

Tuesday 28th March, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA

COUNTY ASSEMBLY OF SIAYA

THE HANSARD

Third Assembly - Second Session

Tuesday 28th March, 2023

The House met at the County Assembly Chamber at 2.30 p.m.

[The Speaker (Hon. George Okode) in the Chair]

PRAYER

COMMUNICATION FROM THE CHAIR

PROCEDURE FOR REMOVAL FROM OFFICE OF CECM

Hon. Speaker: Hon. Members I have Communication to make on the procedure to be followed upon tabling of the Report of the Select Committee and the Removal from office of the County Executive Committee Member, of the Department of Water, Sanitation, Environment, Climate Change and National Resource, Dr. Julie Caroline Phoebe Adhiambo Akinyi Onyango.

Hon. Members, you will recall that on Thursday the 16th of March, 2023, during its Afternoon sitting, the Assembly of Siaya adopted a Motion sponsored by Hon. Justus Oguta, MCA for West Uyoma Ward and supported by 41 Members of the County Assembly seeking to remove from office the CECM for Water, Environment, Climate Change and Natural Resources Dr. Julie.

The Motion was in line with Section 40 (2) of the County Governments Act 2012 which provides that, “A Member of the County Assembly supported by at least 1/3 of the Members of the County Assembly may propose a Motion requiring the Governor to dismiss a CECM on any of the following grounds:

Gross violation of the Constitution or any other law, incompetence, abuse of office, gross misconduct and if convicted of an offence punishable by imprisonment for at least 6 months.

In line with Section 43 of the County Governments Act 2012, read together with Standing Order number 73 of The County Assembly of Siaya Standing Orders, the County Assembly appointed a Select Committee comprising of 5 of its Members, to investigate into the allegations made in the Motion and report to the House, whether it finds the allegations in the

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particular report Substantiated. The Members of the Committee include: Hon. Otiato, Hon. Benard Adalla, Hon. Lorna Adida, Hon. Cynthia Akinyi and Hon. Brian Obiero.

Section 40 (5) of the County Government Act 2012, provides that if the Select Committee finds the allegations unsubstantiated no further proceedings shall be taken, or substantiated, the County Assembly shall vote whether to approve the resolution requiring the County Executive Member to be dismissed.

Standing Order number 73 (5) (6) and 74 (b) of the County Assembly Standing Orders provides that if a Select Committee reports that it finds the allegations unsubstantiated, no further proceedings shall be taken.

Wherever the Constitution or any other written laws or any of these Standing Orders requires the House to hear a person on grounds of removal from office, or in such serious circumstances, the House shall hear the person, the date and time to be determined by the Speaker, for a duration of not more than 2hrs or time the Speaker may in each case determine and in such other manner, order as the Speaker shall, in each case determine.

The person being removed shall be availed with the Report of the Select Committee together with any other evidence adduced and such notes or papers presented to the Committee before the day scheduled for her appearance before the Assembly

Hon. Members, the procedure that shall be adopted in processing this matter shall be as follows;

1. The Chairperson of the Select Committee – Hon. Francis Otiato, will shortly lay on the Table of the House the Report of the Select Committee on the Removal from Office of the County Executive Committee Member for the Department of Water, Sanitation, Environment, Climate Change and Natural Resource – Dr. Caroline Julie Phoebe Adhiambo Akinyi Onyango.
2. Once it is laid, no action will be taken on the Report. The County Assembly Sitting will be suspended for ten minutes in order to allow Members sometime to go through the Report.
3. This is so because at the point at which the Report will be laid, it is not yet known to the House, the procedure that shall be applied as guided by the provisions of Section 40 (5) of the County Governments Act, 2012, and Standing Order Number 73 (5) of the County Assembly Standing Orders.

Conclusions and/or recommendations contained in the Committee Report, will determine the procedure to be applied thereafter.

Hon. Members, after you shall have had the opportunity of perusing the Report and establishing the findings of the Select Committee, the County Assembly will reconvene.

In the event that the Select Committee reports that any particulars of the allegations have been substantiated, a Motion will be listed for consideration in a Supplementary Order Paper, which once prepared, will be circulated when we resume the Sitting.

The Motion will be moved and seconded, after which, the CEC Member – Dr. Julie Caroline Phoebe Adhiambo Akinyi Onyango, will be accorded an opportunity to be heard by herself or her advocate.

Debate will then ensue in the usual manner and at the conclusion thereof, the House will proceed to vote.

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In this regard, an invitation has been extended to the CEC Member – Dr. Julie Caroline Phoebe Adhiambo Akinyi Onyango, to be present at the County Assembly gallery during the consideration of this matter.

Hon Members, I wish to inform you that if the CEC Member chooses to exercise her right to appear and be heard by the County Assembly, she shall be heard in silence, here in the Chamber. The speech/defense of the CEC Member shall not be followed by any question or comment, and the Assembly shall, thereafter, immediately proceed to debate and vote on each allegation found to have been substantiated.

Hon. Members, in the event that the Select Committee finds that the allegations against the CEC Member have not been substantiated, there shall be no further proceedings on this matter. I will give further guidance on how to proceed thereafter.

The House Stands guided.

PAPER

REMOVAL FROM OFFICE OF CECM OF WATER

Hon. Speaker: Yes, Hon. Otiato.

Hon. Otiato: Thank you, Mr. Speaker. Allow me to table the Ad hoc Committee Report on the impeachment of the CEC Member of Water, Environment, Climate Change and Natural Resource.

Hon. Speaker: The report is properly laid, and as I had guided before Hon. Members, will you be upstanding for a quick adjournment.

(Debate adjourned to allow Members time to go through the Report)

(Debate resumed after 10 minutes)

Hon. Members, welcome back to the resumption of proceedings of this Sitting. I believe that you have had an opportunity to go through the Report of the Select Committee on the Removal from Office of the County Executive Committee Member for the Department of Water, Sanitation, Environment, Climate Change and Natural Resource – Dr. Caroline Julie Phoebe Adhiambo Akinyi Onyango.

As you may have noticed, the Committee has found the allegations on Gross violation of the Constitution or any other laws; Abuse of Office and Gross Misconduct to be **SUBSTANTIATED**.

In particular, the committee found THAT;

1. On the allegation of Failure to honor invitations and summons by a committee of the Assembly, the Select Committee, found the allegation to be **SUBSTANTIATED**.
The CEC Member was in breach of Article 183 (3) of the Constitution of Kenya,

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2010, Section 39 (2) of the County Governments Act, 2012, and Section 22 (1) and (2) of the County Assemblies Powers and Privileges Act, 2017.

2. On the allegation of harassment, mistreatments and intimidation of junior officers, the Committee found the allegations to be **SUBSTANTIATED**. The CEC Member violated the provisions of Article 232 (1) (a) of the Constitution of Kenya, 2010; and Sections; 11 (a), (b) and 34 (1) of the Leadership and Integrity Act, 2012.
3. On the allegation on Assault of a Female Member of the Public, the committee found that the conduct of the CEC Member during the alleged assault incident contravened the provisions Articles 73 (1) of the Constitution of Kenya, 2010; Section 144 (1) and (2) of the Water Act, 2016 and Sections: 7, 8, 9, 11 (b), and 13 (1) (b) of the Leadership and Integrity Act, 2012.

Consequently, Hon. Members, the procedure to be followed in this case is as I had prescribed earlier.

Hon. Members, you are reminded of my communication delivered last week on Thursday 23rd March, 2023, during the Afternoon Sitting of the House, that the 10 days within which the Select Committee was to conclude its investigations expired on Sunday 26th March, 2023.

Considering that House could not convene during the weekend, I directed that the Report be tabled before the House today, Tuesday 28th March, 2023, being the earliest Sitting of the House.

That being the case, a Supplementary Order Paper has been circulated. The Chairperson of the Select Committee – Hon. Francis Otiato will give Notice of Motion for the House to resolve that the Governor dismisses the County Executive Committee Member for the Department of Water, Sanitation, Environment, Climate Change and Natural Resource – Dr. Caroline Julie Phoebe Adhiambo Akinyi Onyango, the House will proceed to vote on the Motion. The House stands guided.

Hon. Members, the Supplementary Order Paper has been circulated. Next Order.

NOTICE OF MOTION

REMOVAL FROM OFFICE OF CECM OF WATER

Hon. Speaker: Yes, Hon. Otiato.

Hon. Otiato: Thank you, Mr. Speaker. I wish to give a Notice of Motion as follows.

THAT WHEREAS pursuant to Section 40 of the County Governments Act 2012, on Thursday 16th March, 2023, this Honorable Assembly approved a Motion proposing the removal from office, by impeachment, of Dr. Julie Caroline Phoebe Adhiambo Akinyi Onyango CECM for Department of Water Sanitation, Environment, Climate Change and Natural Resources.

And **WHEREAS** pursuant to section 40 (3) (a) of the County Governments Act, 2012, and Standing Order No. 73 (3) (a), the County Assembly of Siaya, by a resolution on Thursday 16th March, 2023 appointed a Select Committee comprising of five of its Members to investigate the matter on the proposed removal from office , by impeachment of the CECM for the Department of Water, Sanitation, Environment and Natural Resources and to report to the Assembly on whether it finds the particulars of the investigation substantiated.

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And **WHEREAS** pursuant to Section 40 (3) and (5) (b) of the County Governments Act and Standing Order No. 73 (3) (b), the Select Committee investigated the matter and tabled its Report today Tuesday 28th March, 2013.

And **WHEREAS** pursuant to Section 40 (3) and (5) (b) of the County Governments Act and Standing Order No. 73 (5) (b), the select Committee has determined that;

1. On the allegation of failure to honor invitations and summons by Committee of the Assembly, the Select Committee found the allegation to be **Substantiated**. The CEC Member was in breach of Article 183 (3) of the Constitution of Kenya, 2010, Section 39 (2) of the County Government Act 2012 and Section 22 (1) and (2) of the County Assemblies Powers and Privileges Act 2017.
2. On the allegations of mistreatment, harassment and Intimidation of junior officers, the Committee found the allegations to be substantiated. The CECM violated the provisions of Article 232(1) (a) of the Constitution of Kenya 2010; and Sections 11 (a) (b) and 34 (1) of the Leadership and Integrity Act 2012.
3. On the Allegation on assault of a female Member of the Public, the Committee found that the conduct of the CECM during the alleged assault incident contravened the provisions of Articles 73 (1) of the Constitution of Kenya 2010 and Section 144 (1) and (2) of the Water Act 2016, and Sections 7, 8, 9, 11 (b) and 13 (1) (b) of the Leadership and Integrity Act 2012.

NOW THEREFORE, pursuant to Section 40 (2) (a) (c) and (d) of the County Governments Act 2012 and Standing Orders number 73 (5) (b) and 74 (b) of the County Assembly of Siaya Standing Orders, the County assembly of Siaya after according the CECM for the department of Water, Sanitation, Environment, Climate Change and Natural Resources – Dr. Julie Caroline Phoebe Adhiambo Akinyi Onyango an opportunity to be heard;

Resolves to impeach the CEC Member for Department of Water, Sanitation, Environment, Climate Change and Natural Resources- Dr. Julie Caroline Phoebe Adhiambo Akinyi Onyango on grounds of Violation of the Constitution of Kenya 2010, and other laws; Abuse of office and Gross misconduct. Thank you.

MOTION

IMPEACHMENT OF CECM OF WATER

Hon. Otiato: Thank you, Mr. Speaker, Sir. Allow me to move the Motion as follows:

THAT, WHEREAS, pursuant to Section 40 of the County Governments Act 2012, on Thursday 16th March, 2023 the Assembly approved a Motion proposing the removal from office, by impeachment of Dr. Julie Caroline Phoebe Adhiambo Akinyi Onyango, CECM for Department of Water, Sanitation, Environment, Climate Change and Natural Resources; and

WHEREAS, pursuant to Section 40 (3) (a) of the County Governments Act, 2012, and Standing Order No. 73 (3) (a), the County Assembly of Siaya, by a resolution on Thursday 16th March, 2023 appointed a Select committee comprising five of its Members to investigate the matter on the proposed removal from office by impeachment, of the CECM for Department of

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Water, Sanitation, Environment and Natural Resources and to report to the Assembly, on whether it finds the particulars of the allegations to have been substantiated; and

WHEREAS, pursuant to Section 40 (3) (b) of the County (Supp. 016) Tuesday March 28, 2023 AT 2.30 p.m. (039) Governments Act, 2012 and Standing Order No. 73 (3) (b), the Select Committee investigated the matter and tabled its Report today, Tuesday 28th March, 2023; and

WHEREAS, pursuant to Section 40 (3) and (5) (b) of the County Governments Act and Standing Order No. 73 (5) (b), the Select Committee has determined that;

1. On the allegation of Failure to honor invitations and summons by a committee of the Assembly, the Select Committee, found the allegation to be substantiated.

The CEC Member was in breach of Article 183 (3) of the Constitution of Kenya, 2010, Section 39 (2) of the County Governments Act, 2012, and Section 22 (1) and (2) of the County Assemblies Powers and Privileges Act, 2017.

2. On the allegation of harassment, mistreatments and intimidation of junior officers, the Committee found the allegations to be substantiated. The CEC Member violated the provisions of Article 232 (1) (a) of the Constitution of Kenya, 2010; and Sections; 11 (a), (b) and 34 (1) of the Leadership and Integrity Act, 2012.

3. On the allegation on Assault of a Female Member of the Public, the committee found that the conduct of the CEC Member during the alleged assault incident contravened the provisions of Articles 73 (1) of the Constitution of Kenya, 2010; Section 144 (1) and (2) of the Water Act, 2016 and Sections: 7, 8, 9, 11 (b), and 13 (1) (b) of the Leadership and Integrity Act, 2012.

NOW THEREFORE, pursuant to Section 40 (2) (a), (c) and (d) of the County Governments Act, 2012 and Standing Orders Number 73 (5) (b) and 74 (b) of the County Assembly of Siaya Standing Orders, the County Assembly of Siaya, after according the CEC Member for the Department of Water, Sanitation, Environment, Climate Change and Natural Resources - Dr. Julie Caroline Phoebe Adhiambo Akinyi Onyango, an opportunity to be heard;

RESOLVES to impeach the CEC Member for the Department of Water, Sanitation, Environment, Climate Change and Natural Resources - Dr. Julie Caroline Phoebe Adhiambo Akinyi Onyango, on the grounds of Violation of the Constitution of Kenya 2010, and other laws; Abuse of Office and Gross Misconduct.

The Committee reviewed the content of the Motion as presented by Hon. Justus Oguta – Member of the County Assembly representing West Uyoma Ward

1. In line with Article 50 (2) (b) of the Constitution of Kenya, 2010, read together with Section 40 (4) of the County Governments Act, 2012; the Committee wrote a letter to the CEC Member – Dr. Julie Caroline P. Akinyi Onyango, bringing to her attention the content of the Motion seeking to remove her from office, and inviting her to appear before the Select committee.
2. In the letter the committee informed the CEC Member that she was at liberty to come before the committee personally or with representation.
3. The committee further informed her of her liberty to request the County Assembly for any information or document that she would rely on to build her defense.
4. The committee further informed her to submit any written response on the matter by Thursday 23rd March, 2023.

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5. In line with Article 196 of the Constitution of Kenya, 2010, the committee placed an advertisement on page 12 of the Standard Newspaper on Friday 24th March, 2023, calling on submission of Comments, Information and Memoranda on the removal from office of the CEC Member Water, Sanitation, Environment and Natural Resource.
6. The committee interrogated Hon. Justus Oguta, Member of the County Assembly representing West Uyoma Ward, who was the mover of the Motion.
7. The committee heard the defense of the CEC Member, which she presented under oath in the company of Mr. Oduol Aluoch, who was the advocate representing her on the matter.
8. The committee heard and considered the testimony of Mr. Henry Juma – Director, County Government of Siaya, who testified under oath, and was cross-examined by Mr. Oduol Aluoch on 24th March, 2023.
9. The committee heard and considered the testimony of Benter Akoth Obondo, the lady who was assaulted, which was presented under oath.
10. The committee then retreated to prepare its report on the matter before it.
11. The Committee submitted its Report to The Speaker of the County Assembly of Siaya on Sunday 26th March, 2023.

Mr. Speaker, Sir, our report is fully detailed and I think every member now has it and we shall also be able to share it so that any other interested party can get it to know the content.

Due to limited time, I would want to limit myself to those particular accounts, in short just to give a bit of what the Committee did.

For the first offense that is on gross violation of the Constitution and other relevant laws, we looked under Powers and Privileges particularly in relation to her failure to appear before the House because Section 22 of the County Assemblies Powers and Privileges Act, 2017 opines that;

22. Duty of public officers to give evidence;

- (1) No public officer shall refuse to produce before a county assembly or a committee any paper, book, record or document.
- (2) Any county public officer who contravenes sub-section (1) commits an offence.
- (3) Where a county assembly passes a resolution that a county public officer has contravened subsection (1), the resolution of the county assembly shall constitute a ground for removal from office of the county public officer in accordance with the Constitution or any applicable law.

Therefore, by failing alone the law says that our findings form the basis for removal. Did the CECM fail to appear or fail to come to the Assembly?

On our interrogations, that the Assembly Vide a letter dated 9th January, 2023, the CEC Member for Water, Sanitations, Environment, Natural Resources and Climate Change and the CEC Member for Roads and Public Works were both invited to a meeting scheduled on 12th January, 2023.

She admitted before us on oath that for sure, she received the letter but she had an official engagement in Nakuru and having consulted with the County Secretary, she was informed that invite of the Assembly takes precedence to any other responsibility that she was having. In short, she was then advised not to go to any other function other than the Assembly one.

On 11th according to her, she claims to have then decided to attend the Assembly meeting only to have a toothache attack in the night and could not attend the meeting. However, the

illness only lasted until the meeting was over that she got back to work when the meeting was done.

We made it known to her that the only way to confirm that she was sick by that time is to present to us where she attended the hospital because you cannot be sick and just sleep in the house to heal. So we demanded for a document to show that she was sick but the CECM could not provide any, however, she said that she opted to use traditional method instead and she got well even able to report to work at around 1.40 p.m. way when the meeting was over.

On that basis, the Committee found that the justification for her in the absence of any document to support her sickness then the Committee could not be convinced that she was actually sick and as such, we found that she refused to attend the Committee meeting and even leaving an official duty to attend the meeting.

That is not enough. There is a second letter written on 17th and mark you on this first meeting the key issue under investigation was a procurement process, how the procurement for the department was to be done on cluster and related matters and you are aware that during this time is when the County departments were doing procurement.

The CECM claims to have sent a technical staff to handle that matter on her behalf while she is the one responsible and going by our findings she refused to come.

On 17th another letter was written to summon her to the House so that she could listen to what the Committee had to say but when the Committee reached out to her she said that she received the letter on 18th the day she was to appear before the Committee and appeared at around 4p.m. when the meeting was over.

The chairman of Water Committee then on a resolution from a Committee meeting opted to go physically to consult with the CECM so that they could agree on possible day that she could be available to face the House. This was a desperate move by the chair to ensure that they can have a communication with her and the chair went ahead to even produce a copy of the visitor's book to show that he indeed visited the office.

The CECM actually confirmed that the chair was in her office and they agreed that within a week she would notify the Committee when she would be available to appear before them. Therefore, we conclude that it is now the Committee that is under the mercy of the CECM that she decides when she can meet the Committee.

It is because of this that the chair water decided to move a motion because all his attempts went unanswered up to date and there is no other communication as to when she is available or interested to meet the Committee.

We enquired from her given that it was now over 3 months and we had passed resolutions like CFSP,ADP and now CIDP which is about to be passed plus the development plan for the next 5 years.

Therefore, we did enquire from her whether since she took over the office if she has made any effort to meet the Select Committee that is supposed to spearhead the departmental interest, which is the water Committee, and she said she has not. So we asked how then she wanted to work for the next 5 years if her aspirations as a department cannot be captured and the relevant committee has no idea on how they are operating.

She was not able to go further into that discussion, and on our findings we concluded that the particular CECM was not interested in meeting the select Committee on Water and

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Sanitation and indeed we found the allegations from the Chairman of the committee substantiated.

On the second line, under gross violation, we had an issue of lying under oath where we were discussing about the authenticity of documents which were presented by *Waziri* during her time of interview, the references and so on but I want to report before this House that the counsel for *Waziri* did tell us that a similar matter is being prosecuted in court for all other *Waziris* and as such he considered it a matter *sub judice*.

On our search on actual matters before court, we rendered the matter *sub judice* and therefore never tackled it.

The other account was abuse of office and this was in relation to how *Waziri* was talking to some of the junior officers. I want to talk about those that we did cross examine but I want to report to the House that we got a witness.

One was her driver; the second witness was driver number 2 who went on a rescue mission to take *Waziri* to another meeting in Nakuru.

The other witness was an Administrator of the department. Then we had a Director of the Department. I will not belabor much on the others but I will talk about this particular one case of Director Juma who told us on his point of discussion because then the question was that *how did the conduct of Waziri make you feel intimidated* and I want to read something verbatim.

He told us how they have related on when there was an issue about the department when they appeared before the Committee on Budget and there were questions after them presenting their documents.

The major issue was on the thinking from *Waziri's* side that the Committee on Budget deliberately removed projects from the department. When the Chairman Budget did ask whether that particular issue was in ADP or CFSP or what before it was included in the Budget she consulted with the Director Juma and he said he was not aware unless he confirmed.

That statement never went well with *Waziri* and she made the following statement, "I am not going to work with mediocre people like you! How can you not know answers to such simple questions? We must get mediocre people like you out of service using all means."

I am told this was done in a public hotel where everybody was seated in a restaurant. It was noisy and messy at that particular time. Mr. Juma then opted to seek redress from the County Secretary and quoting verbatim from Mr. Juma, the CS said, "While you are seeking an appointment with me but the matter you want us to discuss I know of it but the person we are to discuss these issues about, understand her, she has a mental issue"

Mr. Juma left the case that she has a mental issue. When he saw the advert on the removal and the Assembly was requesting for any other memoranda, he opted to come and present his case to this House so that he can be helped because according to him from that day to date they have not had a good working relationship.

We asked him whether the kind of pronouncements have affected their working relations because that is the bigger thing we were looking at and for sure he confirmed that. That was done by other members on other areas but we would not want to put it here but again for the purpose that it is not on the report but we will not want to discuss some of them here. They are very good stories anyway.

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On the issue of assault of a female member of the public, *Waziri* was on her official duty. They went somewhere. According to her, they found some people stealing water and they acted. On their action, there is a complaint of a woman having been assaulted, caned properly, and beaten! She came here with torn skirt! She had cane marks on her back.

She was carrying the sticks that these people were using to beat her. She made her story very clear on how after seeing a group of people coming to the compound in an unmarked car and they started slapping the ladies they were with, she ran and hid under the bed. She was pulled from under the bed before the beatings started.

The story then proceeded by the fact that the lady was later left on the intervention of the members of the public. We have the videos which were running. Some of them were presented. The lady presented us with the video, when *Waziri* came we asked her to also provide us with any document that she was having. She corroborated the videos that we were having by her also sharing with us her videos confirming the incident.

Therefore we found that for sure, in that particular home in Nyamira, *Waziri* was in charge of that operation. In terms of chain of command when a Director SIBO and *Waziri* is there commandeering the vehicle then she was the one in charge.

It ended up that when the lady was left she went to the hospital for treatment. While at hospital the SIBO Management went and picked some police officers and made a report and came to effect arrest.

They found a young daughter if this lady, the daughter was arrested and taken to police custody slept there overnight and was later released uncharged.

In all these, there are two things. We see an offence committed. The wrong has been committed in two aspects. There is criminal which is being investigated by Bondo Police Station. Personally or as a committee, we didn't want to belabor more on the criminal angle that is under the jurisdiction of the police, we looked at the public officer, Ethics and Integrity Act and whether it was violated or not.

Therefore in our scope we limited ourselves to that and leaving the issue of the P3, the report at the police station and outside for the police station to deal with. I do report that for sure for the committee we realized that when asked that the matter was reported at Bondo Police Station a medication was done, a P3 is filled and they are proceeding with their investigation.

What did we find on our line of interest which is Ethics and Integrity? The CECM has no powers to arrest, assault, search a private home and ordinarily what we expected in the normal standards of operation that possibly having gotten that there is somebody who is stealing water then they ought to have gone to the police station, report the matter, come with police officers to arrest this member of the public.

What did they do? From their own volition because they have seen people walk into the compound, according to them people are fetching water. She goes in alone with the team and gets into the compound and start picking up evidence where they carried all the jerry cans.

They were pouring water down from the house. They are roughing up people. There is a lot of noise that in fact from the videos the public is now coming in to rescue this lady.

Then we asked when she was seated here, that you went to somebody's house and found water in jerry cans, you decided to pour them out and carried the jerry cans, were you collecting this as evidence? Are you authorized to collect evidence from any scene? Are you an

investigating officer? So *Waziri* and her team had no powers to confiscate property of this particular woman whether an offence was committed or not.

Interestingly we asked where the water was coming from, she said it was coming from some hose pipe that was being used to collect water from a point. We asked if she had that hosepipe and she said no. So what evidence do you have?

Do you have a picture where the water was coming from? She said no! You only have a picture you are presenting to us on *vibuyus* that you have seen in the compound. That is the evidence you are presenting for somebody stealing water.

This lady is claiming that just 100 meters from her house there is somebody with a borehole and she has been going there to fetch the water and that this particular water line that is being claimed to have been used is still locked and the lady was able to present to us those photos of that particular area with locks from SIBO that water cannot come out from that particular point.

There was no evidence of flowing water or even a video of flowing water or anything that was being used to fetch that water then the allegations of stealing water according to us could not be sustained if at all she was supposed to use that as a case.

Even if the lady, Benter, was stealing water, I didn't expect, or it is irrational for you to attack such a person. Even police officers are not allowed to beat anybody. She claims not to be part of the people and she was aware. She never even saw anybody being assaulted but there are complaints from members of the public. Then we told her, "Well you didn't assault, you don't even know whether somebody was beaten as you claim but now you went there and there is that video showing some violent engagements."

According to some of the witnesses they already had mounted stones to burn that vehicle because they were saying, the only thing that was blocking SIBO and the rest from carrying this lady was that they had beaten her enough. *Hata kama alikosa*, the punishment is enough. You are not going with her anywhere.

On that angle, *Waziri* was not the right person to do the kind of activities that they did. Well, she said that she never effected the arrest, she was not the one beating, she never saw anybody who was beating anybody in that compound but this is the case from the other side.

For now, it is a matter under investigation by the police station to continue digging deep. Ours found that her actions were not within the law. By commandeering those particular officers from SIBO that they were going together and they went to that particular home, carried properties of this particular person without a search warrant, without anything, just acting on their own volition. They violated the law.

As such, we found that her acts were in violation of the law but when you read we have written there, "assault of a female by public officers" we did picture the way it was mentioned in the Motion but redefined it when doing our findings and shaped it to fit what we were looking for.

In all those we then found that *Waziri* was truly in violation of the law and the Constitution. She abused the law and was guilty as charged on both issues of failure to honour invitation then harassment of the officers.

On the charge of assault of female member of the public we found that her acts were not in line with the law. I want to rest my case there and do ask Hon. Cynthia to second.

Hon. Akinyi: I second.

(Question proposed)

Hon. Speaker: And whereas pursuant to section 40 (3) and (5) (b) of the County Governments Act and Standing Orders no. 73 (5) (b) the Select Committee determined that;

On the allegations of failure to honor invitations and summons by a Committee of the Assembly, the Select Committee found the allegation to be substantiated.

The CEC Member was in breach of Article 183 (3) of the Constitution of Kenya, 2010, section 39 (2) of the County Governments Act, 2012 and section 22 (I) and (2) of the County Assemblies Powers and Privileges Act, 2017.

On allegations of harassment, mistreatment and information of junior officers, the Committee found the allegations to be substantiated. The CEC Member violated the provisions of Article 232 (1) (a) of the Constitution of Kenya, 2010; and sections; 11 (a), (b) and 34 (1) of the leadership and Integrity Act, 2012.

On the allegation on assault of a female member of the public, the Committee found that the conduct of the CEC Member during the alleged assault incident contravened the provisions of Articles 73 (1) of Constitution of Kenya, 2010; section 144 (1) and (2) of the Water Act, 2016 and sections 7,8,9,11 (b) and 13 (1) (b) of the Leadership and Integrity Act, 2012.

Now therefore, pursuant to section 40 (2) (a), (c) and (d) of the County Governments Act, 2012 and Standing Orders No. 73 (5) (b) and 74 (b) and 74 (b) of the County Assembly of Siaya Standing Orders, the County Assembly of Siaya, after according the CEC Member for the Department of Water, Sanitation, Environment, Climate Change and Natural Resources – Dr. Julie Caroline Phoebe Adhiambo Akinyi Onyango, on the grounds of violation of the Constitution of Kenya 2010, and other laws; abuse of office and gross misconduct.

At this point Members I want to call upon the CEC Member to come and give her defense before the Plenary.

Serjeant- at- Arms will you kindly aid her in coming in and Clerks would you find out why the CEC Member is not coming in so that we can take appropriate action. Kindly, communicate to Dr. Julie that we shall proceed without reference to her. She needs to come and whatever proposal she has let her come and make it here.

(Dr. Julie appears before the Members)

Hon. Speaker: Dr. Julie you are given a chance to come and defend yourself or have a word in the Plenary and as you do that I want to bring it to the attention of this Sitting that the County Assembly is in receipt of communication from Mr. Oduol Ochal.

I want to believe he is acting under your instructions; you will confirm which is addressed to the Clerk. Is requesting to be supplied with the following documents. The letter

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reads; to the Clerk, attention the Ad hoc Committee Water, Sanitation Environment Climate Change and Natural Resources...

I want to believe that is the Ad hoc Committee and the Committee on Water request to be supplied with the following documents the above caption refers; kindly but promptly supply us with the above under listed documents;

The Hansard proceedings of the County Assembly for 16th March, 2023 adopting a Motion to remove from office the CEC Member for Water, Sanitation Environment Climate Change and Natural Resources,

Hansard proceedings of the County Assembly for the 24th March, 2023 for the hearing of the Motion to remove from office the CEC Member for Water, Sanitation Environment Climate Change and Natural Resources,

Hansard proceedings of the County Assembly for the 28th March, 2023 for the hearing and adoption to remove from office the CEC Member for Water, Sanitation Environment Climate Change and Natural Resources,

Signed Hansard proceedings from the Selection and formation with Ad hoc Committee to hear the Motion to remove from office the CEC Member for Water, Sanitation Environment Climate Change and Natural Resources.

Signed witness statements of the witnesses who appeared in these proceedings to remove from office the CEC Member for Water, Sanitation Environment Climate Change and Natural Resources.

We intend to use the proceedings to mount a Constitutional petition; for the reason request that you expedite the process to avail the aforementioned documents. 'Waziri' may I find out from you if this letter has been done with your consent?

mDr. Julie: I gave 'Wakili' consent to represent me from the onset so he is in charge.

Hon. Speaker: With this kind of documentation you require you still want us to proceed?

Dr. Julie: Yes, proceed!

Hon. Speaker: The Floor is yours.

Dr. Julie: I will allow 'Wakili' to take over, thank you.

Hon. Speaker: 'Wakili,'introduce yourself then proceed.

Mr. Oduol Aluoch: To the Speaker and Members of County Assembly present; Good afternoon! My name is Oduol Aluoch. I am the counsel for the CEC Member for Water, Sanitation Environment Climate Change and Natural Resources. It is my pleasure to briefly present before you our rebuttal to the allegations that have been presented before the County Assembly.

This is what we wish to state; Mr. Speaker and Hon. Members of the Assembly; it is a common knowledge in Kenya that our society is bloated with politics and there is a growing popularity between the CEC Members that constitute the Governors, the CECM themselves, the Deputy Governors and this might undermine the object of the Constitution on Devolution at various stages.

The question that I wish to pose before this Assembly and before the Hon Members of this House is whether the powers of County Assembly to impeach the County Executive Committee Members can constitute a sword that might debacle members or undermine their democratic governance and muscle kill Devolution.

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The answer is yes, as regards the present Motion before the Assembly I wish to submit on the right to fair trial and this Mr. Speaker and Hon, Members I make reference to Article (25) (c) of the Constitution of Kenya and in line with the right to fair trial which is non alienable.

This right cannot be limited whatsoever and by this I mean even if you have been found to have done an offense this right cannot be limited or curtailed in whichever way. The Mover of the Motion alluded to Article (52) (g) stating that the CEC Member had the right to choose to be represented by an advocate of her choice, to be informed of the charge against her and with sufficient detail to warrant her and afford her an opportunity to be heard and to answer to the charge.

We did submit before the Ad hoc Committee and we did demonstrate why in our view the right to fair trial was never afforded to the CEC Member for Water, Sanitation Environment Climate Change and Natural Resources and this in line with Article 50 of the Constitution and it will come out clearly that as counsel for the CEC Member of Water we were never allowed to cross examine one of the witnesses on the alleged issues of Assault.

Nonetheless the witness proceeded to give her testimony and her testimony has been used and now what forms the core of the allegations that have been termed as substantiated. The witness statements or the testimonies of the witnesses who testified before the Select Committee were never supplied to the CEC Member in advance to enable her mount her defense and answer to the charge against her.

Have reasonable access to the evidence to be used against her and that the manner in which the evidence was obtained violated the rights and the fundamental freedoms of the CEC Member for Water and we humbly pray that may this House consider that fact.

The case for the CEC member of Water turned out to be a case for her to prepare for the Committee. It was evident and we questioned why the ground for removal being an assault on a female member of the public of the day of hearing was reduced now to be investigating the conduct of the member from the day of the alleged offense.

It was turned now from assault whereas that was the ground and turned to be now the conduct and the CEC Member denied the right to challenge that oral evidence as adduced by the witness on account that they were now investigating the conduct and not the assault.

The photographic evidence relied upon by the Committee being the video was never supplied to the CEC Member in advance and as a matter of fact the CEC Member supplied the Committee with video evidence.

This was not in line with right to fair hearing which we have indicated is non alienable. The CEC member for Water impresses upon you as an Assembly to exercise extreme objectivity and adherence to the principals of fair administrative justice.

For this we say so but extreme objectivity ought to be adhered to for the reason that the Motion is by a Member of the Water Committee and this we say so because when a Motion to remove a member of the Executive Committee is not based on complaints from members of public, you will realize that the Motion was moved by a Member of the County Assembly not complaint made from members of the public.

This is why we say consider this with great caution to avoid lynching the CEC Member and this we say so because the Assembly operates like a quasi-judicial tribunal and whenever it's conducting its business the way it's doing and more so under section (42) (43) of the County

Governments Act it ought to observe the law and the principles of fair hearing as these are the bedrock of any democratic society.

There was indication that the CEC Member grossly violated the Constitution; as you resort to make a determination on this issue we wish to humbly ask you look into the allegations that have been stated as gross violation of the Constitution.

Consider whether they are so serious substantial and weighty to destabilize the entire office and County operations. Consider whether the Governor himself has made allegations of gross violation of the Constitution for the reason that the CEC Member is appointed by the Governor and equally there exist an opportunity for her removal by the Governor which in this case is not the route chosen.

Consider whether those allegations have that degree of precision claim to have been grossly violated. It is our submission that the allegations are supplied to the CEC Member for water had no clear particulars of the alleged gross violation of the Constitution.

The particulars were not substantiated, the evidence that were adduced before the Committee fell short of the standard to warrant the removal of a CEC member. Consider in determining whether the alleged gross violation of the Constitution would beat the test to remove a Governor from office for the simple reason that the County Executive comprises of the individuals aforementioned and therefore the test to remove each one of them is slightly higher than the balance of probabilities but lower on the proof beyond reasonable doubt.

The allegations laid to remove the CEC Member for Water from office would they suffice to impeach the Governor today? Consider that as you make a determination. Do they warrant destabilizing the office? Consider that. Mr. Speaker, Sir and Hon. Members.

We beseech you further to find out whether demotion and the entire process adhered to laid down clear procedures within the County Government Act as provided whether the ground as alleged constitute to that we term as the gross violation of the Constitution as put forward by the Mover of the Motion.

As I conclude, Hon. Members and the Hon. Speaker, we beseech and humbly urge you to weigh the scales of justice vis a vis the principles of good governance and devolution as to whether the removal of the CEC Member for Water is in the best interest of the public and there exists no other remedy to rectify or make good the issues alleged against her.

As we end, we pray that you find that the Motion as moved was bereft of merit and the grounds do not meet the test to warrant the removal of a County Executive Member. Thank you.

Hon. Speaker: Julie, do you have anything to add or your counsel has spoken on your behalf?

Hon. Julie: Nothing to add, Mr. Speaker.

Hon. Speaker: Thank you, then I will ask you to withdraw from the Chamber as we resume our debates. In case they want to follow proceedings, you can have them get seated at the Speaker's Gallery or the Public Gallery.

We have resumed our debates, Hon. Members, I will ask for contributions and if there are no contributions I will put the question.

Hon. Baraka: Thank you very much, Mr. Speaker, for having given me this chance to contribute to this Motion. I don't want to believe that what was done by the Ad hoc Committee

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does not meet the merit. I have heard from the counsel who is trying to advise us on how we should react on this Motion by saying it does not meet the merit.

I want to say that the law is like a two edged sword. At a point one may think that he or she needs to be favored... what we need to ask ourselves, what about the member of the public who was affected.

If I am not wrong, I want to say that this Motion is not only based on one issue of assault. If you are very keen and I want to quote Hon. Otiato, he said that at a particular point, when there was an issue with Director, he sought help from the County Secretary who in turn told him that he is aware of what he wanted them to discuss but he needed to know that the lady has a mental problem.

Therefore I want to ask this House and question, is it right to have someone in office that is having a mental problem to serve in a public office? This one takes me to the next question, I want to urge this House, next time when we are vetting any individual, we need to bring medics in this House so that we can ascertain that

(Applause)

anybody who is going to hold a public office is not having a mental problem. However, I want to say that this Motion is for the interest of the public.

I want to ask this question, whose responsibility is it to ensure that the people of Siaya County have water connectivity? In my view I think, if you found out that someone has connected water illegally then it should be the responsibility of the County Government to ensure that that water is connected legally so that the person can be paying for the water. It is our responsibility because we are elected, this County Government needs to serve the common person.

If the common mwanainchi is willing to pay for the water, why then can't we connect? So it means that the County Government itself has failed in ensuring that even those people who can access the lines can still not get that water.

We are losing a lot of money that could in turn be used to improve in our revenue because somebody is sleeping on the job. Instead of ensuring that we have water connectivity, we are busy fighting the people who are helping us to connect the water.

I was surprised by the angle which my learned friend counsel was trying to bring into the House, the counsel is a good friend of mine, at one point he represented me in a case, sometime back, I won that case but as pertaining today's, they are going to lose.

(Loud consultation)

I want to say it here that these people that were affected are the people who voted for us and we must protect the common mwanainchi. If it is true as alleged by the report, that even the

members of that department have been at one point undermined then I beg to support this Motion so that at least anybody who is bearing the public office needs to know that we are servants of the people.

We are not put there to bring more problems to the people and therefore without taking much time because I know other Members are also going to contribute, I want to tell the Ad hoc Committee that in my perception as a learned friend, you did a very good work.

Hon. Otiato is a former police officer, he cannot do an investigation that is one sided and therefore I want to say that this one is home and dry. I support this Motion, thank you very much.

Hon. Onguru: Thank you, Hon. Speaker. I arise to support the impeachment Motion of the CECM for Water, Sanitation, Environment and Natural Resources. I don't want to dwell on what the counsel of the CECM was trying to use but I want to talk on our mandate as an Assembly.

We have a role as a House and we are a House of rules. We created these sectoral Committees to keep check on the CECM when they are discharging their mandate and equally put the County Government Executive wing on check for service delivery to the people of Siaya County.

CECM for Water Dr. Julie, many names, had been invited by the Committee of the House and the rules of this House are very clear, when you fail to appear before this Committee, the best we can do is to summon you and take you home that is our mandate.

If you cannot report to us as a House and reply to the demands or the needs of people who we represent in the House then you are not worth to be in the office. You did not get that office because you are learned! You know some of them think because they have a lot of degrees and some degrees cannot be proved how they acquired, they think that we MCAs are stupid, we are not learned or we don't know what we are doing. They think that because they have assumed the office, they are superior.

It is not the Governor who is their employer, it is the people of Siaya who mandated us the power to represent them in this Assembly who are their employer. The reason I support the impeachment Motion against Dr. Julie, is failure to honor the Committee invitation. And even failure when the Committee Chairman took his time to go and talk to her, the kind of arrogance shows that she is not fit.

From the testimony of Director of Water, Mr. Henry Juma, the reply that Mr. Juma got from the County Secretary "I have already known the issue you are reporting to me but you must understand the CECM is mentally ill". What does the Constitution of Kenya say about an office holder?

Are we allowing a mentally challenged person to be in office? And I think she is mentally challenged because the kind of video and how she was reacting in West Sakwa, where they went to check on the issue of illegal connection, shows that she is mentally ill. That is not the work of a CECM. Why do we have SIBO? Why do we have the Director of SIBO even the management of team who does the ground work?

If you can tell off a Director in your department, that he is a mediocre, someone you want to help you deliver to the people! You have already had an opinion about him, are we going to do service to our people?

The counsel for the CECM challenging our mandate and how we can originate an impeachment Motion on a CECM! They based their argument that it was not right simply because the Motion was brought before this House by the Chairman or a Member of the Water who is our immediate link.

Like they say, if a hippopotamus comes from the Lake and says the crocodile is sick, you have to believe the hippopotamus that truly the crocodile is sick. To know what is happening on the Department of Water, we rely on the Committee of Water. So if they tell us that the CECM is not fit to continue serving the County of Siaya, we believe them and we support the Motion. Thank you.

Hon. Osewe: Thank you, Mr. Speaker. I also feel my voice must be heard on this case because the member of the public assaulted not only comes from my Ward Sakwa West but also a few meters from my home.

My home is a protected area, a respected one where one of the most respectable men in Kenya is laid or was laid to rest. I want to support the impeachment Motion against Julie Phoebe Onyango, I can't just afford to call her doctor because the way she behaved on this particular day, someone with a title of a doctor couldn't have behaved that way.

I want to confirm to the Hon. House that the lady Julie is very arrogant, pompous, full of herself, above or on top of the world and very cruel. On this particular day, I was out in Nairobi, at around midnight, my phone rang, a man called and pleaded with me or rather asked me "mama where are you? We are in trouble here, one of your own ladies is beaten up and is locked up at the police station. We want you to go to the police station and have this lady released".

Since I was out in Nairobi, there was very little I could do. The next morning I called the police station and spoke to the Deputy OCS. She confirmed to me that there was a lady arrested by the names I told her and the lady was still in cells and the only person who could have this lady released is the complainant who is Dr. Julie.

Because I know Dr. Julie, and I have her number, I called her, she answered my call. I asked her of what happened the previous day. She confirmed to me that she went to that home and found out that water was being stolen.

She also confirmed that it is true that the lady was arrested and she was in police cell. I pleaded with her, "You are a woman like me and this is why we support women, please I am far away in Nairobi and this is my Ward and this is next to my home Nyamira, please have this girl released."

She told me, "Min. Bondo, don't be stupid, I cannot have this girl released, it is you who is encouraging them to steal water!" So I went on pleading with her, she told me what I have told you is final then she hung the phone on me. I went ahead and called one of her friends whom I am not going to mention his name, he told me he is going to talk to her.

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In about 30 minutes, the friend called me back and told me Julie has refused. So I came back from Nairobi, I went to Nyamira and it was sad.

This is not the first time Julie was telling me to stop being stupid. Remember I was the Vice Chair on Committee of Appointments, after we vetted them and she went through, I called Julie to congratulate her as a fellow woman. But Julie told me over the phone that, “Min. Bondo, don’t try to congratulate me on stupid matters.” I wish she was here.

“Don’t talk to me or don’t remind me of that unprofessional Committee on Appointment.” Then I asked her, “My friend, have you forgotten I was the Vice Chair of that Committee?” She hung the phone on me.

So Hon. Members, as much as I support fellow women, as much as I am always kind to fellow women, I can’t just afford to be lenient on this one. We are not just here to legislate or to bring development to our Wards but we are here also to protect the people who elected us. This case has been paining me, I was so confused and I never knew what to do, then I reported the matter to Chair, Committee on Water. Thank you very much Chair, Committee on Water. Thank you very much Chair of the 5 member committee investigating the matter.

It is my wish, I am even shocked and surprised that today she can afford to be humble and request us to be humble on her. As much as I am a Christian and I represent women or have a soft spot for women, I think we must protect the people we represent in Siaya County. We can’t just afford to have a mad person as a Minister.

It is my sincere hope, wish and prayer that at the end of this case whether it will reach Hague, that the victims whom she engineered their assault or abuse will have their justice. I support, Ms Julie to be impeached. I support the Motion. Thank you.

Hon. Speaker: Yes Hon. Fredrick Omoro, Member for East Ugenya.

Hon. Omoro: Thank you, Mr. Speaker, Sir. I stand to support the Motion by first of all saying that water is an essential commodity that is used for both domestic and commercial uses and should be treated with a lot of caution.

The Motion before us is a very weighty one and should never be taken for granted in spite of the fact that the counsel has also shed some light pertaining to his professional background. We are a House of rules and regulations and we acted within the norms, rules and regulations of the county government and the Constitution 2010.

The Constitution 2010 provides that the citizen can act or can carry out the law directly or indirectly. This can be done through their elected representatives like the MCAs or they can do it themselves in the normal way like you can see whatever is going round now. When there is something nasty, something that is jittery that the *Wananchi* are not happy about, then they can go on to the streets and demonstrate.

This was to some extent...in fact they started it then later on they followed some laws because the Wananchi of West Sakwa became rowdy and even some were almost stoning the vehicle that was being used by the CECM Water.

To some extent they deemed it fit to follow a cause and through their representative, you have heard Hon. Osewe saying that this was a core matter that she also did phone calls to that effect, talking to that lady the CECM to at least cool down so that it is amicably resolved but it was in vain.

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Through their representative Hon. Osewe who brought this issue to the Chair Water, Hon. Justus Oguta then with that procedure the issue was brought to the Assembly and through a resolution of the House we saw it wise to constitute a select committee. These actions were not just done haphazardly as somebody may come to convince us.

We also have some other parts to explain which should equally be heard through the due process that culminated into this.

If as a House you have taken a ground and not just a ground based on the constitutional merit of our Constitution 2010 and in fact the Assembly acted in accordance with Article 183 of the Constitution of Kenya and Section 39(2) of the County Governments Act 2012.

I don't think it has just been done without following any course of law. I think we are in the right channel and we should continue in our endeavours to make sure that we bring justice in Siaya, whether it would mean impeaching the highest ranking officers.

Somebody was trying to convince us that it is a procedure that when it comes to that would we dare to maybe impeach a high ranking officer in the County Government? It doesn't matter. Let us put things straight and call a spade a spade not a big spoon.

The *Waziri* failing to honour invites by the committee was a gross violation of our Assembly code of conduct. We don't know how somebody would want to put it but that is how we proceed. If you are given the first, second and third invite and you don't honour, that was in breach of the law.

The harassment and intimidation of the junior officers to the extent that you find that in the corridor somebody was even ready to come and testify for free, then the demeaning manner in which his CECM Dr. July Caroline Onyango handled him is real. For this case we want to ensure that there is enough clean drinking portable water in Siaya.

If the Director, the person who is in charge of making sure that a lot of BQs are done, a lot of processes are done to make sure that we deliver water as an essential resource.

If they cannot see eye to eye with the Director with demeaning names like mediocre and those other names that are uncouth and should never be uttered by somebody who calls herself a professional, a doctor. A person whom we vetted here just on some other conditions so that Siaya would move forward.

The alleged assault of the lady Benta Akoth, the CECM contravened the law by acting as the arresting officer, the investigator and she acted as if she was above the law. I don't see the reasonable cause as to why we should relent and lend our ears and relent that maybe just help us do this. Kindly just give us a second chance.

It is also evident that when they went for that lady, they confiscated what they found there, they rummaged the house. That was not enough. They later on came and arrested the daughter to this lady. Was that in order? If you have frustrated the mother properly to the extent of caning which is not allowed and it is evident that she was caned.

To some extent somebody said I don't know whether it is true or false. Somebody said that the *Waziri* had some problem. Some health problem that I would not want to mention then I think it is true because if you are the same person who is being accused and you are producing the videos of where you were acting in somebody's house against the law.

You are producing them! Because it was said that the select committee never produced enough evidence. The counsel said that in fact it is his client who produced those evidences

depicting his client as acting in the manner in which we are suggesting here that the CECM must go home. Then what are you saying here

If we cannot read the wind, let us watch the butterfly! The writings are on the wall. They are very clear. Let us not waste time with this. I wouldn't want to say much, I would want to say, somebody once said that women are their own enemies. It has come to be proven here that the worst enemy of women are themselves.

This is why in the world over, in several occasions where you will give the women opportunity to elect one of their own, the lady will never get that unless it's a special position reserved for women then under duress elect one of their own.

If this is what to go by that we vetted a lady ensuring the gender balance that would have been challenged by the Constitution then if this is how to go about it let us think twice.

Otherwise I support that let us take the necessary action so that we don't drag Siaya into shambles. Thank you.

Hon. Speaker: Yes, Hon. Sylvester Madialo from Usonga.

Hon. Madialo: Thank you, Mr. Speaker, Sir. From the onset I wanted to say that every Member signed the document that initiated this exercise. I think we are even taking too much time because everybody who signed had an intention that was being signed to be effected.

That aside, I have a very heavy heart because I am not a proponent of impeachment but in this case you perhaps feel sorry.

Our Constitution states, "Acknowledging the supremacy of the Almighty God of all creation". Acknowledging the supremacy of the Almighty God, no other being is so supreme that they can go and beat people the way they like when only God is supreme as per our Constitution. Then we say we enact this Constitution and give it to ourselves and our future generations.

I admire the Advocate that was here he did a good job in the wrong place. This proceeding is a political one because when you are saying you are breaching the Constitution you are breaching the only law in this country that only comes into force if the people vote for it. Any other law is for parliamentarians or Assemblies.

The only law that does not come into force in this country unless people vote for it is the Constitution. If you breach the Constitution, or offend it, you have offended all Kenyans. The Constitution under Article 73 says that you will hold public office in trust and that trust is for service to the people, not to rule them.

The scenario where we find ourselves is that the person, a public officer, state officer elected to rule instead of serving and that was a breach of that Article of the Constitution.

The worst part for her is that she did not recognize or appreciate that when you beat a lady then say that you beat a lady because she is stealing water, when liquid is in a jerry can and you want to use that liquid as evidence of an offence then you must prove for us what is in the jerry can. Perhaps the lady was having *Chang'aa* in the jerry can and not water.

Every time you want to jail somebody for carrying Busaa you prove that what they are carrying is *Busaa*. If the water was water, for purposes of court then you go and demonstrate that it is water. You don't assume that it is water and beat people because of it.

Number two, not all water belongs to the county, some water belong to some other people. Before you cane somebody and put them in a cell that they are stealing water belonging to the County, I thought you must first and foremost prove that the water belongs to the County!

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In this case, it is very sad, this lady is being caned by a public officer on grounds that the water belongs to the County, we don't know, because we have seen piped water here in this County by Pisoko Company that is in a pipe and it goes to other people's homes.

If you go there as a County officer, will you cane people who are using that water? What she didn't appreciate is that when you are dealing with us, you are dealing with politicians. What my brother the advocate was saying, politics is there, yes, politics is there! When Hon. Osewe says one of my old women that is politics.

When you are told that you are going to go to Hon. Oguta and you know for the first time Hon. Oguta was becoming a judge in his life, you are going to be tried by a politician from West Uyoma! When you go to Hon. Otiato and his Committee, you are going to a committee of politicians and when you are coming here, you are coming to be tried and judged by politicians.

How I wish that she knew ahead of time that your case and the proceedings that visit them must have politics. The framers of the constitution were not mad when they said that when it comes to impeachment you will be tried by politicians.

They didn't say you go to court, they said, if you have to be removed on grounds of breach of constitutional provisions, the courts will not do it, it is the parliament, the Senate or the County Assembly. They were aware that people in these Houses are politicians and so saying that politics might come into play does not hold water.

I said my heart is heavy because of this, once impeached, this lady will not be employed by any public office. If she applies, she is not up for consideration that is a very heavy price to pay, how I wish somebody advised her ahead of time, ahead of this that these are the repercussions of the action being taken against her. Morality speaks to us that having signed then all of you are supporting, I don't see the need for the debate. With that I say, all of us are supporting.

Hon. Eng. Olango: Thank you, Mr. Speaker, and Hon. Members. Being that I am not a lawyer, I will not take much time talking about a lot of things, Engineers don't talk too much.

(Loud consultation)

I will only rise to congratulate the Ad hoc Committee for doing proper work. I have gone through the report and in my view, it is well done because I actually have the honor of having the advocate next to me when he was trying to do his rebuttal and I could see that all the points he was trying to put across were well captured in the Ad hoc Committee report. From what he was presenting, I could see a claim that the CECM for water was not given ample time to maybe defend herself and while in the report that has been submitted we can see very well in a letter dated 17th March, the CECM was informed and it was expressly communicated that she was at liberty to request to be furnished with all the information and documents necessary for her defense.

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It is indicated that even though she got the letter, she did not do anything about it until the day she came to the Committee on 23rd. The defense has tried to claim that the Assembly should not try to, being a lawyer, he has used a big phrase that is the sword of DeMarcus, for those who are aware, this is like claiming that the Assembly should not basically put itself like, I don't know, the lawyers can say, but what I want to say about this is that we are here to do our work.

It will not matter what people will call us, even if people will say that we are trying to use our powers to act as the sword of Demarcus, we will do it provided we are on the right side of the history and we make sure that we hold the Executive into account following the laws of the land.

I think as Hon. Madialo has said, most if not all of us are in support so we don't care what some people say, provided we are doing the right thing, we are following all the laws of the land, from the constitution and every other law. I rise to support.

Hon. Oinga: Thank you, Mr. Speaker. I rise to give my submissions on this Motion but the submission of Hon. Taabu Osewe had some intrigues from the report that we had as a House and especially the report on Appointments.

There was a concern whether the waziri would be apolitical. Some Members of this House can attest to it that waziri has been abusing the office by using public vehicles to attend funerals in this County.

I don't know the aim of this but to my thinking, I think she is just trying to do populist politics. Last one, if this House is to go by the advice of the counsel of representation then we will be assuming the role of the 3rd Arm of the Government. This House should make an independent decision which suits it. Thank you.

Hon. Adala: Thank you, Mr. Speaker. I rise to support the Motion as tabled by the Chair of Ad hoc Committee. Much has been said and I acknowledge the fact that Madam Julie Phoebe Anyango Adhiambo also came to share her bit of the story which she has done.

I want to address myself to a matter that concerns me seriously as a Member of the County Assembly who is tasked with the general work of oversight. In his address, His Excellency James Aggrey Orendo, said that any CECM invited by the Assembly, must come and attend.

The water sector where the CECM is in charge, was invited a number of times and she failed to attend. The reasons advanced by the CECM did not convince one bit. You tell us that you did miss an invite because you were sick, I only expect an evidence in terms of where you sought health care but in this case, the CECM says that she was sick but she did self-hospitalization. I don't know if she took herbs and other things. That alone, sends word to the Executive that this House is serious with the role of oversight, when we invite them, they need to come. I think Julie has no other reason but to go home.

There are schools of thought that has been advanced out here that it is too early for the Assembly to do impeachment. There can never be anytime for sin and if we are to wait, the law does not stipulate anytime that a Member must serve for that person to get really impeached. I dare tell those people that '*mapema ndio best*'.

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The counsel in his submission is trying to push the assembly to look into the affairs of a matter that had been raised by court. We refuse to go that route because we know we are not allowed to discuss a matter that is in court. We focused ourselves to the conducts of the CECM when she visited and attacked a lady by the name mama Benta of West Sakwa Ward.

The video that was sent to us by Julie, looking at it you could see a shouting match which is the question, how does a state officer conduct herself! You cannot be a state of officer whose best interest is taking care of your people and again you are the one who is engaged with them in a shouting match.

She confessed and it is on record in the Hansard that it is her who took the photos by herself. Hon Members, I believe the right of this woman, whether she stole water or not, the rights of this woman were violated by none other than Julie Phoebe Adhiambo Akello.

When you are in service to the public, you are allowed to respect the human rights of those that you are leading. Listening and watching that video, Julie says and I quote, 'record'. Julie is simply telling these people that do your worst, there is nothing you can do, I am the CECM and I am powerful.

Mapema ndio best, Julie must go. There is nothing as demeaning as a person that does not respect those that she works with. The Chairman of Water Committee moved to the extent that he became flamboyant and very humane to the extent of stooping too low to knock her door to seek a meeting with her.

She said and it is in her submissions; she would check her schedule and revert. Weeks later she hasn't reverted and you know the period in which '*mapema ndio best*,' Dr. Julie must go! She tells us that she missed the meeting but sent her team to represent her fair enough. In her own submissions, Julie goes ahead to tell us that the following day she went and asked the said C.O. how things went and the response was well.

Condescending nature of Julie could not allow her to even some element of respect to the Sectoral Committee. If the CEC Member could only find time and check with her C.O. and the team that she sent. What was so difficult to her even just out of courtesy to just call and say I failed to attend but I have been briefed of the matter?

The fact that she didn't do this shows that she doesn't have any single respect to this House '*mapema ndio best*,' Dr. Julie must go! 'Wakili,' who is representing Julie is a good person and I think he did fairly well.

In his closing remarks intelligently he is asking this House that is there other existing measures or remedy that we can use to sort these allegations. Meaning by his own admissions in this Floor as Victor Oduol my friend as you know so well that Julie's goose is cooked and that '*mapema ndio best*,' Dr. Julie must go! Thank you.

Hon. Arika: Thank you, Mr. Speaker, Sir; the roles of this part of the Government is well stipulated in law. We have only three roles which are legislation, representation and oversight and I wish to confirm that we have really applied this law diligently, faithfully and successfully.

The Executive is tasked with implementation. It is quite painful the status of the County. If we look at the status of the roads within our County are not good. As a House we played our role and we were hoping that some of the roads will be maintained before the onset of long rains.

Even the water pan there were some that were supposed to be rehabilitated and even the boreholes.

The problem we have is that things are stuck at the procurement; it now gives the leeway to the Executive Members to start engaging into criminality. In my view and this one should be on record that this House is not targeting women.

I believe there are enough women in Siaya that can always perform a better role. If she goes today; then I believe we are going to get a better woman who is going to perform all these duties. Probably get one from the same area she is coming from.

I was listening to Hon. Otiato and it is coming out clearly that within three months Dr. Julie has undermined one driver, undermined a second one, has insulted and assaulted another woman and she has even probably threatened to assault the Director.

She has nearly taken three months since she took office and I think we have 54 months to the end of this term. Simple calculations in three months she has crossed with three people what about the 54 month left? It is 54 times for 4 divide by 3 which is 72. For us to stop this further intimidation Dr. Julie must go!

For us to stop our mothers, sisters and wives from intimidation, insult and assault Dr. Julie must go! To ensure that there is smooth delivery of services to the public, Dr. Julie must go! To reign the respect and discipline among the employees of the County whether you are the junior most, Dr. Julie must go!

To serve as an example even for other Executive Members that think that the only way to discharge their duty is through harassment, intimidation, abuses, Dr. Julie must go! It is evident that currently there are lots of jokes at the Executive and I will repeat this; this House has been accused of so many things.

This time we are on our feet; a precedent has been set and a warning is being sent and we are waiting for you. So long it is something that affects the lives of the people of Siaya we are going to discharge our mandate.

From the evidence presented it is clear that Dr. Julie has beyond reasonable doubt to prove her incompetency to continue holding that office. I urge all Hon. Members to proceed and let the good Dr. go home.

Hon. Speaker: Hon. Booker, Member for North Uyoma after that I will allow two more submissions then we call the Mover to reply.

Hon. Booker: I stand, Mr. Speaker, Sir; to support this Motion. If I jog your mind back to the Dublin principle which states that water is a social good. Water is essential for development, human sustainability which is life and environment.

How did you expect this poor woman to survive and how do you come to beat a poor woman because she has used the social good? You ask yourself is water really a social good in Siaya?

It is high time we passed a legislation that water should be provided free of charge because it is a social need. The chemistry of water which is hydrogen and oxygen was discovered by Henry Cavendish in 1731 to 1810. You wonder up to date that a poor woman from Siaya is being beaten for something whose chemistry was discovered in 1731, are we really serious?

Dr. Julie has got numerous cases of indiscipline; I would have thought otherwise but imagining that a CEC Member in Nyalore Government can go and beat a poor lady in Bondo whom I may even call my mother then it is a pity. I join the rest of Hon. Members by supporting that this lady must go because she doesn't befit a Member of the Executive.

The law doesn't allow anybody to beat anyone even if that poor lady was found stealing water. We know the problem of SIBOWASCO water; that the pipes cannot even contain the P.S.I. It is said that the pressure from over 45 is even dangerous for the pipe. If the pipes are not good, then SIBOWASCO will never succeed in bringing water to Bondo.\

I support Hon. Justus Oguta who is the Chair of Water because he is my predecessor. I support the removal of this lady because she doesn't act in an Honorable manner. Mr. Speaker, Sir; you have never gone outside there to beat anybody and you have never even tried to cane us here.

(Applause)

I support the Motion.

Hon. Akinyi: I rise to support this Motion; being a woman and before I support I would like to ask Hon. Omoro to withdraw and apologize to the women of Siaya and women at large. You cannot tell us that women are their own enemies because of one undignified woman. Mr. Speaker, sir; I ask you to protect the women from this kind of male chauvinism and insult.

Hon. Speaker: Hon. Omoro, in our next Sitting I will expect withdrawal from you. Proceed.

Hon. Akinyi: Thank you very much. So for all the things that have been said, I believe that Dr. Julie did not act with decorum because you cannot go to someone's house without introducing yourself and start taking pictures and making noise and do all those kinds of things that she did. That is one.

The other one is the issue of Committee. She was called three times and the Chairperson took his time to go to her office and beseech her to please come and he did this for the people of Siaya.

We are about to do our Budget, we are about to do our Fiscal analysis and we need to work together as the Committee and the department. In support of all women of Siaya, I support, because these kinds of issues are what is dragging the women behind.

Hon. Speaker: Hon. Mark Okeyo.

Hon. CPA Okeyo: Thank you, Mr. Speaker. I rise to support this Motion. I want to address myself to Article 1 of the Constitution which talks about the sovereignty of the people and how that sovereignty is exercised.

The sovereignty of the people can be exercised either directly or indirectly. The power we have in this House is a donated one by the people. I listened to Waziri's Counsel who addressed himself to the two matters.

The first one was on insubordination. The Counsel did not address himself properly on the insubordination matter. This donated power must be exercised by utmost good faith, this donated power must be exercised with *uberima fidei*. If you look at the reply of the Counsel on the first issue, you realize the response was not material.

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It is not something that we can rely upon. The Waziri herself is a Doctor. I am not sure it's a Doctor in what, but you can imagine of a situation where we have a Doctor taking concoction at home.

I want you to imagine such a scenario whereby the Doctors resort to taking traditional medication. I find the response for the first allegation very immaterial and therefore I want to support the impeachment Motion.

On my second matter, the duty of a public officer requires a fiduciary responsibility. This is a responsibility which requires the Waziri to be ethically and morally right. If you look at the allegations, you will realize that the Waziri did not meet the fiduciary responsibility, and therefore I want to join the Members of this Honorable House to support this Motion on Impeachment. Thank you.

Hon. Speaker: Deputy Speaker you are the last then I will ask the Mover to reply.

Hon. Odongo: Thank you, Mr. Speaker. I did not want to debate on this Motion, but because of what has been quoted by Hon. Otiato in verbatim that, after consulting with the County Secretary, that word is weighty and cannot just be left like that, whether the matter is being taken to court, action must be taken and Waziri must be taken to mental hospital to find out if fit for office.

I am on my feet to support, and this is a sign, for those who have been alleging that the Members of this House did not go to school, that now men have learnt to shoot without missing and birds have also learnt to fly without perching and it is a message that should now be sent to the Executive. Thank you.

Hon. Ragen: Thank you, Mr. Speaker, Sir. I wish to rise to support the Motion, and I am speaking as the MCA of the said person, and you know when she was appointed we were elated that at least something will be done, but I am also surprised that just 50 meters from her home, we were having some leakages, some pipe had issues, but she decided to go and fight some people in Bondo.

I wish to state that a degree is just a paper. Your Education is manifested in how you treat other people especially those who can do you nothing, and in this regard, Dr. Julie has really failed. It is very bad that a woman would be supervising another woman being beaten. It is very bad.

Like other Members have spoken, I wish to ask the Members of the Committee, that in our recommendations, this is someone who comes next to our home and I know her, I wish to request that this lady be taken to a psychiatrist for evaluation.

I was trying to get the history of that lady the other day, and I want to tell the appointing authority that we people of Alego are not like that and there are so many other able ladies where I come from.

So when the appointing authority is giving out that position, I would like to request that our place is considered and we will bring a lady of integrity. A lady who will be able to work for the people of Siaya.

Hon. Speaker: The Mover, will you reply?

Hon. Otiato: Thank you, Mr. Speaker. Once again I want to thank the House for a good debate, but there are issues that have been raised by the defense counsel that I wanted to make clear. So far the defense counsel has done his job but I just want to clear some issues.

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Who is supposed to bring a Motion of impeachment in the House? Because the Counsel was asking, and in his own mind he believes that the Governor is the one appointing, and I want to tell him that the Governor is not the only one appointing, the Governor appoints a CECM by approval of the Assembly, we have equal appointment rights on a CECM including a CO.

Those positions subject to approval of the House, he cannot appoint when the Assembly has not approved. Therefore, just like the CECM is responsible to the Governor, so is she responsible for this House.

(Applause)

I just want to make it clear that the law is very clear on how we do impeachment, and I think at a point we mentioned about it, in Section 42 of the County Governments Act provides that a Member of the County Assembly supported by... It is not saying any other person; it is saying only provides for impeachment by a Member.

Hon. Justus Oguta is a Member of the Assembly. By any other virtue as a Chair of the Water Committee which is directly responsible, he is a Member of this particular Committee. Equally there has been a mention about a video, we never presented any video as evidence, but on defense, the CECM presented us with a video, so we relied on this video to tell her what she wanted to hear. We never produced any. So *Wakili* got it wrong.

The other issue is on the particulars of the offense. The Motion is very clear. We are not in a criminal matter here where you want us to tell you the details and redefine the particulars of this offense.

Look at the issue you were talking about on gross violation and ask yourself, whether these particular acts were actually gross violation, and what is gross violation, by basic definition, is an action that breaks or acts against something especially a law, act or principle.

Wakili has failed to tell us, under powers and privileges even one line or any other law that is defined. When we invited *Waziri*, after acknowledging receipt, and we are now saying that she refused or failed to attend. Do you know what she said?

Acknowledging the CS that she is having a meeting in Nakuru and the Cs is saying, Assembly has powers equal to high court, go to Assembly, then she becomes sick overnight, and on a letter written to her, on a response, she says that she got a letter of invitation to attend but then she was not able to come.

In the middle paragraph she says, 'I wish to confirm that I received the invitation to appear before the joint Committees of Water and Roads and was well prepared to make the appearance, but was unfortunately taken ill on the evening of Wednesday 11th, January, and had to consequently seek medical attention. However, when she appeared on oral presentation she said that she never went to the hospital but took a concoction instead.

That statement alone is ground enough for her impeachment for lying under oath. On that basis apart from anything else, she should be sent home.

The lawyer has brought up another angle that we are relying on assault, assault that we never allowed him to cross-examine the witness. I have this to say, when you read the Motion; it spelt out clearly on assault of a female officer.

What we exactly wanted and I can read during one of her field official duties in West Sakwa ward to inspect incidences of unauthorized water connections, the CECM was part of the county officers who allegedly assaulted a woman who was suspected to have been an accomplice to unauthorized water connection.

She allegedly caused bodily harm to the suspect who had to be rescued from Dr Julie's onslaught by members of the public. Such behavior, which violates public peace and order, and that, which condemns a suspect unheard is common to persons who disregard provisions of Section 34 of Leadership and Integrity Act 2012.

This provision prohibits a state officer from bullying any person that is engaging in cruel, humiliating and vindictive behavior.

So on that you find that there is a section of this particular Motion acknowledging as assault and say causing bodily harm subject to investigation by the police not the House. In the House we are only talking about looking at if her behavior and conduct violated this particular section law and it is not new to Julie's case.

You realize the Hon. Deputy Chief justice Nancy Baraza, the police charged her with assault and the tribunal found her in violation of this particular section of the law. Therefore, when the lawyer feels otherwise it is my duty to tell him that he is wrong.

Did we refuse to give him a chance to interrogate a witness? In the document page 26, I have said there that in defense of the CEC Member, her advocate called on the committee to look at the intention of the actions of the CEC Member and not just the conduct of the CEC Member.

By that the learned friend on behalf of the CECM is accepting culpability saying that well the CECM might have assaulted the lady but let us not look at the action but the intent of the assault.

When given a chance to cross-examine Benter before the Committee, the CECM was guided and I did the guidance that as we sat there a wrong was done and so there are 2 elements; there is breach of public, ethics and integrity and criminal element.

The criminal element will be handled to find out whether she was assaulted or taken to hospital but whatever it is the Committee will not revisit what is criminal and what is being investigated by the police. We only remain with issues that are relevant to us then from there the advocate deals with what is criminal.

Hon. Madialo: Point of Order Sir!

Hon. Speaker: Yes.

Hon. Madialo: Hon. Otiato is employing the language of an investigator but since nobody is opposed to the earlier submission by the Members is it in order that he replies in the manner he does because none of us contradicts what is on the report given that it is self-speaking and indeed this lady made a statement and we are not even supposed to answer to her statement or probe it. I would request the Member to request us to support then we go home.

Hon. Speaker: Hon. Madialo I understand where you are coming from but allow me also to allow Hon. Otiato for the good of the public who are also part of the gallery just that you be brief and also try to avoid responding directly to the counsel.

Hon. Otiato: Thank you. As you have said it and have heard a lot of comments about this particular issue where others take it as a witch-hunt or something. Therefore, I just wanted to make it clear so that when we leave here no one thinks otherwise.

With those many remarks you realize that we have the case of Juma and I said because even in your reading there are proceedings that have been asked for even meetings that we had.

Some of these meetings and evidences that were actually presented to us we never endeavored to have them in our report or even consider them for our continuous discussion because we were limiting ourselves to the people we gave opportunity to cross-examine. However, I request this Hon. House to pass the Motion.

(Question put and agreed to)

Hon. Speaker: The net effect of the vote is that pursuant to Section 40 of the County Governments Act, 2012, and Standing Order Number 73 of the County Assembly of Siaya Standing Orders, the County Assembly of Siaya has resolved that the County Executive Committee Member for the Department of Water, Sanitation, Environment, Climate Change and Natural Resource – Dr. Caroline Julie Phoebe Adhiambo Akinyi Onyango, be **DISMISSED**.

Having said that I further direct the secretariat to provide the counsel for Julie with the information that they require as soon as possible for their action.

Hon. Members, time is not on our side, we wanted to consider the spatial plan but then I direct that the report on the Committee of lands on the consideration of the spatial plan be circulated to all Members today for consideration in our morning Sitting tomorrow.

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members would we be upstanding for adjournment. Hon. Members, there being no other business this House stands adjourned until Wednesday 29th March, 2023 at 9.30 a.m. in the chamber.

The House rose at 6.45 p.m.