

The Senate must take cognizance of its role as provided in Article 96(1) of the Constitution which provides that the "the Senate represents the counties and serves to protect the interests of the counties and their governments." Impeachment is one of the mechanisms by which the Senate exercises it's role of protection of the Counties and their Governments. In doing this, as noted by the Senate Committee in Waiguru Impeachment Case the Senate "has the responsibility to set and maintain the standard for impeachment that bears the proper hallmarks of impeachment: due process, fairness and justice."

The Court of Appeal in Martin Nyaga Wambora vs County Assembly of Embu & 37 others [2015] eKLR noted "the dire need to better safeguard devolution and good governance at both the County Government level as well as the National government level. Governors who are popularly elected by the majority voters, who discharge their duties satisfactorily and adhere to the Constitution and the law, ought not to be in office at the mercy of the County Assembly. That is not what is intended by the Constitution."

As already noted above, the mover and seconder of this Motion were actuated by malice in tabling this motion against the Governor and were bent on exacting vendetta against him for holding them accountable for acts that occasioned loss of funds to the County in his line of duty. The allegations made touch on a matter that of Appropriation of Funds Bill that has is not only sub judice but which the High Court has suspended as being against the law and the Constitution. This is impeachment motion is an ideal occasion for the Senate to protect the interests of the Nairobi County by protecting the Governor.

Therefore, the Senate in exercise of its mandate under Article 181 of the Constitution, section 33 of the County Government Act and standing order 75 of the Senate Standing Orders must find that the 4 charges against the Governor are not substantiated and therefore must fail as they do not meet the threshold for impeachment which has been set by the Senate.

DATED AT NAIROBI THIS

15<sup>th</sup>

DAY OF

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