

*(The Special Committee commenced at 2.40 p.m.)*

**The Chairperson** (Sen. Omogeni): Good afternoon, ladies and gentlemen and hon. Senators.

We can now resume the afternoon Sitting. As it is our tradition, I will ask Sen. Linturi to lead us in a word of prayer.

#### PRAYER

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

I think we have spent one hour. So, we will try to keep to the undertaking you gave yesterday.

I think Senior Counsel Ahmednasir is doing very well. He is not spending more than 20 minutes as he had promised. So, can you also try and keep it within the time we agreed yesterday.

You have how many more witnesses?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): We have another five witnesses. We will keep within the time.

**The Chairperson** (Sen. Omogeni): Can we have the first one?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): We must thank my learned Senior Counsel Ahmednasir; in terms of timekeeping he has been a shining example, like he should be a Senior Counsel.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I want my example to be followed.

**The Chairperson** (Sen. Omogeni): We can begin. Call your second witness.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Thank you, Mr. Chairman, Sir, for the kindness.

We are here to learn and we are privileged to be before two Senior Counsel. So, we will keep learning the ropes.

Mr. Chairman, Sir, we are dealing with a witness referred to as Dr. Dahir Somow.

**The Chairperson** (Sen. Omogeni): Somebody to administer oath to the witness.

You can choose to affirm or you take oath.

*(Dr. Dahir Somow took the Oath)*

**The Chairperson** (Sen. Omogeni): Counsel, as we agreed, you tell us where to locate the statement of this witness and any annexure so that we move together.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): We are dealing with the next piece of evidence. It is contained in the same file, the

one bearing witness statements, court orders and HANSARD Reports. It is the second document.

We will also deal with a file labelled as P.

**The Chairperson** (Sen. Omogeni): Senators, look for a file labelled as P in green. “P” for Peter.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): The heading is violation of rights to health of the people of Wajir.

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

The Advocate for Wajir County Governor (Mr. Ndegwa Njiru): If we are all together, I would beg to move.

Mr. Witness, good afternoon?

**Dr. Dahir Somow:** Good afternoon.

The Advocate for Wajir County Governor (Mr. Ndegwa Njiru): I hope you had your lunch. Of course, I know you are celebrating your Eid and so Eid Mubarak.

Would you kindly introduce yourself to the Members of the Committee? While introducing yourself, indicate your education background, your current status and if you have worked previously, kindly indicate to the Committee.

**The County Director of Health** (Dr. Dahir Somow): Mr. Chairman, Sir, I am Dr. Dahir Somow. I am currently the County Director of Health in Wajir County. I am a medical doctor by profession.

I started service about 11 years ago. I started as a medical superintendent of Wajir District Hospital during the National Government. Also, under the National Government, I served for one year as the District Medical Officer for Health for Wajir East.

In 2014 to 2016, I was appointed by the National Government as an Interim County Director of Health and the Wajir County Public Board confirmed me in December 2016. I am holding that position until now.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You recall that you filed a witness statement dated 11<sup>th</sup> May. Is that your statement? It is running from page 1 to 7.

**The County Director of Health** (Dr. Dahir Somow): Yes, it is.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Were you filing these statements in response to the charges facing the Governor?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Are you aware of all the charges?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): For example, the Governor is facing the allegations of the violation of the rights

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to health of the people of Wajir, what would you say? More particularly, it is said that he has not put into good use the facilities available like ambulances; that ambulances are made to run without fuel.

Would you kindly answer to that?

**The County Director of Health** (Dr. Dahir Somow): On the issue of ambulances---

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Just begin with the status of health facilities. Just give a general description of the status of health systems or facilities in Wajir.

**The County Director of Health** (Dr. Dahir Somow): Wajir County has a total of 122 facilities; one county referral hospital, eight (8) sub-county hospitals and 113 health centres and dispensaries. This brings to a total of 122 health facilities.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): One hundred and twenty?

**The County Director of Health** (Dr. Dahir Somow): 122 health facilities.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Are you able to tell us as against what population that those facilities are serving?

**The County Director of Health** (Dr. Dahir Somow): They are serving a population of, according to the last census, about 769,000.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): 769,000. Does that meet the World Health Organisation (WHO) ratio?

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**The County Director of Health** (Dr. Dahir Somow): No.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Is it relatively good or not?

**The County Director of Health** (Dr. Dahir Somow): It is relatively good, but if we talk about the WHO, there is no county that meets that in Kenya.

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

**The County Director of Health** (Dr. Dahir Somow): You asked about the ambulance.

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

Just before we go to the ambulance, there is the general overview of the facilities. Are they in working condition?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): How have you organised your workforce?

**The County Director of Health** (Dr. Dahir Somow): We have a total workforce of 1,010, both technical and non-technical staff.

A very vast county, so they are spread out within the whole county. The 122 facilities are the ones that are operational. However, we have another 42---

**The Chairperson** (Sen. Omogeni): Please, try to always speak to the mic.

**The County Director of Health** (Dr. Dahir Somow): We have a total of 122 operational facilities. We have another 42 that have either been done by the

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county government or the county government through the ward kitty, which we are also in the process of operationalising.

As you are aware, I think it has been alluded that we have the highest budget. I would like to say that out of that budget, which they said was Kshs2.4 billion in the first financial year of 2019/2020 and Kshs2.9 billion in Financial Year 2020/2021, almost Kshs1.6 billion goes to salaries.

**The County Director of Health (Dr. Dahir Somow):** We still have a shortage, meaning that for the 42 facilities that are not operational, the issue is staffing. If staffing is sorted out, equipment and everything else can be put to rest. As you know, staffing is the function of the County Public Service Board (CPSB). As a county, we are in one of the insecure areas.

**The Advocate for Wajir County Governor (Mr. Ndegwa Njiru):** Sorry. Say that again.

**The County Director of Health (Dr. Dahir Somow):** We have high staff attrition because we are in an insecure county. We normally have many issues with the facilities in Wajir South and Wajir East or those bordering them because people resign or desert duty. We always have that gap.

We have communicated to the County Public Service Board, that we want a replacement of those staff. This is because we already have that budget. They told us to do a request. We did it at the departmental level. The Chief Officer or the authorizing officer and the accounting officer has submitted our request to the CPSB.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Wajir County finds itself in a unique situation because of the security issues.

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): It is your evidence that has partly affected the performance of the health sector.

**The County Director of Health** (Dr. Dahir Somow): I would say, yes, especially in those cross border areas. A large percentage of our workforce is non-locals. When we have insecurity, like what happens with the teachers, they also decide to seek employment elsewhere.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Can that be attributed to the Governor in any way?

**The County Director of Health** (Dr. Dahir Somow): No.

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

**The County Director of Health** (Dr. Dahir Somow): I do not want to go out of topic. Probably you can guide me.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Confine yourself with the issues that I raised because the Governor is told that he is running a County Government where the hospital or the health sector is in disarray. The question is, is that true? Is the sector in disarray? Guide us or rather adduce evidence on the status.



**The County Director of Health** (Dr. Dahir Somow): I would say that is not true. In annex 21E---

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Hon. Members, we are looking at this file.

**The County Director of Health** (Dr. Dahir Somow): Annex 21E, Wajir County key indicators 2017 to 2021. When you talk about performance, you look at key indicators. I will try and be as simple as possible. This information is from the District Health Information System. That was the name before devolution, but now it is Kenya Health Information System. You can correct that.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You said your source of the information is from which document?

**The County Director of Health** (Dr. Dahir Somow): I wrote District Health Information System, but the name changed after devolution. It is Kenya Health Information System.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Is that information domiciled in any report; the one that you are about to give us the breakdowns?

**The County Director of Health** (Dr. Dahir Somow): The Kenya Health Information System is an online platform where all the 47 counties do monthly reporting. This monthly reporting is from the primary data from the facility registers that we fill in every day.

At the end of the month, there are summary registers, which are uploaded by sub county health record information officers. This information can be viewed by anyone. For the health record information systems, we have the admin rights. Other people enter as a guest users.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Are you able to indicate the exact website?

**The County Director of Health** (Dr. Dahir Somow): Kenya Health Information System, just google that.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): That authenticates this document.

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Who is the host of that site?

**The County Director of Health** (Dr. Dahir Somow): I think it is at the Ministry of Health.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Okay. You can then take us through the indicators.

**The County Director of Health** (Dr. Dahir Somow): I have done comparison from 2017 when the Governor was elected up to March, 2021.

Through the Chair, the first one is the proportion of pregnant women who attended at least one antenatal care; visit during pregnancy. This is important because it shows access to healthcare. In 2017, we were at 49.2 per cent.

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We have been increasing progressively up to the data for the first quarter, January to March, which is 86.1 per cent. This shows there is increased access to healthcare. That can be explained by the numerous facilities that we have operationalized.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Would that increment be as it is if the status was in disarray?

**The County Director of Health** (Dr. Dahir Somow): No.

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

**The County Director of Health** (Dr. Dahir Somow): The second one is fourth antenatal care coverage. This one shows utilization. The first one shows access. Normally, in the Northern region, the fourth antenatal care is usually lower.

One of the reasons is our nomadic population. We also have poor health seeking behaviour in terms of the utilization. The utilization is lower. It is across all the 47 counties. If you compare the first antenatal care visits and the fourth antenatal care visits, there is usually a drop. However, you can still see the slight improvement coming from 25 per cent in 2017 to 35.9 per cent is quite remarkable.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Would that happen if the health sector was in disarray?

**The County Director of Health** (Dr. Dahir Somow): No.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru):  
Marvelous, move on.

**The County Director of Health** (Dr. Dahir Somow): The next one is DPT vaccine. This is called pentavalent vaccine. It has five antigens. That is why you see the diphtheria, pertussis, tetanus *et cetera*. I do not want to go into the details.

The five antigens are called the pentavalent vaccine. This is the first pentavalent vaccine which shows access. Our children are immunized. There is an increase from 62.7 up to 75.3 per cent of children immunized for pentavalent vaccine.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Just on that issue of the vaccine, is it something that the county government has invested in terms of campaign, or mobilization, or it is voluntary?

**The County Director of Health** (Dr. Dahir Somow): We have really invested especially in terms of cold chain. That is the fridge that is used to store these vaccines. Most of rural areas do not have power. We have really invested in solar fridges. These are good quality fridges that are approved by the Ministry of Health and the World Health Organization (WHO).

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You may place a fridge or a facility and you fail to get such kind of a turnout, right?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): My question is whether you have gone an extra mile to popularize the vaccine.

**The County Director of Health** (Dr. Dahir Somow): As I talk about the investment in the equipment, I also said we operationalized more facilities. The other thing we also do is that in Wajir we have over 200 settlements that do not have facilities, and they keep on cropping up every single day. So, it is not sustainable to do facilities everyday, but we do integrated outreach. Going to the settlements, where there is no network, health facilities and sometimes there is no any other amenity like schools, but our health care workers through community health volunteers and assistants link the community and the facility.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Are you saying that you have gone ahead and made sure that you have a tailor-made model that applies to the unique circumstances of Wajir County?

**The County Director of Health** (Dr. Dahir Somow), Yes we have. With those integrated outreaches, apart from immunization, we also do antenatal care and nutrition commodities for the malnourished children. It is an integrated outreach that covers a lot.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Would that happen ordinarily in a situation whereby healthcare system is in disarray?

**The County Director of Health** (Dr. Dahir Somow):

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Good, move on.

**The County Director of Health** (Dr. Dahir Somow): The next one is percentage by deliveries conducted by skilled birth attendants.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Generally, because of time, what is your general overview about that indicator?

**The County Director of Health** (Dr. Dahir Somow): I will mention this as the last indicator and leave the rest. For skilled birth attendants, it is important because according to the 2014 Kenya Demographic Health Survey Wajir has the second-highest maternal mortality at 163 maternal deaths per 100,000 live births. It is only second to Mandera. Why this is a big achievement, at the onset of devolution our skilled birth attendant was only at 19 per cent. What that means is that 81 per cent of our mothers were delivering at home, and you know the dangers of that. For us to move up to 49.1 is not a mean feat, but something commendable. This is something we have done well and as you know, our mothers are dear. This is something we are proud of, but we still want to reach above 80 per cent or 100 per cent.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Moving to the issues containing in the notice of Motion for impeachment, it is alleged that you are not able to carry our COVID-19 tests. Would you tell us what the county government has done to confine itself within the new norm?

**The County Director of Health** (Dr. Dahir Somow): Mr. Chairman, Sir, the Wajir regional referral laboratory was among the trailblazers in regard to testing to COVID-19. We began doing so from 23<sup>rd</sup> April, 2020 and we have been among the first few counties to make a diagnosis. Unfortunately, the machine broke down in the middle of the pandemic. The County Government of Wajir through the department of health made efforts to procure the services of Sciencescope to have the machine fixed through a Local Supply Order (LSO) No.001566, which is in Annexure 21G.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Those are the efforts that you took to make that your facility is functional?

**The County Director of Health** (Dr. Dahir Somow) to the upsurge of the COVID-19 cases and lockdown, the South African supplier was not able to deliver the service within the agreed time of four to six weeks despite the several email correspondences. This forced the department to result to other alternative sources. We could not source the spare part within the country.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): What was the turnaround period for this intervention? From the time the machine broke down to the time you made an order?

**The County Director of Health (Dr. Dahir Somow):** Maybe you can look through the LSO; Annexure 21G. Let me just open it also. The LSO which I stated the number was on 30<sup>th</sup> June, 2020. The machine broke down on the 28<sup>th</sup> June, 2020.

**The Advocate for Wajir County Governor (Mr. Ndegwa Njiru):** How many days lapsed?

**The County Director of Health (Dr. Dahir Somow):** Just two days.

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

**The County Director of Health Dahir Som (Dr. Dahir Somow)** Whereas the efforts to fix or replace the Polymerase Chain Reaction (PCR) machine were ongoing, the Health Department was referring samples to the National Public Health Laboratory. The tests were still going on. We were doing a specimen referral using the daily flights we have.

**The Advocate for Wajir County Governor (Mr. Ndegwa Njiru):** Let us go to the question of the general overview of service delivery of the county.

**The County Director of Health (Dr. Dahir Somow):** Mr. Chairman, Sir, on 1<sup>st</sup> May, which is written 2020 but, on the delivery, note it is 2021. We received a new real time PCR machine from the Ministry of Health with



support from the World Bank COVID-19 Health Emergency Response Project. It is waiting for installation, training of staff and commissioning before it becomes operational. That is due by 2<sup>nd</sup> June, 2021. The new machine is a better version. It can do other viruses.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): It is a state of the art machine?

**The County Director of Health** (Dr. Dahir Somow): Yes, we can also test for Rift Valley outbreak virus and other things.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You have annexed Annexure 21J. What is the content of these cylinders? What are they?

**The County Director of Health** (Dr. Dahir Somow): For the new machine, we have delivery notes. This is Annexure 21H; copy of the delivery notes and Annexure 21I is a copy of the picture of the PCR Machine.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): What was the value for the machine?

**The County Director of Health** (Dr. Dahir Somow): I might not be able to say that.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Was there value for money?

**The County Director of Health** (Dr. Dahir Somow): Yes, definitely.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Annexure 21J; what are those cylinders?

**The County Director of Health** (Dr. Dahir Somow): 21J is oxygen manifold system. At the start of the outbreak in March 2020 when we had the first case in Kenya, it was 13<sup>th</sup> March, 2020. We were able to set up an isolation ward, which we did not have before. We also set up an Intensive Care Unit (ICU) that we have never had since Independence. We have an eight-bed capacity ICU and initially, we were using oxygen cylinders bedside, but that is crude. We were able to advice the relevant officers, so as we can move to the oxygen manifold system. It is connected to eight oxygen cylinders, eight medical air and there is piping to the ICU.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Are they available in Wajir? The witness who was testifying on behalf of the County Assembly indicated that the state of health in Wajir cannot be compared to times of Independence. What is your statement? Is there comparison between Independence and 2021?

**The County Director of Health** (Dr. Dahir Somow): At Independence, we only had one operational theater in a county the size of 56,000 square kilometers. That means someone would be referred over 300 or 400 kilometers for a basic caesarean section. Now, we have comprehensive emergency obstetric antenatal care facilities that can do cesarean section.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Courtesy of the governor?

**The Chairperson** (Sen. Omogeni): Your time is up. I am told.

**The County Director of Health** (Dr. Dahir Somow): This is courtesy of the first and the second regime.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Finally, talk about the general delivery of services and whether citizens of Wajir are compelled to pay for ambulance, fuels and buy the spares for the fuel?

**The County Director of Health** (Dr. Dahir Somow): I am not aware of anything like that. Nothing has come to our attention on that issue. What I know is that the ambulance services are free. As the technical head in the department, I am actually involved in preparation of the budgets and the annual work plans. We have put a sufficient budget of about Kshs25 million for the referral system. There is an annex that I have shown. That is 21A.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): That is summary of referrals?

**The County Director of Health** (Dr. Dahir Somow): Yes, the source is Wajir County Referral Register that we used. In terms of the costing, we use the number of Daily Subsistence Allowance (DSA) that a driver gets in terms of referral and the number of days they spend. For fuel, we looked at the mileage of the ambulances so as to get the exact figures.

I want to save time. If you look at it, the total comes to Kshs45,379,400. This is for the Financial Year 2019/2020 where there was alleged issues of people paying for ambulances. We had budgeted for Kshs25 million but the amount went a bit higher. The referral unit actually shares some cost with general administration.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): So, is these amounts expended on these referrals indicative of how operational the referral facility is?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Does it indicate a failed and collapsed health system?

**The County Director of Health** (Dr. Dahir Somow): No.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Is there anything else that you would want to add before I yield you to senior counsel Mr. Ahmednasir?

**The County Director of Health** (Dr. Dahir Somow): Probably the only thing I need to add is that before devolution, I do not know if it is the right word to use, we inherited about 11 ambulances. The first county government procured eight ambulances and the current regime procured three ambulances. We got one, which is a donation, from the Intergovernmental Authority on Development (IGAD). But still, because of the poor road network and the vastness of the county, we have frequent breakdowns. I just wanted you to note that.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Okay, witness, you will be cross-examined by my senior learned friend.

**The Chairperson** (Sen. Omogeni): Thank you. Proceed, senior counsel Mr. Ahmednasir.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you very much, Mr. Chairman, Sir.

*Daktari* Somow, I will start from where you have just left. You said that the annual medical budget is about Kshs2.4 billion.

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): That is fairly impressive to have a budget of Kshs2.4 billion, is it not?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You said the population of Wajir is about 769,000?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): And the county is vast up to near Marsabit, Ethiopia and Somalia?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It is your evidence that during the past four years, if we calculate the health budget, it is about Kshs9.6 billion since Governor Mohammed came to power?

**The County Director of Health** (Dr. Dahir Somo): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Do you want to tell us that with a budget of Kshs9.6 billion, for such a vast county like Wajir with a population of more than 700,000, you bought just three ambulances?

**The County Director of Health** (Dr. Dahir Somow): Yes, we bought three ambulances but of good quality.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): We will talk about the quality but three ambulances only with a budget of about Kshs9.6 billion?

**The County Director of Health** (Dr. Dahir Somow): But what is the budget of health? I think you said Kshs2.4 billion. We also have other competing priorities.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let us move on. You bought three ambulances. You said the previous government had bought eight and you inherited 11 from the national Government in 2010?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Obviously those are not working.

**The County Director of Health** (Dr. Dahir Somow): Not all of them. Some are working.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Listen. How many ambulances are functional that can be sent from Wajir to pick a patient in Bute or the border at Horafarat?

**The County Director of Health** (Dr. Dahir Somow): About 14 ambulances.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let us count. There were eight procured by the previous governor and other three making it 11. Do you have about 11?

**The County Director of Health** (Dr. Dahir Somow): No. We said eight procured by the previous regime, three by this region plus one from IGAD making it 12. We have two from the national Government.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Assume you have 20 emergencies on a given day, one in Kutulo, one in Habaswein, one in Modogashe, one in Bute, and 15 others somewhere else; how will you prioritise where you will send them?

**The County Director of Health** (Dr. Dahir Somow): God forbid if that happens.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It happens every day.

**The County Director of Health** (Dr. Dahir Domow): It does not happen. God forbid, do not pray for us. In case that happens, we have done zoning of the ambulances, so that once an ambulance at a specific area can respond to a case in another sub county.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): When an ambulance leaves Wajir for Bute, how many hours does it take on that rough road?

**The County Director of Health** (Dr. Dahir Domow): We already have an ambulance stationed at Bute.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How about Kutulo?

**The County Director of Health** (Dr. Dahir Domow): We have one at Kutulo and one at Tarbach.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, how many do you have in Habaswein and Modogashe?

**The County Director of Health** (Dr. Dahir Somow): We have one at Habaswein. We also have one at Sabuli and one at Dif because Wajir South is close to half of---

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It means you have nothing in Wajir Town?

**The County Director of Health** (Dr. Dahir Somow): We have two functional ambulances in Wajir Town.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at 21C. Are you there?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I can see that you were employed in 2016.

**The County Director of Health (Dr. Dahir Somow):** Yes.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** So, you also served in the other government?

**The County Director of Health (Dr. Dahir Somow):** I actually joined in 2012 when we still had the national Government.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** Let us just look at when devolution began. You have been there for about eight to nine years of devolution.

**The County Director of Health (Dr. Dahir Somow):** 10 years.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** Let us say you have spent about Kshs20 billion on health. That is a rough estimate of Kshs9.6 billion during this government and another Kshs9.6 billion by the other government.

**The County Director of Health (Dr. Dahir Somow):** No.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** How much?

**The County Director of Health (Dr. Dahir Somow):** If I can remember, the first budget was Kshs1.4 billion and we were increasing gradually. So, I cannot tell the figure.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** Let us take an average of Kshs1.5 billion times 5. That is Kshs7.5 billion plus Kshs9.6 billion coming close to Kshs15 billion. That was during your time.

**The County Director of Health (Dr. Dahir Somow):** Yes.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** Look at the chart on page 21. With a budget of about Kshs16 billion,

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you added one scanning machine, one Intensive Care Unit (ICU), one renal unit that does not work I am told, 30 laboratories, one radiology unit and just four theatres in a county as big as Wajir. Have you not slept on the job unsoundly if I may put it?

**The County Director of Health** (Dr. Dahir Somow): We have done another theatre in Eldas and we are just waiting to post a medical officer. There is another theatre in Eldas which has been done by the county.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How do you justify a budget of Kshs15 billion?

**The County Director of Health** (Dr. Dahir Somow): But you have not talked about the salaries that we are paying.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Kshs15 billion and you are here telling us that you have added one renal unit, one theatre and this and that?

**The County Director of Health** (Dr. Dahir Somow): For Kshs15 billion, almost Kshs8 billion goes to salaries and other recurrent expenditures.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Where do you take all this money to?

**The County Director of Health** (Dr. Dahir Somow): I am not an economist but if you pay salaries for that amount--- I think that is a huge investment in terms of human resource.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let us go back to the issue of hospitals. You said you have a total of 122 but 42 are not operational.

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, you just have the buildings? Is that what you are saying?

Yes, witness. You just need the machines and the human resource. Every logical person will ask you, why do you build 42 health facilities? You build 42 health facilities at X cost and then it is not operational. Is it not a way of making money so that money is spent?

**The County Director of Health (Dr. Dahir Somow):** Actually most of these projects are wealth-based projects.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** Just answer my question. Why do you build 42 units at X cost leave them nonoperational at Waiya and lose all that money?

**The County Director of Health (Dr. Dahir Somow):** Mr. Chairman, Sir, as I said this is a vast county and building all those facilities is actually a good thing. In terms of recruitment of human resource the wage bill is also ballooning.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** Let me take you to the issue of COVID-19. You said you were trailblazers but it broke down?

**The County Director of Health (Dr. Dahir Somow):** We were one of the first counties but the machine broke down. Up to today, it is not working. We could not get the spare part in Kenya.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** Answer my question. Up to today, it is not working?

**The County Director of Health (Dr. Dahir Somow):** Yes. It is not working but we have a new machine.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** When will that machine be operationalized?

**The County Director of Health (Dr. Dahir Somow):** We are waiting for---

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** God willing.

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**The County Director of Health** (Dr. Dahir Somow): God willing, it is not the only county that got the equipment through this project---

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Just answer my question.

**The County Director of Health** (Dr. Dahir Somow): What I am aware is that at the end of May, a team from the Ministry of Health and the supplier will come to do the training. This will happen in the end of May. So, by 2<sup>nd</sup> June, I think you can come and visit Wajir and test yourself.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Now let me ask you; who is your deputy director?

**The County Director of Health** (Dr. Dahir Somow): I have three deputy directors.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): There is one called Dr. Adan?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): He has his own hospital?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): What does he do for you? Does he supply you oxygen?

**The County Director of Health** (Dr. Dahir Somow): I am not aware of that.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How can you not be aware? You are in charge of health. How can you not be aware?

**The County Director of Health** (Dr. Dahir Somow): I am not aware of that.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Do you have oxygen in Wajir or is it your plant that makes oxygen inoperable?

**The County Director of Health** (Dr. Dahir Somow): The plant is non-functional.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Do you get some from Elwak in Mandera?

**The County Director of Health** (Dr. Dahir Somow): And also Nairobi.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Just answer. Do you get it from Elwak?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): And the rest you get from---

**The County Director of Health** (Dr. Dahir Somow): Nairobi.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): ---Dr. Adan's hospital, is it not?

**The County Director of Health** (Dr. Dahir Somow): No. I am not aware of that.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How can you be not aware?

**The County Director of Health** (Dr. Dahir Somow): The hospital also has a CEO who is also an accounting officer and we also have the chief officer. So I cannot know who has been awarded what. What I just know is that there is oxygen.

**The Advocate for Wajir County Assembly** (. Mr. Ahmednasir Abdullahi SC): Is Wajir not a place where doctors do business with the hospitals?

**The County Director of Health** (Dr. Dahir Somow): I am not aware of that.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You are not aware of so many things, is it not?

**The County Director of Health** (Dr. Dahir Somow): I am under oath, so I have to speak the truth.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Why is the renal unit in your main hospital not working?

**The County Director of Health** (Dr. Dahir Somow): It is functional.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Why is it not working?

**The County Director of Health** (Dr. Dahir Somow): It is working.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So the renal unit is fully functional?

**The County Director of Health** (Dr. Dahir Somow): Yes. As far as I am concerned we have six dialysis machines that are working.

**The Advocate for Wajir County Assembly** Mr. Ahmednasir Abdullahi SC): How many are not working?

**The County Director of Health** (Dr. Dahir Somow): We only have six.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So all of them are working?

**The County Director of Health** (Dr. Dahir Somow): All of them are working.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So the renal unit is fully operational?

**The County Director of Health** (Dr. Dahir Somow): They are all working but there is one challenge. These machines were under the Managed

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Equipment Services (MES) programme; they are leased. The salty water that is in Wajir normally destroys the membranes and the company that supplies this is called Anjelica under the MES project and they have replaced that membrane close to eight times. Each membrane is Kshs150,000 and they told us they cannot pay for it any more. Currently, now we have to do it ourselves. This financial year, we have put a dissemination machine so as to help us with that saline water.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Finally, as I conclude, how many doctors do you have in Wajir? I am not talking of clinical doctors; I am talking of medical doctors.

**The County Director of Health** (Dr. Dahir Somow): We have 50. Twenty four are on study leave.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So you have 26?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Do you pay for those who are on study leave?

**The County Director of Health** (Dr. Dahir Somow): Yes, we pay for them and there is an annexe which I attached whereby we talk about the doctors. Before the advent of devolution, we did not have a single consultant. We did advertisements but we could not attract any one to Wajir. So, we said we are going to do a long term investment by sending the doctors for training and once they come back, this will help us to reduce referrals and maternal complications.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Out of these 26, you have how many are surgeons?

**The County Director of Health** (Dr. Dahir Somow): First of all, we already have one surgeon who has come back. Dr. Jamal Avadi has come back.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Just answer me, how many surgeons do you have in Wajir County?

**The County Director of Health** (Dr. Dahir Somow): Currently, we have two surgeons. The ones still on study leave are another two surgeons

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So you have two surgeons?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Where are they based?

**The County Director of Health** (Dr. Dahir Somow): We have two surgeons based at the County Referral Hospital in Wajir.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So if someone wants a surgery in Modogashe, what happens?

**The County Director of Health** (Dr. Dahir Somow): According to the health standards from the Ministry of Health a Level 4 hospital should have 18 consultants. We only have two.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I am saying what happens if you have a patient in Modogashe who wants urgent surgery?

**The County Director of Health** (Dr. Dahir Somow): The medical officers will review, if it is a case that they can handle, they will handle because they can also do surgery. If not, the patient will be referred to Wajir. The reason we have sent people on study leave is to make sure that we have consultants across the sub-counties.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you very much. I have no further questions.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Doctor, kindly confirm whether or not all the monies allocated for health have been put in good use.

**The County Director of Health** (Dr. Dahir Somow): I think so, I am not an accounting officer.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): I am asking if you have value for money.

**The County Director of Health** (Dr. Dahir Somow): Yes, there is value for money.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Confirm that the unique circumstances under which Wajir County finds itself security or insecurity included, have largely affected performance across the entire region.

**The County Director of Health** (Dr. Dahir Somow): Yes, it has.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): And that Wajir is not unique to the situation?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): This Dr. Aden, do you know whether he supplies anything to the hospital?

**The County Director of Health** (Dr. Dahir Somow): To be honest, I am not aware of that.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Is there any evidence that has been tendered that he contributes or rather supplies?

**The County Director** (Dr. Dahir Somow): Nothing has reached my office. I am not aware of that but we can follow up with the chief officer but I do not know that.



**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You said that there is a problem of workforce because of the challenges Wajir faces

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): And that is a challenge that is unique to the county?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): To an extent that you have to cater for the doctors study leave?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): In ordinary circumstances, would Nairobi find itself in such circumstances?

**The County Director of Health** (Dr. Dahir Somow): No because once they advertise, a lot of people apply.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): On the Modogashe issue, kindly confirm whether you have put into place mechanisms of mitigating the suffering of the people.

**The County Director of Health** (Dr. Dahir Somow): Modogashe is in Garissa County not Wajir.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Okay. Finally, on the 42 non-operation hospitals, is there a population domiciled in that area?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Do they require the facility?

What has affected the workforce? You said it was insecurity. Correct?

**The County Director of Health** (Dr. Dahir Somow): Yes, insecurity, high staff attrition, transfers and desertions.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Do you attribute that to the Governor?

**The County Director of Health** (Dr. Dahir Somow): No.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Good. You will be sought for clarifications.

**The Chairperson** (Sen. Omogeni): Hon. Senators, does anybody want to seek any clarification?

**The Vice-Chairperson** (Sen. Kihika): Thank you, Mr. Chairman, Sir. You referred to the PCR machine which you said it still has not been installed or that you are waiting to train people.

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Vice-Chairperson** (Sen. Kihika): It is one of the machines that helps to test for the COVID-19 virus.

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Vice-Chairperson** (Sen. Kihika): At the moment, you do not have capacity waiting for this machine. What are you doing as you wait for this machine?

**The County Director of Health** (Dr. Dahir Somow): We are sending specimen to the National Public Health Laboratory and we get the results within 24 hours.

**The Vice-Chairperson** (Sen. Kihika): Are they the ones you are airlifting?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Vice-Chairperson** (Sen. Kihika): Would it not make more sense for the county government to move with speed as far as installing this machine is concerned and training the necessary staff is concerned and make it a priority so that maybe in the next week or two weeks something is happening as afar that? It just seems to make sense in the middle of a pandemic.

**The County Director of Health** (Dr. Dahir Somow): We have been making follow-ups. Currently, the team that was doing installation was last week in Kwale. They are going to another county this week. They are working hard. I am pushing me them and they have assured me that the last week of May, they are going to do it. That is why I said by 2<sup>nd</sup> of June. It could even be earlier.

**The Vice-Chairperson** (Sen. Kihika): That would make sense given we have a pandemic that cannot wait.

**The Vice-Chairperson** (Sen. Kihika): In Note 21B, you had a list of doctors and where they are studying. How many doctors do you have employed by the county Government of Wajir?

**The County Director of Health** (Dr. Dahir Somow): About 50.

**The Vice-Chairperson** (Sen. Kihika): Looking at Note. 21B, I see you have 22 who are on study leaves. Are they part of the 50?

**The County Director of Health** (Dr. Dahir Somow): Yes.

**The Vice-Chairperson** (Sen. Kihika): Granted we want people to enhance and get better education and specialize, does that seem to be very poor management of human resource if half of the doctor population is away on study? I am imagining you are paying salaries.

**The County Director of Health** (Dr. Dahir Somow): Yes, we are paying.

**The Vice-Chairperson** (Sen. Kihika): Assume I am a doctor that works for you in Wajir County and I want to join the University of Nairobi and become a specialist, do you just approve that, or do you have steps where maybe I have to wait for some to come back? Do you release people and hire others as they go to study? Are they protected in a way that you have to keep their slots?

**The County Director of Health** (Dr. Dahir Somow): We did a training needs assessment before we started sending people on study leave. Our priority was to have at least consultants in each specialty. We had zero consultancy.

During the first county government, we could not attract any specialist. We sent people on study leave. We had to get a doctor from Ethiopia on contract and gave him a work permit through following all the procedures and the Board approved. We were that desperate.

In the last financial year, we sent three because we did not have female consultants. All the three were female going to do gynecologists because most of our women prefer to be attended to by a fellow woman.

**The Vice-Chairperson** (Sen. Kihika): It makes sense.

**The County Director of Health** (Dr. Dahir Somow): Right now, we want to put a stop to it until we get most of them back. Most of them are coming back this year.

**The Vice-Chairperson** (Sen. Kihika): Do you have a contract where they sign so that if you pay for their study leave, they have to come back? Do some finish and go to greener pastures?

**The County Director of Health** (Dr. Dahir Somow): Mr. Chairman, Sir, we have bonded all of them through the magistrate's court in Wajir to serve us for a time equal to the duration of their study.

**Sen. Were:** Have you been the medical director for the last 10 years since the advent of devolution?

**The County Director of Health** (Dr. Dahir Somow): No. I was confirmed in 2016.

**Sen. Were:** You have also told us the health docket takes the highest chunk of the budget.

**The County Director of Health** (Dr. Dahir Somow): Yes.

**Sen. Were:** Rightly so, health was the selling point for devolution. So we have no problem with it taking the highest share. How have you ring-fenced

the health funds from abuse and misappropriation as the County Director of Health Services?

Secondly, has the county suffered any challenge, for example, electricity to connect equipment such as that provided under MES?

**The County Director of Health** (Dr. Dahir Somow): Mr. Chairman, Sir, ring-fencing is a challenge in all the 47 counties. It can only be solved through legislation. We have a big challenge because it goes to the County Revenue Fund (CRF). There are always competing priorities, but for us, health is the most important.

I humbly request the Committee Members as you also fight for devolution, if you do that, you will leave a legacy.

On the Leased Equipment, it is true we are having a challenge. This hospital has a transformer of 250 kva while power consumption is 600 Kva.

At the moment, our CT Scan is not functioning. We have got advice from the Kenya Power Company (KPC) to buy a larger capacity transformer which the county has done. We have bought a 1000 kva transformer. We were also advised to construct a transformer house for it. It is dedicated just for the hospital.

The 250 kva is outside the hospital meaning we are also sharing with other residential buildings. The 1000 kva can also be used for future expansion. Only a control panel is remaining which we were also told to do. once it is done, KPC will come and install it.

Currently, we are at the level of the transformer house. If budget is allocated, I think that is one of the priorities we have identified. Even the oxygen plant is not functioning because of the power issue. Once that is sorted, I think things will be good.

**Sen. Kavindu Muthama:** Just a clarification. You said a machine has broken down and there are no spare parts in the country. Have ordered a new one? Is it not also possible to order for spare parts from outside? We have many cars and machines without spare parts in the country. People order from outside. Do you not think ordering for those spare parts and then having both the two machines will help Wajir County better?

**The County Director of Health (Dr. Dahir Somow):** Mr. Chairman Sir, once we could not fix the machine, we got communication from the Ministry of Health that we are getting this new machine. Once we reached that level, we just said it would be more economical to wait for that machine that is coming and meanwhile continue sending samples. Of course it is at the county's cost. We do specimen referral.

If you look at the guideline sent by the Ministry of Health, you will see that only around 35 facilities are the ones that are conducting tests meaning the rest are actually sending samples. The reason why we are actually lucky is that our laboratory is one of the World Bank projects East Africa Public Health Laboratory Networking Project which was done by the World Bank.

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We had five similar labs in Machakos, Wajir, Malindi, Kitale and Busia. Our lab is actually ISO certified by the Kenya Accreditation Society (KAS). This accreditation is done every year and the last one was done six months ago. I think it would be more economical just to wait for that machine. That machine was superior. It is the one that you have gotten. It is not the only county that has gotten broke down. We had a similar case also in Busia County.

**The Chairperson** (Sen. Omogeni): Thank you. Any other Senator. Sen. Outa, proceed.

**Sen. Outa:** Mr. Chairman, Sir, thank you. I want to ask the witness and I know truly as a doctor he is alive to the Coronavirus disease (COVID-19) situation in Kenya. He has told this Committee that the oxygen plant is not working. Where do you get oxygen plant to mitigate on the COVID-19 pandemic?

**The County Director of Health Dahir Somow:** (Dr. Dahir Somow): Mr. Chairman, Sir, we get these supplies from Nairobi and also some from El Wak. We have almost 50 oxygen cylinders that are connected. However, this is not sustainable and I agree with you. That is why as the technical head, I

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am actually really pushing hard for this to be a priority in terms of installing that transformer.

This is something that I am very passionate about getting that oxygen plant working. Once we get that oxygen plant, we can supply even to the sub county hospitals which will be a plus. Meanwhile all of them are actually using cylinders.

**The Chairperson** (Sen. Omogeni): That seems to be it. Thank you. Sorry. Sen. Sakaja, proceed.

**Sen. Sakaja:** Mr. Chairman, Sir, just a quick one. I did not intend to ask earlier. Just following up on what Sen. Outa is asking and Dr. Dahir saying he is really pushing hard for this to be a priority. Who are you pushing hard?

**The County Director of Health** (Dr. Dahir Somow): Mr. Chairman, Sir, as I said, I am actually involved in the preparation of budget so I have made sure it is included in the budget.

**Sen. Sakaja:** This current budget cycle?

**The County Director of Health** (Dr. Dahir Somow): Mr. Chairman, Sir, this current budget cycle. It is still a draft budget we have done at the

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departmental level. Actually, they talked about Universal Health Coverage (UHC) being 20 per cent. It is actually 30 per cent. For this financial year, we have done 30 per cent. It is a requirement.

**Sen. Sakaja:** I am asking about this specific plant.

**The County Director of Health Dahir Somow:** (Dr. Dahir Somow): Mr. Chairman, Sir, we have put it in the draft budget.

**Sen. Sakaja:** How much is it? What is the figure?

**The County Director of Health** (Dr. Dahir Somow): Mr. Chairman, Sir, the quotation we got was Kshs5.8 million for the control panel.

**Sen. Sakaja:** So, Kshs5.8 million is what is standing between Wajir County and getting oxygen plant working?

**The County Director of Health** (Dr. Dahir Somow): Mr. Chairman, Sir, yes.

**Sen. Sakaja:** Mr. Chairman, Sir, Wajir County received I think a certain amount of COVID-19 fund. None of that was used for oxygen.

**The County Director of Health** (Dr. Dahir Somow): Mr. Chairman, Sir, what I know is that it has not been done and there was no budget for it in our current budget.

**Sen. Sakaja:** What were the other priorities on COVID-19 funds if not oxygen?

**The County Director of Health** (Dr. Dahir Somow): Mr. Chairman, Sir, I will agree it is a priority.

**Sen. Sakaja:** Mr. Chairman, Sir, that is it.

**The Chairperson** (Sen. Omogeni): Thank you. I think you are released. Next witness. You can swear the witness.

*(Mr. Abdi Abdullahi Hassan took Oath)*

**The Advocate for the Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, this is Mr. Abdi Abdullahi Hassan. His statement is in the file that contains the witness statements. We will principally just be going through his statement. He will introduce himself and highlight the relevant parts of his statement so that we save on time. Please, again for the record, introduce yourself to the Committee. Please speak into the microphone and speak up.

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*(The Deputy Director Supply Chains Management, Wajir County)*

*(Mr. Abdi Abdullahi Hassan) introduced himself)*

**The Advocate for the Governor** (Mr. Paul Nyamodi): How long have you done the job of the Deputy Supply Chains Management?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, I joined the County Government of Wajir on 3<sup>rd</sup> June, 2014 to date.

**The Advocate for the Governor** (Mr. Paul Nyamodi): As the Deputy Supply Chain Manager, what are your responsibilities?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, one of my roles are that I do support the directorate in the preparation of annual procurement plans. Secondly, I do support the department in the coordination, development of strategic plan for the directorate of supply chains management. Also, I ensure the implementation of Public Procurement and Asset Disposal Act and other statutory laws and regulations in the county.

**The Advocate for the Governor** (Mr. Paul Nyamodi): You know that the Governor of Wajir County was impeached by the Wajir County Assembly.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, I know that.

**The Advocate for the Governor** (Mr. Paul Nyamodi): Have you seen the Motion of Impeachment?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes.

**The Advocate for the Governor** (Mr. Paul Nyamodi): Are you familiar with the allegations in that Motion?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, I am familiar with those specific allegations touching on procurement.

**The Advocate for the Governor** (Mr. Paul Nyamodi): Why are you here this afternoon?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): I am here to respond to the allegations raised in the Notice of Motion.

**The Advocate for the Governor** (Mr. Paul Nyamodi): Good. Are those responses contained in your statement?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, I did my statement.

**The Advocate for the Governor** (Mr. Paul Nyamodi): I would like you to highlight to the Committee the responses to the allegations that pertain to your department in your statement.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, the first question starts with irregular procurement of goods, works and services amounting to Kshs172,751,776. This allegation was derived from the Auditor General's Report for Financial Year 2017/2018. This allegation was raised by the Auditor General in that financial year. In that financial year, we have passed a lot of stages regarding this allegation.

I wish to confirm to the Committee that we acted within the Public Procurement and Asset Disposal Act Section 58 (1) which states that-

“An accounting officer of a procuring entity shall use standard procurement and assets disposal documents issued by the authority in all procurement and disposal proceeding.”

They were raising issues touching quotations, and we were in line with that Section. Within the same, we have used Section 70 (2) which states that the tender documents shall contain sufficient information to allow fair competition among those who may wish to outline.

Mr. Chairman, Sir, we all know that a quotation is just one form, and here we have used a standard tender document, since the amount reached here by the Auditor-General touches merely on the works. We have goods, works and services, but this was mainly on works. In that regard, if you go to Section (70) (6) (b)--- If there are any works being procured, then we should have drawings and Bills of Quantity (BQs).

You should combine the drawings and the BQ with standard tender documents. That is why we have the standard tender documents with detailed descriptions of where to place them, the tender date, and specifications. The evaluation criteria were set out in the standard tender

documents in line with the Sections I have mentioned. That is the first allegation.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Would you like to rely on any documents in support to your response?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

Yes.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): What documents are these?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

The supporting documents are annex 13 (a) and 13 (b).

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, these are to be found in a file marked N1 and N2.

**The Chairperson** (Sen Omogeni): It is not this one?

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): No, it is this one.

**The Chairperson** (Sen Omogeni): That is okay. Let us continue as I try to locate it. Senators, do you have N? Proceed, the Senators are with you.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Alright. What about the next allegation?



**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, I need to conclude before I go to the next allegation. In that audit query, the management has responded to all queries raised by the Auditor-General and other oversight bodies, including the Senate Public Accounts and Investment Committee (CPAIC) regarding the above credit. You can refer to the Senate CPAIC regarding this allegation. We have fully responded. You can go back to that.

The second allegation is in regards to FATCO Construction and Transporters Ltd. at a contract sum of Kshs34,747,105.27. This company has lesser experience in water construction than the other bidders in the tender. I wish to respond and confirm to the Committee that first and foremost, the responsibility to confirm the experience of a company squarely lies with the Evaluation Committee in line with Section 46 (4). You can see annex 14 (e) in the same file.

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

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

There is the tender evaluation report in that annex. In regards to experience, it is an item in the technical evaluation criteria. As we all know, there are in the evaluation criteria three stages, the mandatory stage, the evaluation stage and the financial stage. Issues to do with experience are in the technical criteria.

Mr. Chairman, Sir, if you analyze that report, you will see that there are two companies in question here, that is Yellow Construction Company Ltd., and FATCO Construction and Transport Comapany Ltd. Both of them proceeded the from the mandatory stage and met and the technical evaluation. If you can see---

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

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

If you can see the evaluation report clearly, it shows that FATCO Construction and Transport Company Ltd. and Yellow Construction Company Ltd. proceeded to the financial stage.

They both passed the technical stage and proceeded to the financial stage. In the financial stage, they both tied in their score. Finally, FACTO Construction and Transporters Ltd. was awarded as the lowest substantive evaluated bidder in line with Section 86 (1).

Do I proceed to the third allegation?

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

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

Mr. Chairman, Sir, in the third allegation---

**The Chairperson** (Sen. Omogeni): Did they do the work?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

Pardon?

**The Chairperson** (Sen. Omogeni): Did this this FATCO Construction and Transport Company Ltd. do the work?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

Yes, Mr. Chairman, Sir.

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

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): The third allegation is in regards to a tender WCGOTSP02/2019/2020 on the supply and delivery of relief food and assorted items for humanitarian needs. The allegation raised here is in regards to price and some items not delivered. If you look it, some items have not been delivered 100 per cent. For instance, sleeping mats and tarpaulin.

Mr. Chairman, Sir, I wish to confirm that this tender was done in a competitive bidding process and was advertised in line with Section 91. You know that there are a lot of stages involved with the advertisement. It ended up culminating in a framework contracting for two years. That is how Leyli General Constructors was found to be the most responsive evaluated bidder. You can refer to the annexes. There are a lot of annexes there. From the opening, you can see Annex 16 (i).

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**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, this file is marked as N (iv).

**The Chairperson** (Sen. Omogeni): Senators, are you with the witness? Go to file N (iv). Are we together? Okay, proceed.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

Mr. Chairman, Sir, in this specific tender, 12 bidders applied. Out of the 12 bidders, six were non-responsive at the mandatory stage.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Are you looking at any particular annexure.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

Yes, I am looking at annex 16 on the evaluation.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): What letter under annex 16?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

Annex 16 (i).

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Please proceed.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, let me go to the second question in regards to

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supplies. There were some goods that were not delivered 100 per cent. I wish to confirm that those two items, the sleeping mates and tarpaulin were delivered 100 per cent as specified, and the quantity indicated in the Local Purchase Order (LPO) herein axed to prove that 100 per cent of the goods were delivered.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): What annexure is that?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

It is annex 16 (o), which is the Inspection and Acceptance Committee certificate. In this certificate---

**The Chairperson** (Sen. Omogeni): Senators, if you peruse and go to the orange tag, you will get annex 16 (o).

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

Mr. Chairman, Sir, before you go to annex 16 (o)---

**The Chairperson** (Sen. Omogeni): Inspection and Acceptance Committee certificate. Is that the one?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

Yes. Before you go there, let us go to annex 16 (m).

**The Chairperson** (Sen. Omogeni): No. You have taken us to 16 (o). That is where we are.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

I want to take you back.

**The Chairperson** (Sen. Omogeni): You want to take us back?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

Yes.

**The Chairperson** (Sen. Omogeni): Where to?

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Witness, to which one?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan):

Annex 16 (m).

**The Chairperson** (Sen. Omogeni): Yes, sorry! These documents are bulky.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): We are using a file labeled N (iv).

**The Chairperson** (Sen. Omogeni): Sen. Linturi, are you there? Can somebody from the Secretariat assist Sen. Linturi? Senator, you are a slow learner.

*(Sen. Linturi was assisted to locate the file)*

He is there now. So, you have taken us to O and now to N about delivery note.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, it is not a delivery note. It is an appointment of an inspection committee in line with Section 48 of the Public Procurement and Asset Disposal Act, 2015. Then, you go to 16N, the delivery note.

**The Chairperson** (Sen. Omogeni): Okay. We are together.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, go to Nos.6 and 7 on the second page. That is, the sleeping mats and the tarpaulin. The quantity is 3,000 and 3,500.

**The Chairperson** (Sen. Omogeni): What did you say N is? These are delivery notes.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, Mr. Chairman, Sir. Move to the second page of N. Let us

proceed to the certificate, which is 16O Nos.1 and 3. It is confirmed and signed by the inspection committee down there from the chairman to the store person.

**The Chairperson** (Sen. Omogeni): Yes, we are together.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, then go to 16N.

**The Chairperson** (Sen. Omogeni): You are taking as back.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, it is 16P and then 16Q.

**The Chairperson** (Sen. Omogeni): Which one do you want us to go to?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, to S13. That is 16Q.

**The Chairperson** (Sen. Omogeni): Okay, we are at Q. What is that?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, it is S13. It is confirming goods were received in good order. When you have a delivery note, then you record an S13. It is the counter receipt voucher in the store.



**The Chairperson** (Sen. Omogeni): No, I want to be sure, my friend. Who received?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, it is the store manager, Mr. Abdi Abdikadir.

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

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, if you look at 01 and 03 within the same page, then there are folios in the ledger.

Finally, in that ledger, those goods are available in store and have not been distributed. They are available now and we can confirm they are in stores. That is regarding that allegation. Supporting documents are there.

The third allegation is 10.1; allowing unqualified professional to handle the procurement function in the Department of Roads and Transport, contrary to Section 47 of the Public Procurement and Asset Disposal Act, 2015.

Mr. Chairman, Sir, first, I am not aware of any unqualified officer in my department. I wish to confirm that we normally do Yale compliance. Every financial year, Public Procurement and Review Authority (PPRA) do staff establishment compliance check, confirming that all the procurement officers in that respect---

**The Chairperson** (Sen. Omogeni): On which paragraph of your statement are you?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, that is Page No.13 of the witness statement.

**The Chairperson** (Sen. Omogeni): Page 13 is your signature. Are you talking about the allegations?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, Mr. Chairman, Sir.

**The Chairperson** (Sen. Omogeni): Allegation 10.1 is on Page 8 and not 13. So, are you on Page 8?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, Mr. Chairman, Sir. I am there.

**The Chairperson** (Sen. Omogeni): Okay, take us through.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, do I need to read the allegation again?

**The Chairperson** (Sen. Omogeni): No, we just need the answer.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, I wish to confirm that the Department of Roads and Transport does not have any unqualified officer.

In the financial years 2019/2020, 2018/2019 PPRA did their compliance check on staff establishment confirming that all procurement officers in that department are licensed and registered at Kenya Institute of Supplies Management (KISM). See Annex 18a for their academic qualifications for that specific department. We have eight officers.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Those documents are to be found in a file marked O(i) and O(ii).

**The Chairperson** (Sen. Omogeni): Is that 18A?

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Yes, Mr. Chairman, Sir.

**The Chairperson** (Sen. Omogeni): Okay. O(i) and O(ii). Are we there, Senators? That is another file altogether.

*(Senators perused their files)*

Counsel Paul Nyamodi, why are you punishing these Senators? I do not see you do this on court. You normally put one volume. You have made life very difficult for my Senators here.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): We did not want to intimidate them with large volumes. So, we broke the matter.

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

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, once they find the files, the documents are very easy to locate.

**The Chairperson** (Sen. Omogeni): Sen. Outa, what is your point of order?

**Sen. Outa:** Mr. Chairman, Sir, you had made a ruling before that the Counsel for the Governor will have time during lunchtime to reorganize their file. You could see the repeat thing. We are having a very hard time to follow up the Counsel and when you are taking us to your appendices, we lose track of the submission, which is an important matter to us here. I just want to remind the Chair about his ruling, which was not adhered to by the Counsel for the Governor.

**The Chairperson** (Sen. Omogeni): Sen. Outa, the Counsel is doing very well, but people like Sen. Linturi take long to trace their files. The boxes are

next to you. Just be on your toes. As soon as the Counsel refers to a file, you grab it.

**Sen. Outa:** Mr. Chairman, Sir, I expected my good friend, Counsel, whom I respect---

**The Chairperson** (Sen. Omogeni): We are trying. We are doing well. I think you are doing okay. Senators are not used to going through files. That is why.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, if it will help, I could just inform the Committee that each response or subject matter is dealt with in a different file. So, every time we start, possibly, I can then introduce the file, so that Senators can find the file as the witness testifies. That way, we will not wait for the witness to get to the documents, before the files are then sought.

**The Chairperson** (Sen. Omogeni): I have seen Sen. Kihika is trying to be a good neighbour of Sen. Linturi. I hope she can be of help. I think we are all there, and we can now proceed.

**Sen. Outa:** Mr. Chairman, Sir, on a light note, I know Counsel Nyamodi has been in this game for a while. However, we also want to acknowledge that, today, he has not helped us so much in terms of organization. I know him; he

is my good friend. This is just a good lesson for next time, so that we can follow up and not waste time.

**The Chairperson (Sen. Omogeni):** Sen. Outa, you have not heard Senior Counsel, Ahmednasir complain. He has the same volume of files. So, just try to be on your feet.

Try to be on your feet. As soon as he picks one, you also grab and follow where we are. Let us proceed. I think we have the file now. What do you want us to look at?

**The Deputy Director, Supply Chain Management (Mr. Abdi Abdullahi Hassan):** The academic qualifications.

**The Chairperson (Sen. Omogeni):** Which page?

**The Deputy Director, Supply Chain Management (Mr. Abdi Abdullahi Hassan):** 18A

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

**The Advocate for Wajir County Governor (Mr. Paul Nyamodi):** Whose academic qualifications are those?

**The Deputy Director, Supply Chain Management (Mr. Abdi Abdullahi Hassan):** Mr. Shaman Roni Abdullahi, the assistant Director who reports directly to me and he is in charge of that specific department.

You can go to 18B, C and D, all of them are there.

Then we go to the next allegation.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): What is B?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): B is for Sadia Ibrahim Parah.

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

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): C is Mohammed Noor Adan. D is Roble Ali Maalim, E is Farhiya Khalif Jimale, F is Yusuf Fer Abdirazak and G is Fatuma Mohammed Abdi

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): 19A is?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): 19 goes to the next allegation, which is the procurement plan.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): You have annexed this to prove what?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): I have annexed this to prove that all these officers are registered with Kenya Institute of Supplies Management (KISM) as procurement professional auctioneers.

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

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): I am going to the next allegation, which is allowing accounting officers of key sectoral departments to procure goods and services without annual procurement plan, approved annual procurement plan by the

respective County Executive Committee Member (CECM) for the department of roads and transport, water and health.

Mr. Chairman, Sir, I wish to confirm that annexed here are the approved procurement plan for those respective departments signed by both accounting officers and the CECMs. You can confirm in annex 19A and B.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): These are in file O Roman (i) and O Roman (ii).

**The Chairperson** (Sen. Omogeni): The same file?

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): The same file.

**The Chairperson** (Sen. Omogeni): Sen. Outa, I hope we are together.

Good, you are a good student now. Sen. Linturi, are you good?

Next.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): The final allegation is that the Governor has routinely since he assumed office facilitating and condoning corruption by allowing the accounting officers of various departments in procuring goods and services to split and structure the entire development budget for the county.

Mr. Chairman, Sir, I wish to confirm that though splitting is not allowed, we are guided by the budget approved by the County Assembly. In the last financial year, the budget approved by the Assembly was programme based



budget. Every item was itemised in the budget they have submitted in their allegation.

As we all know, the county government serves a vast area. We need to be in tandem with Section 54 of the Public Procurement and Asset Disposal Act and regulation 154(1) which allows unbundling so that we can manage to ensure that every ward, the 30 wards, receive the fair share of the county.

Mr. Chairman, Sir, to enhance equity and fair distribution of resources among the six sub counties and 30 wards in the county in line with Article 175(b) of the Constitution of Kenya 2010.

**The Chairperson** (Sen. Omogeni): Where will I find that budget? Is it annexed?

If it is not you just tell us that it is not. We move on.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): It is in the allegation that was---

**The Chairperson** (Sen. Omogeni): Is the budget here?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): It is not.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, it is annexed in a different file. I will point it out to you.

**The Chairperson** (Sen. Omogeni): So, we will have an opportunity to look at it?

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

**The Chairperson** (Sen. Omogeni): Anybody who knows so that we just make note of where we will see it? Any of your legal team?

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): We will point it out to you in a second. I will ask them to mine that information then I will share it with you.

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

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, I am done with the allegations and the response.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Is that all you wish to state?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): That is what I wish to state in my statement.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Thank you very much. That is all in evidence in chief.

**The Chairperson** (Sen. Omogeni): Okay. We will allow Senior Counsel Ahmednasir on behalf of the County Assembly to ask you few questions.

Please answer direct so that we do not spend a lot of time here.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Hassan, I have some questions for you. You are the deputy director?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, I am.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You report to a director?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, I do.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): The director reports to?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Chief Accounting Officer.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How many officers in your department are higher than you?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): I report to the director, then chief officer who reports to the CECM.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Have you seen your director in the gallery here?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, he is around.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Why did they pick on you to give evidence?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Counsel, please let me refer you to my responsibilities.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Answer my questions. Do you know why they picked on you when your seniors have not given evidence? Why did they pick on you?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): My senior can delegate that responsibility to me.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, it was delegated to you?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Previously, you used to work in Mandera, is it not?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): No.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Where did you work before?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): I started in the County Government of Wajir.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You applied to get a job with the Kenya Bureau of Statistics (KEBS)?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes.

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

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): I declined the offer.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You declined the offer or the Directorate of Criminal Investigations (DCI) got involved in the recruitment process?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): No. There was no DCI. You can confirm and ask them.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi): Was there no problem with your degree?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): No. You can confirm.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you sure?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Very sure, 100 per cent.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How did you get the job in Wajir? Did they advertise and you applied?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes. They advertised and I applied.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, you were competitively recruited?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, I was competitively recruited.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): For this job?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, in 2014.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I will ask you a number of questions.

I will start with this company called Fatco Constructions. Do you know this company?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): No, I do not know it.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How can you not know?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): I know the company name, but I do not know the other issues.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Did you not record a statement with the Ethics and Anti-Corruption Commission (EACC)?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, I recorded.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Did they not ask you about the history of Fatco?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): No, they did not ask me about the history of Fatco. They only asked me how he/she was awarded.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): There is an active investigation on this matter?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, there is.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you aware that a bribe of Kshs9 million was paid to get this tender?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): I am not aware.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): What is the investigation about?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): The investigation was about the procurement process.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Do you not know that this company is owned by the sister of one of the chief officers of the county government, Mr. Ahmed Guhad Omar?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): No, I do not know that.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): And that is why you gave this contract.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Counsel, let me respond to you. FATCO Construction Company Limited was awarded this project in 2017 and by then Mr. Ahmed Guhad was not the chief officer.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I saying this contract was awarded because of the dynamics of who works for the county government. Is it not? That is why the EACC is investigating it.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, they are investigating the process. They are not investigating what was paid and the likes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let me take you to the second one, what this Committee calls the *ugali*, the 3,500 bales of *unga*. Are you aware of that matter? You can look at paragraph 9.2.3 of your witness statement. Are you aware of that 3,500 per bag?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, I am aware.



**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Your Director is called Mr. Isack Yusuf Mohamed?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Were you familiar with the professional opinion he rendered in October, 2019?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, I am very much familiar with it.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Do you have the professional opinion?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Let me confirm. Yes, I have the professional opinion.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): If you look at all the items including the blankets, kitchen set, sleeping mats to the soaps, empty jerricans, mosquito nets and ugali. Can you see it?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How many bids did you get?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): We got 12 bids.

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**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): And how many were responsive bids?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): The responsive bids were five.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): For all of them?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): In page 4, there is T3, T5, T8, T9 and T11.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I can see, but the responsive ones were five including the one for ugali. For ugali, there were bids for Kshs3,500, Kshs3,700, Kshs6,700 and Kshs7,700 and Kshs3,800?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you familiar with Section 114 1 (c) of the Public Procurement and Assets Disposal Act (PPDA)? You have been citing the law like you have gone to law school. Are you aware?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Please, read for me.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at Section 114 (c) of the Public Procurement and Assets Disposal Act.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): I do not have the Act with me here.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Give him a copy.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): The Public Finance and Management (PFM) Act or PPDA?

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

**The Chairperson** (Sen. Omogeni): Senior Counsel, we have 114 and 114 (a)

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at 114 1 (c). Are you familiar with what is called framework agreements?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, I am very much familiar with it.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): This tender was one for framework agreement, is it not?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): No, Mr. Chairman, Sir. This tender was for Section 141 of the PPDA.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It is the same.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): It is not the same.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I went to law school. Section 114 1 (c) says-

“A procuring entity may enter into a framework agreement open tender if a minimum of seven alternative vendors are included for each category.”

Can you see that?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, I am seeing that.

**The Advocate for Wajir County Assembly** (Mr. Ahamednasir Abdullahi SC): You only have five responsive bids for ugali.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, I have already said---

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Answer my question. You have five responsive bids for ugali, mattresses and jerricans.

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**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes, they are five responsive bids.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): The law says you must have seven responsive bids. Is it not?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you. Two more areas. Were you in charge of the COVID-19 procurement process?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): No.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Who was in charge of it?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): The department has a procurement officer. I am a Deputy Director, Supply Chains Management.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): But it is your department. Is it not?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): They report to me.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Explain to us why the money was misappropriated.

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**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): I cannot explain because I am not the one handling the money.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Who took it?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): I do not know.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Finally, Mr. Chairman, Sir, look at paragraph 10.29. I found your justification for splitting contracts so that the value of the contract becomes about Kshs4 million very attractive. This is because you said that out of the 30 wards, you want to have an equal distribution of resources, so that every ward can eat its fair share. Is it not?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): That is very attractive and the Chairman is asking, can you give us a breakdown of the 30 wards, so that your rationale for splitting contracts so that it becomes Kshs4 million and less and there is no need for tendering becomes viable? That is very attractive. I will applaud you if you can show us a document showing the 30 wards, the budget for procurement, the amount each ward received. It is an excellent formula. Where is that document?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, first and foremost, let me take you back.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Answer my question. Do not take me back. Where is that document of fairly equal distribution of resources for the 30 wards? If you have it, show us. If you do not have it, say you do not have it.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): For me to answer your question, I have to take you back. The procurement plan we have emanated from the budget. I have already said the budget for the last financial year was an itemized budget.

When I say itemized, it means that everything was itemized. We cannot give a quotation for an item that is not in the budget. Our procurement plan and budget must go together. If the budget has already been split---

For example, every ward was given some fair share. It is explicit in the budget. We did not split contracts. We only issued quotations emanating from our procurement plan and budget.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): What I am asking you is that; in line with that philosophy of fair share of the 30 wards, give us a breakdown so that we see that what you are saying is true and our suspicion that you split contracts into Kshs4 million, so that you do not have open tender is not true.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, I am not the right person to give you that list.

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**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you. That is what I wanted.

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): The right person to give you that is the budget and finance team. As a witness it is to tell you that there was fair and equal distribution of resources.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you. I have no further questions.

**The Chairperson** (Sen. Omogeni): Thank you. Counsel, Mr. Paul Nyamodi, any re-examination?

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Just one quick question or issue for the witness. Would the evidence that you have led this afternoon have been different if somebody else from your department testified? If there were two or three people above you, would they have testified differently? Would the facts you have testified to been different?

**The Deputy Director, Supply Chain Management** (Mr. Abdi Abdullahi Hassan): Even if the third person came here, the evidence I am testifying here should be the same.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Thank you. No other re-examination.

**The Chairperson** (Sen. Omogeni): Hon. Senators, anybody who wants to seek clarification? Sen. Kavindu Muthama, kindly proceed.

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**Sen. Kavindu Muthama:** Thank you, Mr. Chairman, Sir. I just want a clarification from the witness. The Senior Counsel has just asked him about the COVID-19 money and he said he is not the one who took it. Does that mean that COVID-19 money was stolen?

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, I am not aware whether any money was stolen or misappropriated.

**Sen. Kavindu Muthama:** But the question was put to you just now about the COVID-19 money and you said that you did not take it. Does that mean money for COVID-19 was taken?

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, no money was taken.

**Sen. Kavindu Muthama:** Thank you.

**The Chairperson** (Sen. Omogeni): Thank you, Senator. Any other Senator? Sen. Mwangi, proceed.

**Sen. Mwangi:** Mr. Chairman, Sir, I would like to ask the witness of the funds that were given by the national Government towards COVID-19. Can he tell us the projects which were implemented using this money? I believe Wajir County had their share.

**The Chairperson** (Sen. Omogeni): Do you know whether any projects were implemented on COVID-19 response money?

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, yes, I am aware. They procured masks, ICU equipment, infection protection commodities *et cetera*.

**Sen. Mwangi:** Can he also tell us the money spent on masks on those other projects he has told us. How much money did you spend on each project? Because he is the procurement person.

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, I am the procurement person but I cannot confirm off-head because I have to refer back to documents.

**Sen. Mwangi:** How soon would it take you to give that information to this Committee?

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): Tomorrow is okay.

**The Chairperson** (Sen. Omogeni): Even if we are not asking that you bring it, but if we wanted you can avail it?

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, I can avail it tomorrow.

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

**Sen. Sakaja:** Mr. Chairman, Sir, I have two questions. If the witness can look at document file N4, document 160

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): Louder please, I cannot hear.

**Sen. Sakaja:** File N4, document 160

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): Regarding the food?

**Sen. Sakaja:** Document 160.

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): I am there.

**The Chairperson** (Sen. Omogeni): Are you there? Sen. Sakaja, proceed.

**Sen. Sakaja:** There are five people who have signed the inspection and acceptance committee.

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): There are five people.

**Sen. Sakaja:** Did they individually write and sign on their own? Those are all different.

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): No, they only signed the certificate at ones.

**Sen. Sakaja:** The document has five names, five signatures.

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): The Chairman, secretary, two members and store person.

**Sen. Sakaja:** Is it your position that this document is authentic and five different people signed next to the names and wrote their names?

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): Mr. Chairman, Sir, it is authentic.

**Sen. Sakaja:** You see no similarity?

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): I am not seeing any similarities.

**Sen. Sakaja:** Okay. Thank you.

**The Chairperson** (Sen. Omogeni): Thank you, Sen. Sakaja. You have another question?

**Sen. Sakaja:** Secondly, based on the earlier person, because this is the deputy director in procurement, if there is any irregularity within your department according to you, where does the buck stop?

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): The individual himself.

**Sen. Sakaja:** The individual culpability?

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): Yes.

**Sen. Sakaja:** Beyond that, there is no other culpability or responsibility?

**The Deputy Director Supply Chain Management:** (Mr. Abdi Abdullahi Hassan): They are there. There is channel. It started from the accounting officer to that level.

**Sen. Sakaja:** Thank you.

**The Chairperson** (Sen. Omogeni): Thank you, Sen. Sakaja. Any other Senator? Thank you, you are released, next witness! Okay, we can swear in the witness. Proceed.

*The County Chief Officer, Water Resource Development*

*(Mr. Ahmed Guhad Omar took the Oath)*

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Please introduce yourself to the Committee.

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I am the County Chief Officer, Water Resource Development.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): How long have you performed this function?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Since October 2019

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Are you aware that the County Assembly in Wajir has impeached the Governor of Wajir? Have you had an opportunity to have a look at the impeachment Motion?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Yes.

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**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Are you familiar with it?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Yes, especially the third part touching on water.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Why are you before this Committee this afternoon?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): To be a witness in response to the allegation against the Governor in the impeachment Motion approved by the County Assembly of Wajir.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Please state that again.

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): In response to the allegations in the impeachment Motion approved by the County Assembly of Wajir.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Which allegation in particular are you here to respond to?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): The allegation which I quote:

“Contrary to the provisions of the Public Procurement and Disposal Act 2015 and Public Finance Management Act 2012, the County Executive of Wajir under the leadership of the County Governor gave contracts to various companies to undertake construction of mega water pan that have not been factored in the approved budget of the financial year 2020/2021”.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Please tell the committee what your response is.

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): My response is by way of statement.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, perhaps I can point out to the committee that the witness will be referring to documents in a file marked N (IV).

**The Chairperson** (Sen. Omogeni): That is good. You can look for N (IV) as the witness proceeds to give his evidence. Proceed.

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Should I read the statement?



**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): You do not have to read the statement. Just highlight what you have started in the statement.

**The Chairperson** (Sen. Omogeni): Just pick the paragraph that responds to the allegation. You do not need to read everything that is there.

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Section 126(1) (a) of the PFM Act mandates the County Government to prepare a development plan in accordance with---

**The Chairperson** (Sen. Omogeni): Where are you now? Is it 1.11?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): It is 1.24. Section 126(1)(a) of the PFM Act mandates the County Government to prepare a development plan in accordance with Article 222 of the Constitution of Kenya that includes, *inter alia*, strategic priorities for the media term that reflect the County Government's priorities and plans.

Section 126 (1)(c) of the PFM Act requires the County Government to prepare a development plan in accordance with Article 220 of the Constitution with programmes to be delivered with details for each programme and the strategic priorities in which the programmes will contribute.

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To this end, the County Integrated Development Plan (CIDP), which is a five-year development plan, is provided for under Section 107(1) (a) of the County Governments Act, 2012.

It is a long-term plan that guides the Annual Development Plan (ADP) both of which have been approved by the County Assembly, whereas Section 104(3) of the County Governments Act designates departments within the county as planning agencies with the county towards the development of the CIDP.

The ADP was approved by the County Assembly with terms of construction of mega plans from which the County Department draws plans and programmes for implementation in accordance with Section 126 of the PFM Act.

In the FY 2020/2021, Water Resource Development Department had, in the ADP, four mega plans that were strategic priorities in three sub counties of Wajir, which were depended on water trucking.

The Department's plans and programmes are then allocated budget estimates as per Section 125 of the PFM Act and submitted to the Assembly for approval.

The Department initiated the implementation of the work plan in tandem with the ADP by the County Assembly but assessment carried out by the team also established that most of the water pans had water from October-December rains. See Annex 17(b), a letter dated 2<sup>nd</sup> November, 2020.

With the advice of the technical team, on 2<sup>nd</sup> November, 2020, noting that the Department had approved the ADP, which provided for the construction of four mega plans and approved budget on desisting water pans and other associated water works.

The Department prepared a procurement plan to capture the four mega plans in three sub counties of Wajir as per the Public Procurement and Disposal Act and issued contract for the construction and excavation works. The works comprised of excavation, construction, fencing and other works. The objective of the ADP was achieved and there was prudence use of public resources.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Thank you very much. You have referred to a few documents. Perhaps you can just introduce those documents to the committee.

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): They are there in File N(IV) plus Annex 17(a). This is an extract of the ADP for Water 2020/2021.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): That is 17(b) that you have referred to. What is 17(c).

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): 17(c) is the Annual Procurement Plan of the Department.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): And 17(d)?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): That is the extract of Section 126 of the PFM Act.

**Advocate for Wajir County Governor** (Mr. Paul Nyamodi): And 17(e)?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): This is the invitation from the County Public Accounts and Investments Committee (CPAIC) on budget implementation.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Thank you. Mr. Chairman, Sir, that is the end of his testimony-in-chief. Perhaps before I give him up for cross-examination, I want to point out to you where the budget you asked is. It is in the County Assembly documents labeled CA-3, from pages 235 to 318.

The witness is available for cross-examination.

**The Chairperson** (Sen. Omogeni): Proceed, senior counsel Ahmednasir.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I will be very brief. Ahmed Gumad Omar, do you know the man called Jeff Mworira?

**Mr. Ahmed Gumad Omar:** He used to be the Head of Treasury.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Where were you at that time?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Finance.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): In what capacity?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): The Acting Chief Officer (CO) Finance and Audit.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, Jeff was working under you?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it true that you are the one who lodged the complaint?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Which complaint?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You went to the Ethics and Anti-Corruption Commission (EACC) which led to his prosecution?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): No.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Who lodged the complaint?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I do not know.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Who was the complainant?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I do not know.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Not you?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I do not know.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How long did you work in that department?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Which department?

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

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): From July to around September.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Then you were taken somewhere else?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Yes. I was in an acting capacity in the Department of Trade and went back there.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I do not want to use the word I should rightly use but Wajir County has a history of people in positions doing business through sisters and brothers. Are you aware of such a case?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I am not.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Do you know about a company called Fartun Enterprises Limited?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Yes, I used to know.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC):: You forgot it?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I am telling you the fact because I am under oath.



**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You said you used to know it. Do you still know it?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): No.

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

*(Mr. Ahmed Gumad Omar spoke off record)*

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Were you a director before she resigned?

*(Mr. Ahmed Gumad Omar spoke off record)*

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Early 2020. When was Fartun given the contract? Are you aware that Fartun was given a contract?

*(Mr. Ahmed Gumad Omar spoke off record)*

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Just answer my question. Do you know if they were given some contract?

*(Mr. Ahmed Gumad Omar spoke off record)*

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): What contract was it? I will show you some document.

**The Chairperson** (Sen. Omogeni): Counsel Nyamodi, can you switch off your mike?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Where were you working on 1<sup>st</sup> December, 2020?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Department of Water.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you aware that in December, 2020, when you were working in the Department of Water, Fartun Enterprises Limited was awarded a tender to construct 30,000 cubic metres water harvesting dam at Alio Ismail Location in Wajir South Sub County?

Are you aware?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I have to check because it is not in the scope of what is written here.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Listen to me, are you aware?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I am not. I have to check. It is not in the scope of the original.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Do not tell me about the scope. Just read this letter and tell the Committee who signed that letter of awarding the company.

**The Chairperson** (Sen. Omogeni): Which document is that, senior counsel? Which bundle is that?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): CA3.

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

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): That is my signature, yes.

**The Chairperson** (Sen. Omogeni): Can you read the page you have been told to read? CA3, page 319. Proceed.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at it. It is addressed to who and the subject is what? It is under Award for Tender, isn't it? Who signed it there? So, this is a tender you gave to yourself, isn't it or at least to your sister? Look at the CR12. Is your sister there? Just answer my questions. You will have other issues. Do you see it is a CR12?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): It is there and it is dated 19<sup>th</sup>---

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir, we need to be guided where that document is emanating from, whether it is part of the bundles

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): It is dated 19<sup>th</sup> December, 2017.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): This is cross examination. I can cross examine on any document I want.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir, we need guidance whether a document can be introduced at this stage because my learned friend senior counsel says he can cross examine on any document.

**The Chairperson** (Sen. Omogeni): I hope it is part of what has been exchanged.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So you saw that Fartun, your sister is there?

**The Chairperson** (Sen. Omogeni): Senior counsel, Ahmednasir, is that document with us?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No, Mr. Chairman, Sir. I was showing him CR12---

**The Chairperson** (Sen. Omogeni): If it is not what we have, you may not show it to the witness.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It is just cross examination.

**The Chairperson** (Sen. Omogeni): Because we will not be able to make reference to it.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): And cross examination has rules.

**The Chairperson** (Sen. Omogeni): Mr. Ndegwa, please we need some decorum.

Proceed, senior counsel.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So you saw at that time that your sister was---

**The County Chief Officer, Water Resource Development**: (Mr. Ahmed Guhad Omar): No she was not at that time.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No, no. this one. The one I showed you.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Senior counsel is still referring to a document not filed before the Committee.

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): It is not even there. Why are you referring me to it, senior counsel?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir, we need your protection from the harassment of senior counsel.

**The Chairperson** (Sen. Omogeni): Can we have order? I thought we were looking at 319A. Are we together witness? We are at 319A. It is a letter dated 3<sup>rd</sup> December, 2020. Is that correct?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): The letter addressed to Fartun?

**The Chairperson** (Sen. Omogeni): Yes, we are there.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So a letter of award was made to Fartun. You admit that your sister used to be a director some time back?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Yes, *kitambo*.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So you awarded a tender to that company?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir, senior counsel is still referring to a document that has not been filed before you.

**The Chairperson** (Sen. Omogeni): Mr. Ndegwa, I hope we are together. The question is being put on a document appearing at page 319 Vol.3AC. Am I right senior counsel?

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

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): But he is referring to directorship of a company and that document is not with us.

**The Chairperson** (Sen. Omogeni): If I am following the proceedings properly, he asked the witness about a sister and the witness accepted that the sister was a director in a company and the witness said the sister resigned sometimes back.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): More importantly, why don't you protect me from these interruptions?

**The Chairperson** (Sen. Omogeni): Counsel Ndegwa, it will proceed well if you allow Mr. Ahmednasir to ask his questions because that is cross examination.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I asked him a question and I told him: Is he aware that his sister, once upon a time was a director of this company and he said yes. He said she has resigned and I have no problem with that. That is where we are.

**The Chairperson** (Sen. Omogeni): I think we are proceeding very well.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Now Mr. Omar, when was this contract awarded and when was payment made?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I am not even aware of payment. My work is just to award and make sure the work is done.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is the work done?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): But you are not aware whether payment was made?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I am not sure. I do not know.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You have not received anything?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Nothing.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No, I am asking you a question, did you receive anything?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): No.

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**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Now we can leave Fartun there so that you can be a little bit more at ease. What is your annual budget for water?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Kshs900 million.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): And how much is development?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Kshs500 million.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Do you have any pending bills in your department? About how much?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I do not know how much.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): This is your department. How can you now know? Such an important matter like pending bills you do not know? Would you be surprised if I tell you that you have a pending bill of Kshs418 million?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I have to countercheck.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you familiar with this company called Potato?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Potato? I have to check. I do not have it in these documents that I carried.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Show him paragraph 62 of our first document the one you were just looking at. Read it out.

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): This misconduct has been going on. For instance a company by the name of Potato was awarded a contract for Wajir water supply in December 2016. The County Government of Wajir failed to pay the contractor leading to recourse to the court. They filed a law suit before the Garissa Law Courts and judgment was delivered. Decree was executed, Kshs21 million the damage cost. We are aware that this company has not been paid the judgment amount to date.”

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you aware of that old case? Is it true that up to now you have not paid? That case is about 10 years old and you have not paid him. I am sorry, I thought the case was in 2012, it was in 2019. It is maybe three or four years.

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): And you have not paid?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): Last year we paid because we have other cases like this.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you aware that Fartun was given the award and paid within four months?

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I am not aware of the payment.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I am putting it to you that Fartun was given a tender and it was paid within four months because it is your sister's company.

**The County Chief Officer, Water Resource Development:** (Mr. Ahmed Guhad Omar): I do not know of the payment. I do not pay; I am not in finance.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you very much. I have no further questions.

**The Chairperson** (Sen. Omogeni): Is there any re-examination?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No further re-examination.

**The Chairperson** (Sen. Omogeni): Hon. Senators, is there anybody who wants to seek any further clarification? You are released.

Next witness!

**Sen. Outa:** On a point of order, Mr. Chairman, Sir. As a matter of procedure, I know the witnesses were given three hours, and I can see that they have six witnesses.

**The Chairperson** (Sen. Omogeni): They were given three-and-a-half hours.

**Sen. Outa:** Will they work within those hours since they have six witnesses?

**The Chairperson** (Sen. Omogeni): We need to finish with the other two.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, how much time is there?

**The Chairperson** (Sen. Omogeni): You have 30 minutes remaining. Maybe you will elect that they adopt their statements and go direct to cross-examination.

You can swear the witness.

*(The Acting Director, Accounting Services*

*(Mr. Adan Kalmoy) took the Oath)*

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Kindly, introduce yourself to the Committee.

**The Acting Director, Accounting Services** (Mr. Adan Kalmoy): I am Adan Kalmoy, the Acting Director Accounting Services in the Department of Finance and Economic planning.

I make this Statement in response to the grounds concerning finance, accounting and the petition and notice of Motion as here under in. I am going through my Statement.

Mr. Chairman, Sir, I adopt my Statement wholly with its annexures, A1---

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, the witnesses Statements are in a file marked A.

**The Chairperson** (Sen. Omogeni): Okay. You can look for a bundle marked A. Sen. Outa, are we together?

**Sen. Outa:** Mr. Chairman, Sir, I am a good student.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, it is File A, J, K and M. Please, introduce your documents and state what they prove.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): J and K contain responses on violation of Section 81 of the Public Finance Management (County Governments) Regulation 2015.

A1 contains failure to account for financial resources allocated to the county appropriated by the County Assembly, by failing to provide quarterly expenditure reports. In it are copies submitting reports to the National Treasury, Controller of Budget (CoB), Auditor General and the County Assembly itself.

The last one is on allegations of violation of Section 19 of the PFM Act, which requires the county Government to keep complete current records of all banks. In it are bank reconciliation, special report committee, letter

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requesting advisory from the National Treasury, payment plans and list of companies paid. Everything is here.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Would you like to produce your Statement and the annexures contained in the three volumes you have referred to before this Committee?

**The Acting Director, Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, the witness is available for cross-examination.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Yes, Mr. Kalmoy. Did you say you are the Acting Head of Treasury?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): I am the Director Accounting Services.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you acting?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): How long have you acted?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Three years.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi): Why does everybody in this county act for so many years?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): I think that is the role of the County Public Service Board.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is a way of putting you on your toes?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): I am not employer.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You would have preferred to be confirmed. Is that not so?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you by any chance related to the Governor of his wife?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): No.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you sure you are not related to his wife?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): I am sure.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Or you have ceased to be related.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): No, I am not related.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): In your job as Director of Accounting Services, just educate us on what it entails.

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**The Acting Director Accounting Services** (Mr. Adan Kalmoy): It has many responsibilities.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No! What does it entail in a very holistic manner?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Supporting the chief officers, report writing, preparation of budgets and the transaction cycle of the county. There is a lot.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): One of the important things is that you prepare budgets.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): I support in preparation of budgets in the department of finance.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): When the budget is prepared it captures everything in terms of revenue, expenditure and both sides of the fiscal---

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Everything.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): In Wajir County, is it possible for the executive to give a tender when it is not budgeted for?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Depending on--



**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, it is possible?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes, because there is emergency under the Emergency Act that allows, but for not for others.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, it is possible to give tenders when it is not budgeted for according to you.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): I think those are procurement issues. Let me not lie about it.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No, they are also budgetary issues.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): It has nothing to do with budgetary issues. If there is no budget, there is no procurement.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): If there is procurement without budget, is it misconduct?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I know you are not the right man, but are you aware of the issue we have just discussed of over four tenders that were given when there was not budget?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Which? Where?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): One minute, I will get it. I am sorry. Are you aware of pending bills?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you aware of pending bills of the County Government of Wajir?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): I think it is a departmental function. It is a departmental issue.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it not your department that deals with it?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): We only deal with finance.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at Paragraphs 7.3.1 and 7.3.3. In Paragraph 7.3.3, you say that the county executive has complied with the provisions of the law with regard to preparation and submission of quarterly financial reports to the National Treasury and Controller of Budget (CoB). Did you submit that to the County Assembly?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Where is the evidence you gave? Which annex? Can you show me?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Annexure F1 and we just submitted samples.

**The Chairperson** (Sen. Omogeni): It is good to tell us on which bundle and where.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Mr. Chairman, Sir, it is on Annexure A1.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): A1 is this one.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): No.

**The Chairperson** (Sen. Omogeni): It starts with 1A. That is the one you want us to look at. Okay.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So that is the one. It is A1.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes, then you go to Page F1 within.

**The Chairperson** (Sen. Omogeni): Where is F1?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Mr. Chairman, Sir, it is 1F.

**The Chairperson** (Sen. Omogeni): Okay, we are there.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, am not there yet.

**The Chairperson** (Sen. Omogeni): It is okay Senior Counsel.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is it the one of 1F?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes. A sample is there. They were two. I do not where the other one is.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I cannot see the debt.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): You know it is a photocopy. We did photocopy.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Can you see this emblem?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes I can see the logo.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is that the logo of the County of Wajir?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): No, it is the one for national. It is the one we use for all our reporting.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Why do you use the national and not your local there?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): The logo is the same. If you can see even the others it is the same. The template is from the National Treasury.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): My suspicion is that this is not true. The next document shows the Wajir County Executive Report on Financial Statement.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): You can start with 1C it is the same on the submission to the National Treasury to the Controller of Budget (CoB), Auditor General, and County Assembly.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I think you have cooked up and I will show you how. Just turn three pages.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Where?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): When you are at 1P, just turn three pages and you will go to what is called the Wajir County Executive Third Quota Report and Financial Statement. Are you there with me?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Where?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): This document. Just three pages from 1C.

**The Chairperson** (Sen. Omogeni): Senior Counsel, it is numbered (iii).

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you very much, Mr. Chairman, Sir.

**The Chairperson** (Sen. Omogeni): Can you go to (iii)?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Where

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at (iii) at the bottom.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): 1B, 1C?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No. 1B (iii) at the bottom.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you there? Can you show him this document? It is (iii) at the bottom.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Can you take the Committee at the top? Read for us the top, the one that starts with Wajir County Executive.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Quarterly Report Financial Statement for the Year Ended 31<sup>st</sup> March, 2021.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You are saying that as of 31<sup>st</sup> March, 2021, Wajir County Executive is as follows. Then you put on the Chief Officers (COs).

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at No.2.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Do you know what his job is?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Decentralized unit and internal mean.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is that his job as at 31<sup>st</sup>, March, 2021?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): When was he taken from that job? Do you know? It was 2019. I will look at No. 11.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): On the list?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Yes. Yusuf Tayib Abdi CO Water. Is that his position?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): No.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): When was he taken from that? Do you know? 2016. Look at No. 19.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Mr. Ahmed Gumad Omar, medical services.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Ahmed Gumad Omar. It says CO Medical Services. Is that true?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): No.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): That is false is it not?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I put it to you that this is a fake document you have prepared. Even you cannot get right----

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): It is not that ---

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Let me finish. I put it to you that when you look at the officers who were transferred three or four years ago.

When you look at emblem or the logo of the national Government, when it shows the document you have served these three offices which is the Senate,



National Treasury and the Senate is stamped twice. You have shown us that you have served the County Assembly in another document.

All these are documents you have prepared when the Governor was impeached. That is why you cannot even get right such simple things like the officers who were transferred from the department six years ago.

**The Acting Director Accounting Services (Mr. Adan Kalmoy):** They were not there six years ago.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** You have cooked up this. I put it to you.

**The Acting Director Accounting Services (Mr. Adan Kalmoy):** No. There is nothing called cooking up.

**The Advocate for the County Assembly (Mr. Ahmednasir Abdullahi SC)::** So you boiled it?

**The Acting Director Accounting Services (Mr. Adan Kalmoy):** It is financial statements and financial records. So, there is nothing called cooking up.

**The Advocate for Wajir County Assembly (Mr. Ahmednasir Abdullahi SC):** Look at this document my colleague will show you.

Mr. Chairman, Sir, I will give you the citation of that. Can you see that letter?

**The Acting Director Accounting Services (Mr. Adan Kalmoy):** Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): That letter authorizes what?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Withdrawal of funds.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): For what purpose?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Development funds.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Just turn the next page. Those are the companies that were paid.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): When that money was being procured, there were list of outstanding companies that supplied goods on pending bills and they were to be paid. Is it not so?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): I think that is the role of the CO for Finance.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, he is the one who gave you that list to pay?

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): Not paid. I am not the paying officer.

**The Advocate Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No, I am saying the list---

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): He just provided the list from the record.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): The list is not yours.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): It is from the records.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): But you authorized the payment letter.

**The Acting Director Accounting Services** (Mr. Adan Kalmoy): No, these are two different. This is the one that went to the CoB and this is a list of companies that were paid from the same funds. They are totally different.

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

**The Chairperson** (Sen. Omogeni): Can you give us the citation please Senior Counsel.

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi) Mr. Chairman, Sir, we can ask the witness to speak into the microphone so that his testimony can be captured.

**The Chairperson** (Sen. Omogeni): Yes, speak to the microphone please. Where is the citation of the documents?

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**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I want him to look at page 216.

**The Chairperson** (Sen. Omogeni): I am trying to get the citation, so that we move together. Which is the one that he has answered questions on?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It is the same.

**The Chairperson** (Sen. Omogeni): How do we record it? Is that C (a) (iii)?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Yes, but let us first give you this one. This one contains the same document, but it is M (n) (iii).

**The Chairperson** (Sen. Omogeni): M and N (iii)?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Perhaps, Mr. Nyamodi can note it better.

**The Chairperson** (Sen. Omogeni): Which page were you making reference to?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I want to show him two documents. The first one is the letter that appears on page 216 of C (a) (iii).

**The Chairperson** (Sen. Omogeni): So, you are showing him Page 216 of?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Page 2016 of C (a) (iii). There is a letter written by the witness, Mr. Kalmoy, on 26<sup>th</sup> November, 2016.

**The Chairperson** (Sen. Omogeni): We are together now.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): That same letter also appears at 15 (a) of the Governor's document, which is--- is it M and N? M and N (iii).

**The Chairperson** (Sen. Omogeni): The same document?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): The same letter appears as 15 (a) in a document called M and N (iii).

**The Chairperson** (Sen. Omogeni): Where will we get it? Is it 15 (c)?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): 15 (a).

**The Chairperson** (Sen. Omogeni): Senior Counsel, 15 (a) is a different document. It talks of the Fourth Session of the 12<sup>th</sup> Parliament.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Maybe my learned friends can explain. The document is called M and N (iii).

**The Chairperson** (Sen. Omogeni): Is it marked at 12 (a)?

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

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

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**Sen. Outa:** Mr. Chairman, Sir, could the Counsel guide us on this documentation? You can see that he refers to M and N, and when you try to get to the appendixes, like the one I am holding, there is nothing. We have been having a problem since then. Like I said, Counsel Nyamodi has been in this work for a long time and I wish he could have done better than this as a Lead Counsel.

**The Chairperson** (Sen. Omogeni): Sen. Outa, you will intensify your effort. I think I have got it now. Do you have it?

**Sen. Outa:** Yes, this is it but we do not have the appendix.

**The Chairperson** (Sen. Omogeni): Being a layman, you are doing very well. Senior Counsel, I think we are there now. You can pose the question.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, we have shown the witness the letter on page 216, which is also cited as 15 (a). It is a letter written by the witness himself. That letter was for the payment of Kshs199,237,488 for the grant of credit.

If you turn to page 217, you will see a letter from the Office of the Controller of Budget. Stephen Masha Ngoa, who signed it, wrote a letter to the County Assembly saying by virtue of Article 2017 of the Constitution, he hereby grants credit for the county treasury on account of the county development Exchequer for this amount.

Mr. Chairman, Sir, you can see the list of companies to be paid which appears on pages 218, 219, 220, 221. I am asking the witness a simple

question. Are you aware that those companies that were attached to the letter on page 217 were not paid?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): I am aware that they were paid.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi

SC): They were paid?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi

SC): Where is the evidence?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): Annex 15 (d) in M and N (iii).

**The Chairperson** (Sen. Omogeni): Of the same document?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): Yes.

**The Chairperson** (Sen. Omogeni): That is 15 (d). Senators, are we there?

**An Hon. Senator:** Yes, we are there.

**The Chairperson** (Sen. Omogeni): Senior Counsel.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi

SC): Mr. Chairman, Sir, for simplicity, they appear in both annex 15 (d) and 15 (a) of the next document. It is the same companies.

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**The Chairperson** (Sen. Omogeni): Do we record you answer that those companies were paid as evidenced by the document in 15 (d)?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look very carefully at page 218, 219, 220, and 221 of C (a) (ii).

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Where is C (a) (iii)?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): That one.

**The Chairperson** (Sen. Omogeni): So, you are showing him C (a) (iii)?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I told him to look at page 218, 219, 220 and 221 of C (a) (iii).

**The Chairperson** (Sen. Omogeni): Are you there, Mr. Witness?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): In those lists, look for three companies. Look for Mobish Investment Ltd. It was paid Kshs6.637 million on 20<sup>th</sup> May.



**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Which page?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Have you found Mobish Investment Ltd.? Look for Golbo Holding Ltd.

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Yes, I see Golbo Holding Ltd.

**The Chairperson** (Sen. Omogeni): Where have you found it?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Page 218.

**The Chairperson** (Sen. Omogeni): Which number is it on page No.18?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Mr. Chairman, Sir, it is Nos.7 and 8.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Look at page Nos.227 to 228.

**The Chairperson** (Sen. Omogeni): Senior Counsel, do we say the question on those ones is dropped?

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
No, Mr. Chairman, Sir. I will come back to it.

**The Chairperson** (Sen. Omogeni): So, do we move to two?

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
To 222 and 226.

**The Chairperson** (Sen. Omogeni): Okay. Shown Page 226

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Yes, Mr. Chairman, Sir. This is authentic and it will put us in a better position. Page No.226 is a statement of account from Central Bank of Kenya (CBK) and the account number is for Wajir County Development. On page No.227 to 228 are the companies that were paid.

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): No, Mr. Chairman, Sir. It is not true. Even this Statement is the wrong one. I want to challenge the Counsel that this statement he has provided here is not for Wajir County Development.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Which one? The one at 227?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): (Mr. Adan Kalmoy): Yes.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Why is it wrong?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): It is wrong because it has no authenticity. It is not generated from CBK or Wajir County Treasury. The only---

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, if I could ask the Committee to note, the Assembly is in the habit of collecting documents and labeling them conveniently. This is one such.

**The Chairperson** (Sen. Omogeni): We will record you have been shown that statement.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
I did not hear. What did my learned friend say?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, I want my learned senior to hear that I urge the Committee to note that this Assembly is in the habit of collecting documents and labeling them conveniently like they did with the witness in the morning. This is one such document that is labeled as a bank statement from CBK and the witness has responded as to its authenticity.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Let us get this clearly. Mr. Kalmoy, you say the document is not what?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): It is not a true statement. It is neither generated from  
CBK nor Wajir County Treasury.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
So, do you work in CBK?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): There is---

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Answer my question. DO you work in CBK?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Since I am a signatory to that account, there should be  
at least a letter or request; or just something at least.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
No, are you saying because there is no letter accompanying, it cannot be  
from CBK?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Yes. Before CBK issues this statement, they have to get a note from Wajir County Treasury.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Look at page No.227.

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): It is a bank statement, yes.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Do you see the companies that were paid?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): This statement is---

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
No, just answer my question. Do you see the companies that were paid?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Yes.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Look at the company called Arek Construction Company. How much was it paid?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): You are telling me to look at statement that are---

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

No, just look at it.

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): How can I look at something I have a challenge with?

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

Mr. Chairman, Sir, please, tell the witness to look at that statement.

**The Chairperson (Sen. Omogeni):** First, what is your comment on the statement?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): It is not a Wajir County Development statement.

**The Chairperson (Sen. Omogeni):** We have taken note that you have disowned it but you can now answer the question.

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): Can I check something or make a comment?

**The Chairperson** (Sen. Omogeni): No, we have recorded that you have disowned the statement but you can still answer the question.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC): So, according to you, the genuine document is the one that appears at No.15d?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): I said the pay list.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC): Yes. The companies that were paid are the ones here.

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC): How much were they paid?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): I do not have the total, but I can see---

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC): I thought you said you are a signatory to the account.

**The Chairperson** (Sen. Omogeni): Senior Counsel, are we at No.15d?

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Yes, Mr. Chairman, Sir. How much was paid?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): From where?

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
This list of these companies?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): You can see the total. You can add up because I do not  
know the exact amount.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
So, you do not know they amount that was paid? Is this the list you were  
authorized to pay in the letter that appears on page No.217 by the Controller  
of Budget (CoB)?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): For your information, the Chief Officer, Finance has  
the discretion to pay any company that is eligible for payment. That is at a  
higher level.



**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Okay. No problem. I am asking you a question.

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Nobody can tell me to pay company A, B or C. The Chief Officer has the discretion to pay any company he wishes.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Okay, let us go back a little bit. When you were making this requisition, what did you request?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): *(Inaudible)*

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
To pay the people who worked for you?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Yes.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Did you share with the CoB the list of the companies?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): It is not mandatory.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
No, I am asking you if you shared.

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): No.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
So, you just wrote a letter and said that send me---

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): You attach work plan in the budget and other statutory requirements like Form A. So, you do not attach or add.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
So, when the CoB wrote you the letter of 2017 and attached the list of companies that should be paid, that is not binding on you?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): No, it is not binding.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
You can pay as you want?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): Yes, you can pay the companies that you want.

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

Okay. That is fair.

Finally, I have one more question for you on the Wajir County Disaster Management Act. Are you familiar with that Act?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): Yes.

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

Yes, it provides for certain emergency situations. In paragraph No.9.2.3, you say Section 19 of the Wajir County Management Act established the County Disaster Management Fund administered by the CECM in charge of Finance. Prior to the amendment, the Act did not require the then administrator to seek approval of the County Assembly upon payment made from the County Disaster Management Fund. Is that true?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): Yes.

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

So, if there is no provision in the local Act, what happens?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): You follow the local Act.

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

If there is no provision?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): I do not know really.

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

Are you familiar with the provision of the Public Finance Management (PFM) Act?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): Yes.

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

Does it provide for if there is no specific provision in the local Act?

**The Ag. Director, Accounting Services, Finance and Economic Planning**

(Mr. Adan Kalmoy): Pardon?

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
You said there was no requirement for seeking approval in the Wajir County Disaster Management Act, 2014.

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Yes.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
So, in other words, there is lacuna.

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): I do not know.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
I thought you said--- Anyway, look at Section 135(4) of the PFM Act.

**The Chairperson** (Sen. Omogeni): Can he be given that Act so that he looks at the Section?

*(Mr. Adan Kalmoy was handed the Act)*

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC):  
Mr. Chairman, Sir, I am referring the witness to Section 135(4) of the PFM Act. I will read for him.

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It says:

“Except as provided by (5), the approval of the county assembly for any spending under this Section shall be sort within two months after the first withdrawal of the money.”

**The Acting Deputy Director Accounting Services, Finance and Economic Planning:** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): It says that you must seek the approval of the County Assembly within two months.

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes

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

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): (*Inaudible*)

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): But you told the Committee that there is no provision in that Act for you to seek approval from the County Assembly. There is an Act that says if there is that gap you must seek---

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): (*Inaudible*)

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you saying that you can spend money without appropriation by the County Assembly?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): *(Inaudible)*

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I know that one. I agree with you on that.

However, are you aware that under Section 135(4) you will still have to seek the approval two months after you have spent?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): *(Inaudible)*

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

So, you did not comply with this section?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): We complied. How can we comply with something we do not have?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So, you did not comply? Yes or no?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): No.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you.

Mr. Chairman, Sir, that is all.

**The Chairperson** (Sen. Omogeni): Okay, thank you.

Any re-examination?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, just a few questions that I would like to get the witness to clarify.

*Bw.* Kalmoy, you have been shown a document at Pages 226, 227 and 228 of the County Assembly's bundle CA3. It has been put to you that, that is the statement of account for an account held by Wajir County with Central Bank of Kenya. What is your answer to the question whether or not that is a true and authentic statement of account?

Speak up.

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): *(Inaudible)*

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Okay. In respect of the payments of the letter of 10<sup>th</sup> December, 2019, you have adopted your statement and that statement is the statement before this Committee. I would just like you to re-emphasise for the purposes of clarification what is set out in Paragraphs 12.3.5 to 12.3.8 of your statement.

What do you say?



**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): On 9<sup>th</sup> December, the Chief Executive Office, the Council of Governors (CoGs), received a letter dated 5<sup>th</sup> December 2019 from National Treasury, Planning addressed to Wajir County as settlement of eligible pending bills from which the following excerpts of communication reads:

“As indicated in our earlier circular, the National Treasury is mandated to intervene at the county level for the purpose of expenditure in case where the county government are involved in serious or persistent material breach of the law relating to public finance. Such serious material breach has been elaborated in Section 94 of the Public Finance Management (PFM) Act. Please, note that failure to make the payment when they are due is material breach.

In light of the above, you are required to provide to the National Treasury with a repayment plan, clearly specifying how you intend to clear all the eligible pending bills. The repayment plan should specify the age of the pending bills with priority given to bills incurred in earlier years, amounts and details of PAYES and description of work done.

Please note that the future disbursement will be subject to provision of the required information and payment in line with your repayment plan.

Failure to settle all eligible pending bills may result to the National Treasury invoking Article 225 of the Constitution and stop transfer of funds to your county government. This may include withholding of release of conditional

grants to your county government for the remainder of the financial year 2019/2020.”

On receipt of this communication from the National Treasury as above, the accounting officer, finance, had to prioritise payment of pending bills to avoid the county grinding to a halt in a situation where the National Treasury invokes Article 225 and stops transfer of funds to the county government.

Despite the justification above, the companies that were not paid as per the monies received on 10<sup>th</sup> December were still paid in the subsequent requisitions.

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

My learned colleague, Mr. Ndegwa, has one issue he wants you to clarify.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Kalmoy, Senior Counsel Ahmednasir has put to you whether you were required to seek approval for the expenditures. Yes?

**The Ag. Director Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): It is your evidence that the approvals are an ongoing process. Yes?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): From where?

**The Chairperson** (Sen. Omogeni): Counsel, I think you start by saying that Senior Counsel referred the witness to the provisions of Article 135(4) of the PFM Act.

I think that is the question that was between Senior Counsel and the witness, then now you can seek your clarification.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, my learned friend is asking leading questions in re-examination, and that is an elementary principle in law of evidence, which I expect my learned friend to know.

**The Chairperson** (Sen. Omogeni): Having known that, that was the question, you can now seek clarification.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Kalmoy, you were referred to Section 137 of the PFM Act.

**The Chairperson** (Sen. Omogeni): For the record, it is Section 135(4) of the PFM Act.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Kalmoy, you were referred to section 135(4) of the PFM Act. Correct?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Senior Counsel Ahmednasir was seeking your evidence whether you are required to seek that approval and whether you sought it.

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): From the County Assembly?

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

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): We have not yet.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You said that the fund is not created under the PFM Act.

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Where is the fund created?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Under the Wajir County Disaster Management Act.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Which Act and of what year?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Act No.19 of 2020

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Is there a subsequent amendment to that Act?

**The Ag. Director, Accounting Services, Finance and Economic Planning**  
(Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): When did the amendment come?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): It was around May, 2020.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Did the amendment find the payment pending or it found them having been done?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): The amendment included some statute from the PFM Act.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): During these circumstances or transactions, could you have sought for that approval when the law does not require the same?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): The time is yet to arrive, so we will seek within the limit.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You were asked a question about the payment of a company and you said---

**The Chairperson** (Sen. Omogeni): Counsel, I thought you said you had one question.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): This is the last one.

You recall Senior Counsel asking you a question about the payment or directive to pay companies by the Controller of Budget (CoB).

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You said that the Chief Officer has the discretion of paying companies. Yes?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Is it your evidence that he pays only the companies that have met the eligibility for the payment?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Had the companies that you paid met the eligibility criteria?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): No further questions.

**The Chairperson** (Sen. Omogeni): Are you done?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, we are done with re-examination.

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**The Chairperson** (Sen. Omogeni): Mr. Adan Kalmoy, I will now request if any of the hon. Senators wants to get any clarification from you.

We start with Sen. Petronila Were.

**Sen. Were:** Mr. Kalmoy, you stated in your statement, paragraph 8, that there is no county emergency fund in Wajir as expected from the Section 110(1) of the PFM Act.

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**Sen. Were:** Is there an emergency fund by any other name?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): We have Wajir Disaster Management.

**Sen. Were:** Is there a fund for it?

**The Ag. Director, Accounting Services, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**Sen. Were:** Have you ever sought approval for expenditure of that fund from the County Assembly?

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): We submitted in the first two years, but the provision of that Act never required us to seek approval.

**Sen. Were:** Therefore, you are in agreement that you have not set up a County Emergency Fund as per the Public Finance Management (PFM) Act?

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy):  
Yes.

**Sen. Were:** Thank you.

**Sen. Kihika:** Thank you, Mr. Chairman, Sir. My question would be as a follow up to what Senior Counsel had asked you. You are telling us here that the procedure or when you make an acquisition, you give break down. For example, in this case, without being completely exact, you were asking for Kshs199 million for development to pay debts.

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy):  
Yes.

**Sen. Kihika:** However, the list that you used and forwarded to the Controller of Budget (CoB) was different from the list you used to pay these bills.

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy):  
Purdon.

**Sen. Kihika:** Let me rephrase that in case I am confusing you. I understand that you disowned the paperwork that was submitted by the County Assembly. You disowned that those are the lists of companies that were paid. However, going by the paperwork submitted by the County Executive, this is 15D, the companies that you paid are not the same exact companies as those that you forwarded when you did the acquisition. Are you saying that is proper?



**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy):  
No.

**Sen. Kihika:** I quickly added them up. It adds to about Kshs160 million, but the acquisition was for kshs199 million. It seems there is discrepancy. The companies are different. Having worked as a Speaker at the county level, I know those games where the county executive acquisitions for assembly, but then decides what to release and what not to release. Should it not be lawfully followed that this is what we acquisitioned for to pay company ABC then when you get the money, it must be that company ABC are paid? It is not proper for you to go and pull company XYZ.

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy):  
In my earlier statement I said that it is the chief officer who can shed more light on this issue. I provided the list based on the requisitioned. There were some follow ups. The letter from the National Treasury telling us to pay pending bills. Pending bills were paid. The other bills were paid in the subsequent releases. We just added the pending bills.

**Sen. Kihika:** Is the chief officer here?

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy):  
He is not with us.

**Sen. Kihika:** My concern is for the millions of Kenyan suppliers and ---

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy):  
In the requisition, we add work plan; the work that was done, the nature, amount and everything. The description is there.

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**Sen. Kihika:** Do you see the mischief? You could technically forever pay the companies you favour and not pay others. It looks improper.

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): There should be a legislation on the same. There is no law guiding us now.

**Sen. Kihika:** You do what you want?

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes. There is no law guiding us.

*(Laughter)*

**Sen. (Eng.) Hargura:** Thank you, Mr. Chairman, Sir. The question I wanted to ask is almost similar to what the Sen. Kihika asked. I am surprised when the witness says that the lists have discrepancies. If you look at the face value, list 15A and 15D are the same list with different headings.

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): Which one?

**Sen. (Eng.) Hargura:** The one you sent to the CoB and ---

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): There are some companies that are on list and not on the next list.

**Sen. (Eng.) Hargura:** Which one is your list?

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): Mine is 15D.

**Sen. (Eng.) Hargura:** What about 15A?

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): I do not know.

**Sen. (Eng.) Hargura:** All these are your documents. 15A, the requisition to the CoB.

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): 15A and 15D are the same.

**Sen. (Eng.) Hargura:** 15A is for the CoB when you are requisitioning.

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes. 15D is what we paid.

**Sen. (Eng.) Hargura:** They are exactly the same yet you are saying they are different.

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): I was objecting the list provided to the Assembly.

**Sen. (Eng.) Hargura:** You were refereeing to another list?

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes.

**The Chairperson** (Sen. Omogeni): Sen. Linturi, kindly, proceed.

**Sen. Linturi:** Mr. Kalmoy, with the explanation that you have given, would you agree with me that if you were to do an application from the CoB to release specific funds to specific people, and then the County Executive Committee (CEC) Member in charge of Finance is left to play around with

that list would give room for people to be left suspecting, or to imagine, or create the impression that why any other person can be paid out that list was probably because of some payment of a bribe or an inducement?

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): For the Chief officer or the CEC Member in charge of Finance to make payment, there is a process he or she has to go through. The Integrated Financial Management and Information System (IFMIS) portal.

**Sen. Linturi:** I am not talking about the process. This is because you have explained. It is not paying any money outside those people that have not worked. If we were to allow this to proceed, then that creates room for suspicion. One of the things that we will get into anybody's mind is that anybody who gets or ends up being paid having not been in the original list, may have given a bribe or inducement.

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): Mostly, when making payments, the Auditor-General reports.

**The Chairperson** (Sen. Omogeni): Sen. Linturi, are you satisfied with the answer?

**Sen. Linturi:** I am not, but it is okay.

**The Chairperson** (Sen. Omogeni): You have dropped the question.

**Sen. Linturi:** I really did not want to drop the question, but the witness is running away from answering my question. This is because I want him to address the aspect of perception. There is a list. You apply for money from the CoB to pay individuals, but the money comes, you do not pay those

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people. Other people find themselves in the list. The question is, do you not think- if that was to be allowed to continue- would create suspicion.

**The Ag. Director, Finance and Economic Planning** (Mr. Adan Kalmoy): Yes. It is a fact.

**The Chairperson** (Sen. Omogeni): Okay. That is well answered. Any other Senator? I think we are good to go. You are released. We will take our last witness.

**Sen. Were:** Mr. chairman, Sir, as we prepare for the last witness, what are the timings? This is because there are closing remarks to be made. Are we still closing at 6.30 p.m.?

**The Chairperson** (Sen. Omogeni): How long would you take on this one? Is it the brief one?

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

**The Chairperson** (Sen. Omogeni): It is very brief. Once we are done with the last witness, what is the way forward?

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, if it will be of use, this witness will be referring to document in three files. One is labeled B, the second is labeled C, D and E and the last one is labeled L.

**The Chairperson** (Sen. Omogeni): Senators, I hope you have captured those references.

Secretariat, you can help Senators to retrieve the files. You can swear the witness.

*(Mr. Mohamed Yunis Sheikh took the oath)*

**The Advocate for Wajir County Governor** (Mr. Nyamodi): For the record, please introduce yourself to this Committee.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir I am the Deputy Director Budget in the department of Finance and Economic Planning, Wajir County.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): For how long have you performed this function?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I became the Deputy Director Budget from 2019 but I worked with the County Government of Wajir in different capacities from 2015.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): What are some of your responsibilities?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Assisting the department in coming up with budget estimates; assisting the CECM Finance in preparing budget policy documents such as the County Fiscal Strategy Paper, the County Budget Review and Outlook Paper.

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

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

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I Assist the CECM Finance in preparing the County Fiscal Strategy Paper, the County Budget Review and Outlook Paper. As well as any other any other assignments assigned to me by my supervisors.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Thank you. You know the Governor of Wajir County has been impeached by the Assembly?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Have you had an opportunity to see the Motion of impeachment?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Perhaps, you can share with the Committee why you are here this afternoon or this evening.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I am here as a witness in the matter of the impeachment of the Governor of Wajir by the County Assembly of Wajir.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Have you seen the allegations in the Motion? Would you like to respond to the allegations that pertain to your docket?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes, I would like to respond to the allegations in B, C, D and L.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Have you recorded a statement?



**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Is it before this Committee?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): What I would like you to do is to take allegation by allegation and highlight what your responses are. If you have relied on any documents if you can point out those documents to the Committee as you go.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, I will start with allegation number B in respect of lack of accountability in the management of the county resource by incurring unsustainable debt and other pending obligations to the tune of Kshs2 billion. These pending obligations were never disclosed both in the County Fiscal Strategy Paper 2019 and 2020. The annexures to my response are contained in the file named 1B.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, it is just B.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): My response--

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

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): My response is that the allegations levelled against the Governor are untrue. Although the Kshs2 billion claimed by the County Assembly of Wajir existed from the financial year 2017/2018 and the document they relied on is written by the County Executive Committee Member for Finance to the Controller of Budget. The County Government of Wajir had an unspent balance of Kshs2.6 billion from that financial year. There the debt could not be unsustainable. The evidence to that is contained in annexure 2A, Wajir County Appropriation Act 201, the last page.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Yunis, as this stage, if I may ask you, why does the fact that the county had a balance from the previous year then in your estimation make the debt sustainable?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): It means that the pending bill arose from the fact that the county did not receive an approval for withdrawal of funds to spend the Kshs2.6 billion.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Therefore, what was it able to do with the Kshs.2 billion plus?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): If the County will have received the Kshs2.6 billion in that financial year, then the debt will be cleared. If it has received in the subsequent years then it will have easily cleared the pending bills.

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

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): In a further discussion of the claimed Kshs2 billion and the letter by the CECM Finance and Economic Planning relied on by the County Assembly, the letter relates to an audited pending bill by the office of the Auditor General through a consultant contracted by the same office. It is a known fact that it is called *Mchunguzi* report in June, 2018. The letter of response between the office of the Council of Governors, the National Treasury and the County Government is annexed as 2B in that file. From that audit, it has revealed that the county government of Wajir had Kshs2.3 billion; in 2b.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): 2B in file number?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): 1B, ‘it has revealed that the County Government of Wajir had a pending bill of Kshs2.3 billion.’ By the same letter relied on by the County Assembly, the County Government of Wajir has paid Kshs2 billion by the time the letter was written on 13<sup>th</sup> December 2019. The other factor is that the letter was written before the directive by the National Treasury to clear pending bills by the county. The County Government of Wajir has paid 85 per cent of the audited pending bills before the National Treasury made it compulsory for counties to pay pending bills in order to receive their exchequer release.

In the same allegation, the aspect of disclosure in the Fiscal Strategy Paper 2019/2020 came up. I would like to confirm that the pending bills for the County Government of Wajir were disclosed in the Fiscal Strategy Paper 2019 and 2020. For 2020 it is disclosed on page 28 of annex 2D, page 28 the second last paragraph.

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

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Annex 2D. County Fiscal Strategy Paper (CFSP) 2020; page 2 second last paragraph. Please use the page number written at the back of the document.

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

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): For CFSP 2019, it is also disclosed on page 14, the last paragraph. Therefore, the claim that the County Government of Wajir had incurred unsustainable debt and were not disclosed in the 2019/2020 CFSPs were untrue.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Move on to the next allegation.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): The next allegation is allegation C, for purpose of filing can I move to allegation D? I will continue with C. I have looked at my file it is well arranged. Allegation C is about failure to draft the Medium-Term Strategy Paper for the financial year 2020/2021 in contravention of Section 123 of the Public Finance Management (PFM) Act, 2021. I will respond as follows-

When we look at this the allegation was confusing, it refers to the Medium-Term Strategy for the Financial Year 2020/2021 and it quotes Section 123 of the PFM Act. What was referred to in the Medium-Term Strategy Paper, we could not make sense out of it. We will respond to Section 123 of the PFM Act.

It is my understanding that Section 123 of the PFM Act refers to debt management statement that sets out debt management strategy over the medium term in regards to actual liabilities in respect to loans and plans for dealing with those liabilities. It is my understanding that the County

Government of Wajir has not borrowed any loans. Therefore, we were not required to prepare the debt management strategy.

In the same allegation, there was a risk identified by the County Assembly that the County Government of Wajir may not have an approved budget to spend for FY 2020/2021 and that it might put the county in a precarious financial position. The County of Wajir has an approved budget for FY 2020/2021. Therefore, that claim cannot stand.

Further, the County Government of Wajir prepares the County Fiscal Strategy Paper (CFSP) where it discloses its pending liabilities. Therefore, in respect of that, Section 123 does not apply to the county. The supporting documentation to that are in Annexures 3A, 3B and 3C.

**Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, those annexures are in the file marked “C”, “D” and “E”.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): For allegation D, in which the County Assembly of Wajir claims that the Governor has violated Articles 176(a) and 185 of the Constitution Kenya, 2010, by disregarding the County Assembly as an arm of government, and further undermining its cardinal role of legislation, oversight and representing through systemic non-remittance of funds for the County Assembly operations amounting to Kshs70,216,902, my response is that the allegation is misleading. Although

non-remittance totaling to Kshs70,216,902 existed at the close of the financial year, this is because the County Government of Wajir received its June exchequer release way after the closure of the financial year. This was a known fact to the country.

There was a letter by the Council of Governors (CoG) in respect to the June releases. The remedy that the County Government of Wajir has taken is that we have re-appropriated that money in the current FY 2020/2021. In respect to the evidence for the late release, annexed in the same file marked “C”, “D” and “E” is Annexure 4A showing that money went to the County Revenue Fund (CRF) for Wajir County.

The June release came on 5<sup>th</sup> August, 2020, when we were already in the current FY 2020/2021. To show that this did not affect Wajir County Government only but it happened across the country, there is a letter annexed 4B by the CoG to the Cabinet Secretary, National Treasury and Planning on 20<sup>th</sup> June, 2020, indicating that the June disbursement amounting to Kshs30 billion was not received by the county governments.

The amount that was due to the County Government of Wajir for June release is shown in the same Annex 4B. The figure is Kshs734,913,000. The CRF statement confirms the same amount. The date shown is 5<sup>th</sup> August, 2020.

The County Assembly of Wajir was given a ceiling of Kshs760 million by the County Allocation of Revenue Act (CARA). In the current FY 2020/2021, the County Assembly of Wajir was allocated Kshs830 million, including the unspent balance of Kshs70,216,902. It is well explained in my statement. The CARA 2020 is attached as Annex 4D.

My submission is that Wajir County Executive does not cripple the operations of the County Assembly of Wajir by not releasing funds. The evidence is that Wajir Executive Government received and spent it exchequer releases up to January but Wajir County Assembly was given its funds up to March. The County Executive actually paid the County Assembly more than the proportion of the exchequer release that we have received so far. That is up to April.

To show that that actually happened, I have Annex 4E which shows the actual money released to the County Assembly of Wajir for the FY 2020/2021. I have referenced those releases in the CRF statement and coloured them yellow to show that those releases went to the County Assembly. The reference numbers are written in the tabulations of the releases to the County Assembly.

While the County Assembly has received 75 per cent of its allocation for the current financial year, the County Executive has received 61 per cent of its equitable share and the June balance. Therefore, no funds were denied---



**The Chairperson** (Sen. Omogeni): Sorry, I want you to be clear. The allegation is that you have not released Kshs70 million.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Chairperson** (Sen. Omogeni): Now you are telling us how much you have released and what is pending.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): That is Annexure 4E.

**The Chairperson** (Sen. Omogeni): I just want to get it clear because some of us are not good at figures.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): The Kshs70 million that was not released is because the exchequer release came after the closure of the financial year and the County Assembly of Wajir was given the money in the current financial year. The first release at the beginning of the financial is a total of Kshs275 million, including the Kshs70 million that was a balance from the previous year.

**The Chairperson** (Sen. Omogeni): So, what is pending now?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): They have spent a total of 75 per cent of the allocation.

**The Chairperson** (Sen. Omogeni): What is due to them now?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): The remaining 25 per cent.

**The Chairperson** (Sen. Omogeni): Which totals to how much?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Kshs203 million. This might change because we might have received money as late as yesterday or the day before.

As at 30<sup>th</sup> April, the money released to the county assembly totaled to Kshs626 million out of a recurrent budget of Kshs830 million. The balance is Kshs203 million.

**The Chairperson** (Sen. Omogeni): That is clear now.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Just a follow up question from the Chairman. The balance of 25 percent that is due to the assembly, is it retained by the Executive or is it still with the Treasury?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): That is still with the Treasury. The County Government of Wajir receives its Exchequer release on monthly basis. We have not received for the month of May that we are in. We have not yet received for the month of June. We have also not received for the month of April. Therefore, the money is still with the National Treasury and not with the county executive.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Have you received any Exchequer release for the assembly that you have not remitted to them?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Exchequer release is received as a county government. The withdrawal by the county assembly is approved by the Controller of Budget.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Do you have any money for the assembly that you have not remitted to them?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): We do not have any money that we have not approved for the county assembly.

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

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): My last allegation that I would want to---

**The Chairperson** (Sen. Omogeni): Counsel, are you done?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): No. He is not done. He has got one more allegation.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): My supporting documentation are in 4A, 4B, 4C, 4D, 4E and 4F. My last allegation is in respect to L – Violation of Regulation 25(1)(b) of the Public Finance Management Act, County Government Regulation 2015 by exceeding an expenditure limit of 35 percent county government total revenue for instance as at 30<sup>th</sup> June, 2019, the County Government of Wajir wage bill was equivalent to 39.6 percent of the operational revenue.

I would like to respond that the County Government of Wajir as at 30<sup>th</sup> June, 2019, had a wage bill expenditure of 32 percent for both the county assembly and the executive; 30 percent for the county executive only and 52 percent for the county assembly. Therefore, the statement that we have 39.6 percent of total revenue is untrue. There is a tabulation as analysis for that claim of 30 percent, 32 percent and 52 percent. Our total approved budget for that year was Kshs13 billion. We had an actual delay of Kshs11.9 billion. That is still part of my statement; it is not an annexure.

We had an actual expenditure of total including the county assembly and the county executive of Kshs53.7 billion, representing 9 percent of the total budget and 32 percent of actual revenue received.

When it comes to the county executive only that is excluding the county assembly we had a budget of Kshs12.4 billion; an actual revenue of 11.2 billion; total expenditure of Kshs9.4 billion and actual expenditure of Kshs3.4 billion representing 30 percent of total revenue.

That is the end of my statement.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Thank you. That is all in evidence-in-chief.

**The Chairperson** (Sen. Omogeni): Now we hand you over to Senior Counsel Ahmednassir for cross-examination.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Sheikh, I will be very brief with you. You said you are The Deputy Director of Budget, Department of Finance and Economic Planning?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): So on matters of budget you can answer all the questions?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I am here in response to the

Impeachment of the Governor and I have already written a statement. I am here to respond to my statement.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I will ask you some questions on budget. Are you familiar with the budget prepared by the County Assembly of Wajir for the year 2020?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): If you look at the particulars, is this what is called programme-based budget?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Mr. Chairman, Sir, I am referring the witness to CA7 page 113, which is the affidavit of hon. Shueb Bare Ahmed. There is a letter dated 22<sup>nd</sup> October, 2020, addressed to the Director, IFMIS, National Treasury it states:

“Re:Uploading of Wajir County Budget for the Year 2020/21.

The above subject matter. I kindly request you to facilitate the uploading. Attached find the Appropriation Act, Governor’s warrant and budget summaries. Thank you for your support.”

Look at the document at pages 114 to 121.

On page 114, can you see it says:

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“Wajir County Development Expenditure Project Expenditure and Estimate”?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is that different from the budget that was passed by Parliament in terms of the thematic context from a programme-based to a lumpsum based budget?

**[The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh)] This is an extract of the IFMIS system.

What you are seeing here is a summary of the allocation to each vote line. This agrees with the Appropriation Act. Looking at the Act, the County Assembly was allocated Kshs40 million for development. The Road and Transportation was allocated that amount. That does not vary with the Appropriation Act of the county Government of Wajir.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You are saying you have not made any change in terms of the budget.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Nothing.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): When the budget is approved, it is uploaded into the IFMIS system through economic items. You input the economic items and run reports from the IFMIS system that gives you summary per vote. What you are referring to me here is a summary per vote.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You are familiar with the budget of the county as I referred to you here for Financial Year 2020/2021.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): My learned friend will show you. Look at the water budget for that year.

**The Chairperson** (Sen. Omogeni): Mr. Chairman, Sir, I am showing him page CA (3). The budget starts from page 235, but I am showing the witness page 270.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, that budget is not part of in my statement and was not annexed in any of my files. I am I obliged to respond to that question.

**The Chairperson** (Sen. Omogeni): Yes, those are some of the documents, which have been filed with us. So, you are obligated to look at it and respond to any question put to you.



**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at page 270. You are the Deputy Director of Budget, Department of Finance and Economic Planning and so, you are familiar with this document.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I am there.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Form that page you can see at the top is water budget for FY 2020/2021. It goes on and on. Look at page 278.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I am there.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You can now see there is the vote line and then the project name and the budget, and it goes on. Look at page 279. You can see some pending liability and it goes on and on.

You will see that the total development---. Look at page 285

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I am there.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Total development is Kshs727, 341, 508.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I want you to look at another document. Look at page 319. Can you see an advertisement for four items under the Department of Water for 60,000 metric tons, 50,000, 50,000 and 65,000 metric tons? Can you see that?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Are you familiar with how much this project cost the county Government as a Deputy Budget Director?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I am not the accounting officer for water.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Look at the next page 319(A) which is the next page. You can see that is a letter head of the county Government of Wajir addressed to Leyu General Contractors dated 3<sup>rd</sup> December, 2020. It says, “proposed construction of 60 metric tonnes--- We refer to the tender you submitted and we are glad to award you a tender sum of Ksh45million.” Can you see that?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Turn the next page. Can you see another one for Fortune Enterprises which is Kshs39 million?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Turn the next one. There is Kama Construction Company Kshs38 million.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): There is a fourth one. You can see the four worth about Kshs130 million, were given for those projects and it is not in the budget. Did that raise alarm bells in your head as the Deputy Director of Budget, Department of Finance and Economic Planning that the county Government was spending money on projects not budgeted for?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I am not involved in expenditure of the various departments. The accounting officer for every department is responsible for execution of the budget. He might have a reason he spent because there are various occasions in which the Chief Officer or accounting officer is allowed to spend outside the approved budget. You can refer the Section on reallocation and on---

It is coming to my knowledge now that you are sharing with me. The accounting officer for water came before you. He should have been the right person.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Listen to me very carefully. Read paragraph 3 of your Statement.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): My function and responsibilities.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): You stated that your responsibilities and function as the Deputy Director of Budget, Department of Finance and Economic Planning in the Department of Finance and Economic Planning included supporting the departments in the preparation of budget estimates.

In your view, was there a budget of Kshs140 million for construction of those four water pans for the Water Department?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I think that was part of the allegations raised against the Governor and there was a response to it.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Answer my question.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I am not here to respond to that allegation. I am here to respond to a different allegation.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I ask questions; you answer. As The Deputy Director of Budget, Department of Finance and Economic Planning was there a provision for Kshs120 million for those four water pans projects in the Water Department when you were preparing the budgets?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I have not crammed the budget off head. I may have to look at it. I do not know each and every content of the budget.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I will give you time to look at it page 278. I am dismayed you do not know the budget you prepared.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, I cannot know the budget off head. Look at page 278. It starts at page 270 but 278 gives you are more itemized---

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Did you find anything?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): No.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): I want you to explain very clearly to the Committee: Can a department spend money not allocated to it?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): If the money is not available, they cannot spend.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): In this case, we have seen that the Department of Water was not allocated that money, but they put out a tender and then there is a letter of award was made. How is it possible if there was no money?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): The letter of award comes from the procurement process. By the time you are giving, you do not have to have the cash or the money to pay that project at that time. However, it is the responsibility of the accounting officer to ensure that any expenditure is budgeted for.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): In you are experience--- How long have you been with Wajir County?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): From 2015.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): From 2015. In your experience, is this the first time you are hearing of something like it or such things happened previously?

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**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I am hearing it for now.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): For the first time?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): This is the first time that a project has been awarded without budget?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes, I am hearing that for the first time.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): In your system, can you monitor? Is there anything that is triggered when that happens? From your office in budget, is there anything that gets triggered when something like that happens in terms of checks and balances?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): It is the responsibility of the Chief

Officer or the accounting officer for that department. We have County Treasury representatives in the department, as the procurement officer and accountants, to ensure that the expenditures are budgeted for before they are committed.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Actually, the evidence we have is that some of the companies like Fartun was paid Kshs37 million. They have already been paid and money has been found.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I think there was a whole allegation on that aspect. I believe that should have been substantially responded to.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): In your experience, do you think such unusual events happen when there are orders from above?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Am not aware.



**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Is there any other way you can explain how such matters; no budget, substantial sum of Kshs120 million, tender awarded, letter given, contract payment made--- Are you saying that Garissa has no checks and balances? You cannot know this as Deputy Director of---

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Senior Counsel, I am from Wajir County.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Wajir County; it is a slip of the tongue.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): I am not saying there are no checks and balances, but the responsibility of each and every office holder is very clear. The responsibility of expending the budget is the responsibility of the accounting officer.

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you very much.

**The Chairperson** (Sen. Omogeni): Okay. Thank you Senior Counsel. Counsel Nyamodi, do you have any questions for re-examination?

**The Advocate for Wajir County Governor** (Mr. Paul Nyamodi): Mr. Chairman, Sir, Mr. Ndegwa will take the re-examination.

**The Chairperson** (Sen. Omogeni): Mr. Ndegwa, one or two questions?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir, I will be very brief.

**The Chairperson** (Sen. Omogeni): No, you need to look at the time. You know you have spent more than three-and-a-half hours.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir, yes.

**The Chairperson** (Sen. Omogeni): How many questions are you posing to the witness for the re-examination?

**The Advocate for Wajir County the Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir, there are only five issues that I want to address.

**The Chairperson** (Sen. Omogeni): So, it is five questions?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir, approximately. Witness, Senior Counsel Mr. Ahmednassir has asked you whether there are circumstances under which a county government can expend money that has not been allocated to, and your answer was that you are not aware. Yes?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): I want to refer you to Section 135 (1) of the PFM Act.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes, I actually stated that. Section 135, County Government of Wajir to submit to the County Assembly a supplementary budget in the stated circumstance. A county government may spend money that has not been appropriated if the amount appropriated for any purpose under the County Appropriation Act---

**The Chairperson** (Sen. Omogeni): Which subsection are you reading?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, Section 135 (1).

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

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): It says: “A county government may spend money that has not been appropriated if the amount appropriated for any purpose under the County Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by this Act or no money has been withdrawn from the county government emergency fund.”

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Yunis, such expenditures are recognized in law. Yes?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): It is the county government or the user department that has the sole mandate of assessing whether a need has risen or not. Yes?

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**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): So, there was that assessment by the Water Department. Yes?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Have you been shown by the County Assembly that there was no need for that allocation or expenditure?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): No

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): So, it is not all expenditures that occurs in a county government that must be budgeted. Yes?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You have referred to an issue about advertisement and the award of tenders to four companies.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): You recall Senior Counsel Mr. Ahmednassir giving you some arithmetic of the expenditures and referring you to the budget. Yes?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Is that the expenditure that is now contemplated under Section 135 (1)?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Again, please?

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Is that expenditure--- Sorry, let me rephrase. Were these expenditures and tender award for the water pans the ones contemplated by Section 135 (1)?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for the Governor** (Mr. Ndegwa Njiru): Good. Finally, upon expenditure of this nature, the user department is supposed to seek approval of the County Assembly. Yes?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Yes.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Is there any evidence that has been tabled before this Committee to show that, that has not occurred?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): No.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): No further questions.

**The Chairperson** (Sen. Omogeni): Hon. Senators, anybody who has question or clarification? Sen. Were, proceed.

**Sen. Were:** Mr. Chairman, Sir, thank you. Mine is on the issue in your statement about the medium term strategy for the Financial Year 2020/2021. You say that you agree with the County Assembly that you did not prepare this because you have no loans borrowed, or you do not anticipate to borrow any loans for that year. Right?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, I said that although the word “medium term strategy”--- We could not understand what that is because we have County Fiscal Strategy, which is a medium term strategy. We have the debt management strategy, which is a medium term strategy. I do not understand what the County Assembly meant by saying ‘medium term strategy.’ We responded to Section 123, which they quoted.

**Sen. Were:** Which does not have this?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, yes, which I believe the County Government of Wajir does not need to prepare because we have not borrowed and we are not anticipating to borrow.

**Sen. Were:** Did you prepare one for the previous years?



**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, we have never prepared since the inception of the county government.

**Sen. Were:** Okay, thank you.

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

**Sen. Sakaja:** Mr. Chairman, Sir, a quick one. For this expenditure, kindly, that was entered into that was not budgeted for, I think it is the Water Department. What is meant to be done after that?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, the accounting officer should seek supplementary budget to the County Treasury and the Country Treasury seeks approval from the County Assembly.

**Sen. Sakaja:** So, was there a supplementary appropriation?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, I am not aware for that case.

**Sen. Sakaja:** You are not aware whether there was a supplementary budget on those items after the expenditure was done to regularize the expenditure?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, yes, there was no supplementary. The supplementary gives a timeline of up to 60 days.

**Sen. Sakaja:** So, that was not done?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, yes.

**Sen. Were:** Mr. Chairman, Sir, just a follow up question.

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

**Sen. Were:** Has the county government ever borrowed any loans?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheikh): Mr. Chairman, Sir, no.

**Sen. Were:** Okay.

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

**Sen. Mwangi:** Mr. Chairman, Sir, I want the witness to tell is whether all the pending bills have been cleared. He gave an indicator that by 2019/2020, they had not completed paying all the pending bills. Have then now been paid? If they have been paid, what is the balance that you need to pay? The other question is on the statutory deductions. There is non-remittance. Have you finished reminding the statutory deductions?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheik): Mr. Chairman, Sir, in respect to my statements and the pending bills that I referred to, it is the audited pending bills for the Financial Year 2017/2018. All eligible pending bills that arose from the Auditor-General's contracted consultant have been cleared by the County Government of Wajir. That is annexed as 2(e), the 2020 Budget Review and Outlook Paper by the national Government.

**Sen. Mwangi:** Do you have any pending bills that have not been paid by the county government as we sit here.

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheik): Mr. Chairman, Sir, pending bills are a continuous thing. They arise as a result of many reasons, one of them being unreleased funds by the National Treasury, the other one being unrealized revenue that was projected in the budget. Pending bills can only be ascertained as at a certain date. As practice by the county government, we date them as at the end of every financial year.

For the one annexed by the County Assembly and referred to in the allegation, it referred to as at 30<sup>th</sup> June, 2018. All eligible pending bills

arising from that audit were cleared as evidenced in the 2020 National Treasury Budget Review and Outlook Paper. They are just like a bank balance. You bank balance is one thing today and a different tomorrow. Pending bills are also like that. If you receive money today and you pay, then you have reduced your pending bills. If you have committed a project and you have not received the payment, you have incurred a new pending bill. It is a continuous process. I cannot say the exact amount of the pending bills.

**Sen. Mwangi:** As of now, how much of the pending bills have you not paid?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheik): I do not have an exact figure.

**Sen. Mwangi:** You do not have what?

**The Deputy Director of Budget, Department of Finance and Economic Planning** (Mr. Mohamed Yunis Sheik): I do not have a figure.

**The Chairperson** (Sen. Omogeni): Thank you. Any other Senator? That is okay. You are released.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): That is the close of the witnesses for the Governor.

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

**The Chairperson** (Sen. Omogeni): Yes, Sen. Outa.

**Sen. Outa:** Mr. Chairman, Sir, you have heard Counsel say that, that is the end of the witnesses from the Governor. This is a House of record. From

your ruling yesterday, I think you can recall that you issued a summon. Could the Counsel tell us what happened to the witness that was meant to appear before this Committee at 9.00 a.m. Just for the record.

**The Chairperson** (Sen. Omogeni): Sen. Outa, I was going to make a communication, but it is good that you have raised the issue. We have gotten an update from the Office of the Clerk who is the one tasked with serving summons, on the witness Osman Abdi Jimal. I am told that despite all the efforts made by our officers, they have not been able to trace him to serve him with summons. As per our Standing Orders, we cannot issue any punitive orders against this witness, because we have not been able to effect service.

I think the major challenge is the timelines that we are working under. The orders were issued yesterday, summons were expected to be served today and the witness to appear here today, but it has not been possible. That is the situation as I speak.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): That is well noted, Mr. Chairman, Sir.

**The Chairperson** (Sen. Omogeni): Any comment, Senior Counsel Ahmed Nassir?

**The Advocate for Wajir County Assembly** (Mr. Ahmednasir Abdullahi SC): No, Mr. Chairman, Sir. I will give everybody in this matter the benefit of doubt.

**The Chairperson** (Sen. Omogeni): Thank you. It has been a long day. We still have one more piece of business we need to transact, which is the closing remarks. We had accorded each of you 30 minutes. Do you want to get a cup of tea? We can take a brief break.

**Sen. Mwangi:** Yes, Mr. Chairman, Sir, we can get a health break.

**The Chairperson** (Sen. Omogeni): Let us take a small break of 20 minutes. Is 20 minutes okay?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): 20 minutes is really fine.

**The Chairperson** (Sen. Omogeni): We will come back to listen to the Counsel. I am sure that they need time to put their thoughts together and organize their submissions. We will be back at 7.15 p.m., then we will give each party 30 minutes to make their closing remarks. Tea is being served at the lounge for Senators and at the dining for our guests.

*(The Special Committee adjourned temporarily at 6.57 p.m.)*

*(The Special Committee resumed at 7.40 p.m.)*

**The Chairperson** (Sen. Omogeni): Order, please! We can begin. As is the tradition, we can begin with a word of prayer. Sen. Linturi, lead us in prayer.

*(Prayer)*

I hope you have had a cup of tea. We now want to do our final session for the day. I will invite counsel for the County Assembly to make his closing remarks. We had allocated you 30 minutes but if you spend fewer minutes, the better for us. Senior counsel, do not worry if you do not see us taking notes because this is being captured by the HANSARD. We will be able to read your notes.

**The Advocate for the County Assembly** (Mr. Ahmednasir Abdullahi SC): Thank you, Mr. Chairman, Sir, and your Members, for the time you allocated and the standing and patience you showed. Both my client and me appreciate that and we express our gratitude.

In my summing up, it is not very usual in a kleptocratic, corrupt and thieving regimes in this world, to see a father who is a President or a Prime Minister, his wife and children, having the competing hands in the cooky jar of the State and stealing from the public. A classic example you will find in this instance is the former Prime Minister of Malaysia, Najib Razak, who is now going to prison with his wife, Zainah Tengku. Closer home, there is the instant of the former President of South Africa, Jacob Zuma and his son, facing all kinds of corruption allegations and investigations.

The Governor of Wajir County and his wife are a carbon copy of Najib Razak and Zainah Tengku. Unlike Najib and Zainah who have been sent to prison, Hon. (Amb.) Mohamed and Mama, Kheira, will probably never be held to account, leave alone going to prison.

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Mr. Chairman, Sir, we are a country that makes excuse for those who steal from the public, admire them in private and allow them to continue the modus operandi. Unfortunately, that is Kenya for us. My hope and prayer is that this Committee will call these people to order.

Misuse of public funds, wasteful expenditure, outright theft, unaccountable expenditure and so on, are all gross violation of the Constitution and many statutes. In poor Third World Countries like ours and even in a place that is defined by abject poverty like Wajir County – one of the poorest counties in Kenya – Hon. (Amb.) Mahamud has a special responsibility and the standard you hold to him in terms of accountability and transparency, are very high.

Mr. Chairman, Sir, let us not make excuses for the many failures and transgressions of Hon. (Amb.) Mahamud and his Government. The buck stops with him. Section 30(2)(a) to (l) of the County Government Act makes it very clear that the ultimate responsibility of any failure of the county government falls with the Governor. That is the law.

During this short and constrained trial, we have – on behalf of the Wajir County Assembly – discharged our burden of proof and to the required standard in law. We have shown that Hon. (Amb.) Mahamud is in breach of Article 181 of the Constitution and this Committee ought to recommend to the full House, his removal from that office. This is the uncontroverted evidence of his breach of both the Constitution and several statutes.

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One, water pans worth Kshs145 million not budgeted for were tendered, awarded and paid. That is contrary to Section 135 of the PFM Act. It was not in the budget and it was not provided for. In my humble submission, Section 135(1) does not save because it only comes in if a project that was budgeted, there is a shortfall and the county government can borrow from other parts of the budget and then subsequently, ask for a supplementary budget. That has not happened. That is a gross violation of the law.

Secondly, Section 123 of the PFM Act required the county government to develop a plan, submit a statement setting the debt management strategy of a county Government for both the medium and short term, regarding actual and potential liability.

Mr. Chairman, Sir, this is very important for accountability of public funds. The county government must have this strategy so that it knows what it has, what it can spend and what it cannot spend. Wajir County Government willfully fail to implement that.

Third, the witnesses of the executive arm of the County Government, admitted this morning that contrary to Section 32(2)(K) of the County Governments Act, the Hon. Governor, for the last four years, willfully failed to address and deliver the annual State of the County Address. Again, this is very important. Just like our President delivers the National Address and just like many other county governors deliver that address, it only gives hope to

the people of a county but allows them to know the vision, programme and agenda of the Governor in terms of what he will do for his people.

When Hon. (Amb.) Mahamud failed to do that, he was not only contemptuous of his people but it shows that for the last four years when he could not deliver one address, he had no agenda, plan or vision and obviously, no hope for him to share with his people. That willful breach is a ground for his impeachment and removal.

The fourth ground is that the Wajir County Government willfully failed and acted contrary to Rule 167 of the PFM County Regulations. Again, this was admitted. The county Government failed to create and audit the Committee, leaving the entire process of auditing and accountability to the dogs. Again, this is not just an omission but a willful strategy so that the County Government is not subject to public audit and accountability.

Five, Mr. Chairman, Sir, the County Budget and Economic Forum (CBEF) which brings people together and diverse sectors of society, was not created. Again, in complete breach of Section 137 of the PFM Act.

This, for me, is a tragedy because I come from the North, from a county that neighbours Wajir County. The size of Wajir County is 556,000 square kilometres. That is equal to Central, Nyanza and Western combined. This county has an annual budget of Kshs2.9 billion.

Mr. Chairman, Sir, during the tenure of Hon. (Amb.) Mahamud, they spent Kshs12 billion on health and found it fit to buy three ambulances. Only three ambulances from a budget of Kshs2.9 billion a year or Kshs12 billion for the last four years. He bought three ambulances for a population of 800,000 and for 56,000 kilometres. He is not only cruel but has no idea about the suffering of his people. That alone, should be a ground for his impeachment.

Seven, with a supplementary budget of Kshs194 million and a grant of Kshs38 million from the National Government, Wajir County does not have a single test machine or kit for Coronavirus (COVID-19).

The oxygen that is used in hospitals comes from a small sub-county in Mandera called El Wak. If this is not callous and cruel, Mr. Chairman, Sir, I do not know what that is.

Mr. Chairman, Sir, during the last days we had this issue of *ugali* case as we put it. Wajir County gave a tender for the supply of 42,857 bags or bale of *ugali* at a price of Kshs3,500 per bale totalling Kshs149,999,500. The tenders were obtained with only five responsive tenders.

Instead of cancelling pursuant to Section 114(c) of Public Procurement and Asset Disposal Act that requires at least eight responsive tenders, the county government proceeded to award in complete disregard of that. I do not think you will find a more expensive bale of *ugali* than that that costed the people of Wajir Kshs 3,500.

Mr. Chairman, Sir, 80 per cent of the tenders awarded by the County Government of Wajir is split so that each tender or each component is about Kshs4 million with a view to avoid the competitive tendering process contrary to section 54(1) of the Public Procurement and Asset Disposal Act.

Mr. Chairman, Sir, I showed my admiration today because he said it allows the 30 wards to have an equal share, but nothing could be further from the truth. This is what we call doing tendering below the radar so that the radar of accountability and transparency does not catch you.

Mr. Chairman, Sir, this morning we heard Mr. Ahmed Guhad Omar, County Chief Water Resource Development, award a tender contract worth Kshs39,842 to a company called Fortune Enterprises Limited in which his sister was a director a few years ago.

This is contrary to Article 10 of the Constitution. It is in breach of Chapter 6 of the Constitution and it is something or it is an issue the Governor must take direct responsibility. When he has his chief officers giving tenders to their relatives or friends, they must be following the example of someone higher in authority.

Mr. Chairman, Sir, Governor Mahamud Abdi abdicated his constitutional duty of exercising authority and totally failed in all aspects of the same as per Section 31 and 32 of the County Governments Act.

Governor Mahamud Abdi wilfully breached Article 10 of the Constitution when he wrongfully exercised the powers he does not have under Article 235 of the Constitution and appointed Mr. Jeff Mworira. He again committed

a similar offence when he gave Mr. Jeff Mworio an extension. He does not have that power under Article 235 of the Constitution.

Mr. Chairman, Sir, in a complex web involving a number of companies, Governor Mahamud allowed his wife to take bribes and kickbacks with a view to award tenders and contracts to a number of persons. Again, took similar bribes and kickbacks when payments were due and she did this with tacit support of the Governor.

His Excellency Governor Mahamud allowed to share his executive authority conferred to him by the people of Wajir under Article one (1) of the Constitution in exercise of their sovereign mandate allowed to exercise his executive power with his spouse, Madam Kheira Omar Maalim, in complete contravention of the Constitution. In the process, she participates and exercises effective executive control over the executive arm of the County Government.

Mr. Chairman, Sir, lastly, we have seen the County Government admit that when they make requests from the Treasury to pay pending bills, they pay not according to the list they submitted, but as they wish. That breeds corruption, opaqueness, favouritism and nepotism and it is in breach of Article 10 and Chapter six of the Constitution.

Mr. Chairman, Sir, we make one request, that in line with Article 125 of the Constitution, this Committee takes the extra step to get the banks statement of Madam Kheira from Kenya Commercial Bank (KCB) or the Ethics and Anti-Corruption Commission (EACC) with a view to establish definitively and once and for all the authenticity of those documents my clients brought.

My clients, as I said, in my opening statements are Members of the County Assembly (MCAs) from Wajir. Some of them, today, could not even know the buildings where they signed affidavits. When you give them the task of authenticating a complex financial transaction undertaken in complete disregard of the law and tell them that the rules of evidence requires them to bring bank statements, I think that is a little bit unfair for someone who travels from Tarbach, comes here and tries to make a case for the impeachment of the Governor.

Mr. Chairman, Sir, you have that power. Do not shy away from it. It is a constitutional obligation you have. Take the extra step. If you prove that my clients' documents are forged or fake, I give you my word that they are ready to take the consequences of that.

However, I think you have an obligation and I pray that you do not abdicate your duty to do that. It will not take much. Get those bank statements. If you get those bank statements, you will see beyond any doubt the assertions my clients made.

Mr. Chairman, Sir, with that, I conclude. Thank you again very much, both your Committee and yourself for the time you have given us.

**The Chairperson** (Sen. Omogeni): Thank you. I believe that Senators have no questions for you.

Thank you Snr. Counsel Ahmednasir.

You did. In fact, you spent less than the time allocated. I hope Counsel Nyamodi you will borrow leaf from Snr. Counsel.

**The Advocate for Wajir County Governor** (Mr. Nyamodi): Mr. Chairman, Sir, we said we are learning from his shining example only that we will share our time between Mr. Ndegwa Njiru and the Governor.

**The Chairperson** (Sen. Omogeni): Each of you will take ten minutes each?

Mr. Ndegwa, I hope you are a good student of Snr. Counsel Ahmednasir.

**The Advocate for Wajir County Governor** (Mr. Ndegwa Njiru): Mr. Chairman, Sir, yes. I have picked what is necessary and left what will not be essential.

Thank you Members of the Committee and the honourable House for the time you have accorded us to defend and showcase for the Governor of Wajir County.

Mr. Chairman, Sir, we begin by inviting you to look at our submissions contained in our response and the cases contained there to insofar as the question of the threshold, the standard of proof and the nexus between the alleged offences and the works of the Governor.

Mr. Chairman, Sir, we invite you to look at the case of Governor Wambora, that is case no.37/eKLR. In that case, it placed the burden of proof on the part of the county assembly. When you retire to render yourself, the question then will be whether the county assembly has dispensed of with this burden of proof?

Then, it is also goes further to create the burden of proof and the standard of proof. It provides that the standard of proof, in the case of Governor Wambora Civil Appeal no.21 of 2014, the standard of proof is above the

balance of probability and not beyond reasonable doubt. It is there in the middle. The means that the question of the threshold of the burden of proof and the standard of proof cannot just be taken on a mere platter of balance of probability.

I urge you to look at the case of Muiyiwa Inakoju and 17 others. It is a Nigerian case. In that case, the Supreme Court of Nigeria observed that it is not a lawful or legitimate exercise of constitutional functions in any jurisdiction just to take impeachment lightly. Impeachment is a serious process, with serious political consequences on the person being impeached.

Mr. Chairman, Sir, it will call and ring bell that evidence was alleged that the First Lady was involved in the processes of the running of the affairs of the county government and the county assembly. Was there evidence tendered? Did it meet the standard of proof? Did it create nexus? The witnesses testified that they went for an informal meeting. How then do you convert an informal meeting and place it squarely within the County Government Acts? If they chose to go for the informal meetings, they did it in the frolic of their own. The Governor then cannot be held to account.

This committee has been urged to find the Governor culpable for offences or matters that have not been established beyond the required standard. For example, Senior Counsel is inviting you to look at the question of the purchase of the ambulances. The question is: were the ambulances purchased? Are they serving the people of Wajir County? Are we looking at the adequacy of the ambulances or the ability to have the same in position? What is the quantitative analysis that the County Assembly has given, so as



to come to a conclusion that the three ambulances purchased are not serving effectively the people of Wajir County?

Mr. Chairman, Sir, you have been invited to look at the issue of expenditure outside the budget. But, is there a cure? When you retire, and Senior Counsel having seriously misconstrued the provisions of Section 135 (1) of the County Appropriation Act and deliberately omitted to read a conjuncture of the word “or” that this legislature provided, and I would read-

“That a county government may spend money that has not been appropriated if the amount appropriated for any purpose under the County Appropriation Act is -

(1) Insufficient or a need has arisen for expenditure for purposes of which no amount has been appropriated by the Act.”

Why would the Senior Counsel deliberately choose to mislead this House? Why would he deliberately choose not to see this word ‘or.’ Was it by coincidence that this Parliament does legislation? No! It did this legislation purposively knowing that occasions may arise; in a situation like Wajir County, a seriously arid and semi-arid locality. When the county government realizes that the rains are just about to come, there may be no time for such kind of appropriation in a Bill. Why? There is urgency to harvest the little water that comes to the people of Wajir.

Is it that the County Assembly is insensitive of that occurrence? Have they demonstrated to us that they did or took steps towards addressing that need? Why should the Governor be punished for doing what is rightful to the people of Wajir County?

Mr. Chairman, Sir, evidence was tendered by the County Assembly to the effect that there are some alleged accounts, which no proof of their origin was tendered. We invite you to look at the case of Philomena Mwilu, Petition No.295 of 2018, and of most interest is Paragraph 226. It provides-

“Having found, however, that the Directorate of Criminal Investigation (DCI) illegally obtained evidence against the petitioner by gaining access to her accounts with this bank, through the use of a court order that had no bearing on her accounts, and having found that the DCI thereby misrepresented facts and misused the courts order, we have come to conclusion that the prosecution against the petitioner Philomena Mwilu cannot proceed.”

Why should this Committee admit such kind of documents? The County Assembly did not have even the courtesy of having the court orders. Is the case of Philomena Mwilu different from the case that we are facing? We submit, no.

Mr. Chairman, Sir, consequences must be taken against this action? Why should the County Assembly in its purview of allegedly providing oversight cross over to personal accounts? How about the rights to privacy?

As I sum up. There has been a case of *ugali*. The question is: was that purchase deserving? Is Senior Counsel representing the County Assembly trying to have a comparative study of commodities purchased in Nairobi and commodities purchased in Wajir, which is about 1,000 kilometers? Is the County Assembly saying that they are not cognizant of the market forces

and fluctuation of prices triggered by different factors, transport and distance being part of it? Can this Assembly close its eyes to such kind of factors?

Mr. Chairman, Sir, does hunger know any border? Does hunger know any law? Does hunger have any scintilla or iota element of decency? If it had, the defence of necessity available in Criminal Law would not then have been provided for. Necessity knows no border.

Does the Senior Counsel representing the County Assembly want to tell us that procurement procedures supersede the preservation of human right, dignity and life, which is the sanctity of human life under Article 26 of the Constitution? Does he want to tell us that we had to comprise the rights of the people so as to comply with the law? Was the law made for the people or were the people made for the law? Who burdens the other? Who is subject to the other? Does hunger know borders?

Mr. Chairman, Sir, on pending bills, it was submitted on oath that there is no legislation in this country that governs how pending bills ought to be administered. The question of pending bills is a policy provision. It is a policy directive. Can a Governor be punished for an issue that has not been legislated by this Parliament? The question is flagrant breach of the law. Where is that law that deals with the issues of pending bills? Why should the Governor carry the burden of an issue that has not been legislated?

Mr. Chairman, Sir, as I sum up, there is a miserable plea coming from the County Assembly; so miserable that you need to start aiding the county assembly in its work. That you should cease being a jury, arbiters, impartial;

cross over and go and start the works of investigation. To investigate these banks, why should you help them dispensing their burden of proof?

Mr. Chairman, Sir, if this Committee does that, what shall be our recourse? Who shall be the arbiter of this case? Can this Committee help to save the sinking ship? This ship is sinking. There is no anchor that can save this ship. The case is miserable, wanting and has no legs. There is no any element that has been brought out that can find the Governor culpable, unless the County Assembly wants to bring the doctrine of vicarious liability; that the Governor is vicarious liable for omissions.

Is it every omission or commission that amounts to gross misconduct? Is it every omission or commission that necessitates gross violation of the Constitution? What did this Committee find in the case of Gov. Waiguru? The similar facts of address of the County Assembly; what was the verdict? Was there an acquittal? Yes!

Where should there be a different finding? What did this Committee find in the case of Governor Waiguru's impeachment in matters of procurement? What did this Committee find in the case of Governor Waiguru in the issue of failure to remit the transport allowances? It was an acquittal? Why was there an acquittal? Because this Committee was alive to the fact that not every omission or commission that can necessitate an impeachment of the Governor. When you retire to render yourself, we invite you to look at Section 148 of the PFM Act, Section 149, 149(a), 123, 109(7) of the PFM

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Act. You may also look at Section 45(2), Section 135 and find the Governor not culpable. We plead that we set the bar high as it should be. Much obliged.

**The Chairperson** (Sen. Omogeni): Thank you. Is that all?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): There is still one more. Mr. Ndegwa Njiru has said all that I was going to say in my closing remarks. The Governor wishes to say a few words as he is the subject of this impeachment and will take up the rest of our time.

**The Chairperson** (Sen. Omogeni): How long will he take?

**The Advocate for Wajir County Governor** (Mr. Nyamodi): A few minutes.

**The Chairperson** (Sen. Omogeni): That is okay. Governor. Your legal team has donated time to you to make closing remarks. Wait they sanitize the microphone.

**The Governor of Wajir County** (Hon. (Amb.) Mahamud): Mr. Chairman, Sir, I take this opportunity to thank you and the entire Special Senate Committee for the quality time you presented to both my team and the

County Assembly. We are truly touched by the level of objectivity and the depth of discussions presided over by the Special Committee of the Senate. We are convinced that the verdict reached by your Committee when they retire to compile the report will be one that is credible and above board.

To my advocates and the key witnesses, I am contented with the solid defense you mounted against my impeachment. I am certain that the Committee will consider your submissions and make a commensurate decision in relation to each and every allegation you responded to. I appeal to the County Executive and the County Assembly of Wajir to work together and not be affected by this matter, on the consideration on my impeachment but instead give priority to service delivery.

Mr. Chairman, Sir, until the Senate communicates their decision on the impeachment, I implore the public and the county leaders to avoid statements and actions that are likely to raise temperatures unnecessarily and polarize the public further. I am aware that we are coming to the end of the tenure of the second generation of the county governments and we should therefore refrain from getting carried into political intrigues, but rather be objective and progressive at all times.

Finally, I thank you all for your patience and dedication towards the success of the two-day proceedings. Eid Mubarak and thank you all.

**The Chairperson** (Sen. Omogeni): Thank you, Governor. I believe that marks the end of this trial. I want to begin by extending our gratitude to the legal team led by my former chairman, Senior Counsel Ahmednassir and his team and to the legal team of His Excellency the Governor led by Counsel Nyamodi, Mr. Ndegwa Njiru and others for the way you have conducted yourselves during these proceedings. It has shown some professionalism and that is how it should be. We thank you.

It has been a tiring experience for the Senators who have had to sit in for the two consecutive days so I also want to thank you Hon. Senators for your patience and endurance during this period. I thank Hon. Members of County Assemblies (MCAs) from Wajir County who have invoked their Constitutional duty and obligation and opted to push for accountability from their Governor and also push for good utilization of public resources. This is how it should be and that is why we have the Senate to work with you to ensure there is accountability.

We want to give assurance that this Special Select Committee will be fair and will attempt to do justice without fear or favour. We shall now proceed to consider the evidence that has been tendered together with the submissions from the legal team. God willing, we should tender our report before the House on Monday, 17<sup>th</sup> May, 2021 at 2.30 p.m. We extend an invitation to the parties to attend if they so wish. Otherwise to our Muslim brothers, we wish you a good Eid Mubarak and we hope that you will join your families in the celebration after this fairly long trial.

Thank you, may God bless you and may God bless our country, Kenya. The proceedings are adjourned. Senators, we will convene tomorrow. If you want any clarification, we can meet at the lounge briefly. Thank you, ladies and gentlemen.

The Special Committee adjourned at 8.20 p.m.



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