

REPUBLIC OF KENYA



TWELFTH PARLIAMENT- FIFTH SESSION

COMMUNICATIONS FROM THE CHAIR

|No. 22 of 2021|

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

Honourable Senators,

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

Honourable Senators,

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

Honourable Senators,

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

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

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

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

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

Honourable Senators,

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

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

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

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

Honourable Senators,

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

Honourable Senators,

9. Impeachment is one of the most crucial oversight tools and roles for the Senate to hold state officers accountable. Therefore, in undertaking this mandate, the Senate will be sitting as a quasi-judicial body and will conduct investigations into disputed claims and alleged infractions of the Constitution and the law and will thereafter make its determination. In this regard, it shall be out of order, within the meaning of Standing Order 117, for any Senator to make comments, whether written or spoken, in relation to the conduct of the Governor or the impeachment process, outside the confines of the impeachment proceedings; as such comments may prejudice the just outcome of the process.

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

11. I thank you.

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

Thursday, 6th May, 2021