubts have been cast on your document and it is upon you to convince the Committee that these are authentic documents, even though you do not want to disclose your source. Sen. Kihika is raising some doubt. How do you convince her that you did not make these documents in River Road?

**Hon. Shueb Bare Ahmed:** Can I consult with my advocate for a minute?

*(Loud consultations)*

**The Chairperson** (Sen. Omogeni): Can we get an answer for Sen. Kihika that we can put on record?

**Hon. Shueb Bare Ahmed:** Currently, I cannot expose them, but I will explain it.

**The Chairperson** (Sen. Omogeni): Very well. Sen. Linturi.

**Sen. Linturi:** Mr. Chairman, Sir, because of this allegation of this vehicle being bought and transferring money there---. I do not think they are the manufacturers of Toyota. I do not know whether you have attached anywhere documents to demonstrate that such processes, especially in terms of procurement took place; who were involved in the evaluation of these tenders, and whether there is any letter to show that the alleged Kshs9 million was paid as a bribe for the 60,000 millimeters of a dam. This is so that we can at least check the documentation and see a flow.

Maybe Kshs9 million was paid and the advertisement was one such a date. After the advertisement Kshs9 million was paid, and immediately after being paid, a letter of award was given. Something like that to at least create some flow, which can clearly make reference and see whether the story being read here is a creation in your mind or something that is actually supported by documentation. We want justice for everyone.

**The Chairperson** (Sen. Omogeni): Hon. Bare, your response?

**Hon. Shueb Bare Ahmed:** Mr. Chairman, Sir, as the Counsel and the hon. Senator said, this is a serious issue. I know that it is a serious issue because appearing before a Committee of the Senate with this Motion of impeaching of the Governor is not a small matter. At the same time, you know that it is not going to be easy to get documents to prove such a case. I have done my part to bring the documents that I have and plead to this honourable court under oath---

**The Chairperson** (Sen. Omogeni): Are you answered to your satisfaction? Are you fine?

Sen. (Eng.) Hargura.

**Sen. (Eng.) Hargura:** Thank you, Mr. Chairman, Sir. One, it seems that there is some investigation on this issue by the EACC. Can the witness tell us whether he is aware if it has been concluded or it is ongoing?

**Hon. Shueb Bare Ahmed:** On this issue of FATCO Construction and Transporters Ltd., there is an active investigation going on as far as I know.

**The Chairperson (Sen. Omogeni):** Are you satisfied, Sen. (Eng.) Hargura? He says that there are active ongoing investigations. Are you satisfied with that answer?

**Sen. (Eng.) Hargura:** Yes, I am satisfied.

**The Chairperson (Sen. Omogeni):** Sen. Mwangi.

**Sen. Mwangi:** Thank you, Mr. Chairman, Sir. I think we have been told that the Governor's wife has been chairing meetings in the Wajir County Government, but no substantiation has been brought to us.

Can the witness say how the Governor's wife has been chairing the meetings and give us proof that she actually chaired the meetings?

**Hon. Shueb Bare Ahmed:** It is an open secret, but proving is also another issue, because I need to come with videos and photos to prove that she has been chairing such meetings. I do not have them with me now, but given the opportunity to come back with it, I may bring it.

**The Chairperson (Sen. Omogeni):** We will take the answer that you do have them. That is okay.

Sen. Mwangi, any further clarification? Are you satisfied with the answer?

**Sen. Mwangi:** Can he commit himself to bring the evidence tomorrow morning, because we are Kenyans and we know that there are Kenyans who utter false promises?

**Hon. Shueb Bare Ahmed:** First of all, Mr. Chairman, Sir---

**The Chairperson** (Sen. Omogeni): Do not even go there. Sen. Mwangi, that window is already closed. We cannot tell him to bring further evidence. That window is not available to Hon. Ahmed. If you do not have them, it is okay. We will record that you do not have them.

**Sen. Outa:** On a point of order, Mr. Chairman, Sir. I think the witness said that he has them. I, therefore, concur with Sen. Mwangi that he is given a timeline, because he has told this Committee that if he is given an opportunity, he can provide them. I truly think that we may need to give that room to prove him wrong or right.

**The Chairperson** (Sen. Omogeni): Sen. Outa, unfortunately, our Standing Orders are very clear. That opportunity was there up to close of business on Tuesday. This hearing is now very well advanced, so we will not allow any further evidence to be brought. If they do not have it, it is okay.

Any other clarification by any Senator?

**The Advocate for Wajir County Governor** (Mr. Njiru Ndegwa): Mr. Chairman, Sir, if you may, I have only one issue. The witness testified that he will not be able to disclose the source of his information, but the clarification that was sought by Sen. (Eng.) Hargura tends to place this document within the ambit of the EACC.

He put a question to the witness to confirm whether there are ongoing investigations. He is kind of pushing these documents to appear as if the source is the EACC. I seek your guidance.

**The Chairperson** (Sen. Omogeni): We cannot force him to disclose the source. We will record what he has said; that he does not want to disclose his source. The Committee will retreat to see how it treats that evidence. We will not force him. We will just take what he has told us to be what he wants to go on record and leave it at that.

Counsel Nyamodi, for the record, this cross-examination is to proceed tomorrow at 10.00 a.m.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Yes, Mr. Chairman, Sir.

**The Chairperson** (Sen. Omogeni): I will plead with us that that we keep that undertaking you gave to us, that we limit your evidence-in-chief to not more than 30 minutes. What about cross-examination of this witness?

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Cross-examination will be brief if the witness gives straight answers. He must understand the magnitude of what he is doing. Nobody is trifling with anybody here. He must give straight answers and we will move on quickly.

**The Chairperson** (Sen. Omogeni): Good. Senior Counsel Ahmednasir, Counsel Nyamodi and your teams, we should end the proceedings of today.

We thank you for your co-operation. I order that we adjourn these proceedings to tomorrow, at 10.00 a.m.

Thank you.

To our Muslim brothers, enjoy your celebrations. *Asanteni*.

Members, we will briefly pass by the Lounge.

The Special Committee adjourned at 6.10 p.m.