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PETITION MADE TO THE PARLIAMENT PURSUANT TO ARTICLE 119 OF THE
CONSTITUTION AND PART XXIX OF THE
SENATE STANDING ORDERS

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BY

JULIUS MASIVA OBUGA
RESIDENT OF VIHIGA COUNTY



DATED 8th DAY OF October 2016



② Mr. Amolo

Please deal.
28/12/16

③

Mr. Charles Munyua
Please review
29/12

① DLPS

Please deal.
23/12/16

Petition by Vihiga Budget, Environment and Human Right(s) Oversight Forum to Parliament against the Vihiga Governor, Executive Secretary and the entire Executive for violating the Constitution, Procurement and Public Finance Laws

**PETITION MADE TO THE PARLIAMENT PURSUANT TO ARTICLE 119 OF THE
CONSTITUTION OF KENYA AND PART XXIX OF THE SENATE STANDING
ORDERS**

**BY
JULIUS MASIVA
RESIDENT OF COUNTY OF VIHIGA**

The Clerk of Parliament,
Parliament Buildings,
P.O. Box 41842,
Nairobi.

Yours of Ref: VLS/Petitions/2016, dated 28th June 2016
Sen./Petitions/CORR/2016 dated 21/June/2016
DLS/Petitions/2016 dated 10th August 2016

THE UNDERSIGNED

Citizen of the Republic of Kenya, resident of Vihiga County and chairperson of the Vihiga County Budget, Environmental and Human Right Oversight Forum (V.C.B.E.H.R.O.F) hereto referred to as Civil Society)
DRAW the attention of Parliament to the following;

1. **THAT** there were complaints from the contractors/suppliers demanding payments for the work and services done within County. At one point the contractor who illegally and unprofessionally refurbished the County Assembly Chambers threatened to close the Chamber because of nonpayment before even completing the work. As a result the County Assembly constituted an adhoc committee to investigate the financial mismanagement of funds in the Vihiga County Executive.
2. **THAT** vide Article 195 (i) & a, b, c of the Constitution, sub-committee summoned Senior Officers from the Executive including the Governor. The Governor is accountable for the management and use of the County's resources as provided under Section 30(3) (f) of the County Government Act. All those who were invited appeared before the Committee but the Governor and the County Secretary violated chapter Eleven Article 195 (i) with impunity including the County Secretary of the Constitution.

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3. **THAT** after analyzing the documents adduced before the committee and the evidence of the County Executive Committee Members for Finance and Economic Planning, it was clear that the Exchequer released Kshs. 1,646,616,000.00 (one billion six forty million six sixteen thousand) for development in Vihiga County in the FY 2014/2015.
4. **THAT** under Article 201 of the Constitution there should be openness and accountability including public participation in financial matters so that public money be used in a prudent and responsible way. However, there was ~~no~~ documentary evidence to show that the entire amount of Kshs. 1,646,616,000.00 received from the Exchequer for development during the FY 2014/2015 was misappropriated – misused above mismanaged by the Executive with impunity at the supervisor of the Governor.
5. **THAT** during the FY 2014/2015 the County Assembly of Vihiga budgeted for Kshs. 100,000,000 (one hundred million) for Vihiga Emergency Fund. The money allocated to Vihiga Emergency Fund was used to pay some firms and individuals contrary to section 112, which provides that the Emergency Fund can only be spent when there is an urgent and unforeseen need for expenditure for which there is no legislative authority. From the report the firms and individuals who benefited from the Vihiga Emergency Funds contrary to the law as detailed below hereunder:

a) County Consultant Ltd.	Kshs. 3,000,000.00
b) Brown Nathan & Co. Advocates	Kshs. 4,500,000.00
c) Council of Governors	Kshs. 8,340,880.00
d) Daysey Enterprises	Kshs. 3,216,000.00
e) Ahadi Trust	Kshs. 3,463,920.00
f) Antonina & Co. Advocates	Kshs. 12,845,344.00
g) Rafiki Microfinance Bank	Kshs. 32,000,000.00
h) Kenya Revenue Authority (PAYE)	Kshs. 1,563,686.00
i) Leadman Security Services Ltd.	Kshs. 3,897,600.00
j) Main Contractors Ltd.....	Kshs. 5,677,800.00
k) Manvuh Ltd.	Kshs. 6,283,140.00
l) Mr. Herbert Isuha Kenogo	Kshs. 100,000.00
m) Mr. Hudson Murila Mutsotso	Kshs. 30,000.00
n) Commissioner of V.A.T	Kshs. 2,286,040.00
o) Ollkey Consultants	Kshs. 11,855,355.00
p) Critical Path Limited	Kshs. 4,608,620.70
q) Elk + Wedge adventures	Kshs. 820,526.00

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- r) SOSA Cottages Ltd. Kshs. 500,000.00
s) Earth – Moves Enterprises Kshs. 500,000.00
6. **THAT** the report revealed that the County Executive Committee Members Chief Officer and a director for Transport and infrastructure opened a bank account in Rafiki Microfinance bank at Mbale being Vihiga County Mechanical and Transport, A/C No. 011202000533, in which all the money received from hire of heavy machinery and motor vehicles were deposited. The money received as revenue was being deposited in Rafiki Microfinance Bank without the approval of the Assembly.
7. **THAT** the low loader was procured without following the procurement law. The same was done by some Senior Officers who had vested interest. Their main reason was to defraud the County Government. The procurement law has been flawed by the Executive while procuring goods and service an illegal deed punishable severally using the law in force firmly without favour – hence ~~that~~^s petition.
8. **THAT** most of the tenders are awarded to companies in which the Senior Officers or their close relatives are directors. For instance ZENAP HOLDINGS LTD. Which qualified to supply fuel, oil and lubricants for the FY 2014/2015 and 2015/2016 is owned by Mr. Nathaniel Ahaza who is one of the Directors together with his wife M/S Perice Odari and Mr. H.B Wanjala, Mr. Nathaniel Ahaza is the Director of Supply Chain Management Services and Miss Perice Odari his wife is a senior Accountant in the County Assembly of Vihiga.
9. **THAT** the functions of the County Government are clearly stipulated under the Forth Schedule of the Constitution. The County Executive has executed some projects which have not been budgeted for and some of them are the mandate of the Central Government. These projects include
- a) The construction of Kaimosi University Dining Hall at Kshs. 13,5228,036.00
b) The installation of a generator at the Governors resident at Kshs. 6,040,000.00
c) The rehabilitation of an 8km Kapsanjo – Habalia road in Busali Ward at Kshs. 2,995,874.00
d) The installation of CCTV surveillance System at the Governor’s residence at Kshs. 872,900.00.
e) The internet and Wi-fi installation at KMTC, Computer laboratory at Kshs. 1,698,520.00.
f) Construction of Vihiga County Court headquarters at Ksh 9,417,956.00
g) The perimeter walling at the Vihiga County Headquarters at Kshs. 18,810.212.00

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- h) The Construction of Kitchen/ store and toilet at Vihiga Radio Station at Kshs. 11,339,017.00
 - i) The Construction of a sentry house and electrical perimeter wall at Vihiga FM Radio station at Kshs. 14,695,400.00
10. **THAT** from the above list projects like Construction of Vihiga County Court headquarters, Kaimosi University Dining Hall and Internet and WI-FI installation at KMTC, Computer laboratory are to be undertaken by the Central government. Kitchen/ store and toilet cannot cost KSH 11,339,017.00. The Governor usually used public money to install CCTV and generator at his residence.
11. **THAT** when the committee tabled the report in the county Parliament of Vihiga on the 14th day of January 2016, members of the county Assembly voted this. 12 members of the county voted for the report, they include;
- 1. Hon Andrew Ahuga
 - 2. Hon. Richard Muhiga
 - 3. Hon. David Ogova
 - 4. Hon. Peter Amuhinda
 - 5. Hon. Joshua Olao
 - 6. Hon. Josephat Munayi
 - 7. Hon. Benedict Kiwanuka
 - 8. Hon. Wycliffe Masini
 - 9. Hon. Pamela Amunga
 - 10. Hon. Olads Analo
 - 11. Hon. Nathan Kamidi
 - 12. Hon. Venna Kaisha
12. **THAT** it was so un-ethical and embarrassing to see some members collect seating allowance during the Committee Meetings voting against the report after signing the report. This lowered their dignity hence no need to call them Hon. Those include;
- 1. Abdalla Chogo
 - 2. Jenipher Ekhuya (who was the V/Chairperson of the Committee)
 - 3. Clyde Kweya
 - 4. Zacharia Murefu
 - 5. Pauline Amwata
 - 6. Elizabeth Anaya
 - 7. Noah Mmbwanga

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13. **THAT** the Executive bribed the said headed by the governor. It is said that each MCA received Kshs. 300,000. After they had voted against the report the Executive took them to Royal City Hotel in Kisumu on 15/1/2016 to enjoy and celebrate to have saved the Executive. They were booked in the following rooms

- a) Atsiaya Vincent – ID No. 27761897 room called *Elephant*
- b) Musoga J.M. – ID No. 6980433 room called *Cheetah*.
- c) Jenipher Ekhuya – ID No. 7880433 room called *Buffalo*
- d) Rodah Omufumu – ID No. 7966187 room called *Fox*
- e) Anne Okila - ID No. 5112391 room called *Antelop*
- f) Anupi Dorcus - ID No. 23610814 room called *Rhino*
- g) Elizabeth Muhonja – ID No. 13293898 room called *Giraffe*
- h) Butiya Nickson – ID No. 897282 room called *Zebra*
- i) Balala Khalid – ID No. 10725178 room called *Camel*
- j) Elizabeth Okila – ID No. 14432190 room called *Impala*
- k) Wilberforce Kitiezo – ID No. 23143433 room called *Penguin*
- l) Abdalla Chogo – ID No. 22776687 room called *Papaya*
- m) Maureen Ambasa – ID No. 23523943 room called *Gazelle*

14. **THAT** while in Royal City Hotel in Kisumu they rewarded themselves by changing leadership in the house. Those who voted for the report were punished for voting for the report lost their leadership today you find that those loyal in the Executive crony to even eight different committee which is venue un parliament.

15. **THAT** the incoming leder of Majority pert one FESTUS MUSODA GIRURE and Leader of Minority one CLYDE KWEYA OTUNGA were rewarded for protecting the Executive and the Governor. Especially CLYDE KWEYA OTUNGA who had supported the report at Sub-Committee session but later voted against the report is a member of P.A.G Church the Governor's Church.

16. **THAT** on 25/01/2016 they organized a coup-de-tat against the leadership of the house and thereafter proceeded to Mombasa where they were to meet some senior Officers from the Executive and M/S Perice Odari Senior Accountant Vihiga County Assembly who is on suspension on allegation of gross misconduct who and the former County Assembly Clerk are facing criminal charges at kisumu Anti – Corruption Court.

17. **THAT** one PERICE ODARI was the Head of Treasury during the Musambayi's regime and in collusion with Musambayi fraudulently transferred Kshs. 3,000,000 from the Vihiga County Assembly Standing Imprest Account to Zenap

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Holdings, a company in which she is one of the directors, paid herself Kshs. 1,000,000.00 without justification, among others.

18. **THAT** she was suspended but it's believed that she is now using the incoming Leader of Majority and Minority to convince other members of the Board to lift her suspension.
19. **THAT** the Petitioners letters to the Assembly, the Governor, the Executive remained unacknowledged and or answered, hence this Petition.
20. **THAT** Petitioner avers thus neither a Court of law, tribunal nor investigating agency is seized of the matter(s) in question.

WHEREFORE, your humble petitioner pray that Parliament

1. Through Parliament respective Committees conduct a thorough investigation into misuse of County finances by the County Secretary, County Executive Committee Members and Chief Officers of County of Vihiga in relation to:
 - a) How the Kshs. 1,646,616,000.00 received for development in the FY 2014/2015 development projects was spent.
 - b) How Kshs. 105,984,712.95 from the Vihiga County Emergency Fund was irregularly spent.
 - c) How the County Government incurred an accumulative pending bills of over Kshs. 2,056,406,670.00
2. Instruct the Ethics and Anti-Corruption Commission to investigate the lifestyles of all County Executive Committee Members and Chief Officers including their bank accounts and properties including their relatives.
3. Instruct the Ethics and Anti-Corruption Commission to take action(s) against Members of County Assembly who were bribed to vote against the report of adhoc-committee, thereby violating the Constitution and ~~ban~~ ban them for life from holding any public office or either through appointment and or elections.
4. Instruct the Ethics and Anti-Corruption to take further action against a one Perice Odari for misappropriation of finance in the County Assembly Vihiga and while she was a bursar at Kegoye Secondary School and she also forged a letter to show that she was a graduate of Mount Kenya University.
5. Instruct the office of Audit General to undertake forensic on the County Executive soonest.
6. Invite criminal investigation department to establish all element of fraud or embellishment of public money in the executive and take action to serve as a deterrent lesson to potential offender(s).

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7. All efforts to have the executive aments without success hence this petition.

DATED AT VIHIGA THIS 8th..... DAY OF October.....2016

	BY		
NAME	ADDRESS	NATIONAL ID	SIGN
JULIUS MASIVA OBUGA	P.O. BOX 381-50310 VIHIGA <u>juliusmasiva@yahoo.com</u> 0725662896	3339153	

