

PETITION TO THE KITUI COUNTY ASSEMBLY TO INITIATE IMPEACHMENT PROCEEDINGS AGAINST KITUI COUNTY GOVERNOR HE DR JULIUS MALOMBE EGH FOR GROSS MISCONDUCT & VIOLATION OF THE CONSTITUTION OF KENYA 2010 AND OTHER APPLICABLE PROVISIONS OF THE LAW; PURSUANT TO THE CONSTITUTION OF KENYA 2010, THE COUNTY GOVERNMENTS ACT AND THE KITUI COUNTY ASSEMBLY STANDING ORDERS.

THE CLERK,
KITUI COUNTY ASSEMBLY,
P.O BOX 694 - 90200,
KITUI.



Mr. Speake
For direction
6/11/2024

We, the undersigned petitioners being patriotic citizens of the republic of Kenya, pursuant to the Constitution of Kenya 2010, the County Governments Act, and the Kitui assembly standing orders: -

DRAW the attention of the House of the following;

1. THAT article 2(4) of the Kenyan constitution stipulates that any law, including customary law that is inconsistent with this constitution is void to the extent of the inconsistency, and any act or omission in contravention of the constitution is invalid.
2. THAT article 3(1) of the constitution provides that every person has an obligation to respect, uphold and defend this constitution.
3. THAT article 10 provides the national values which includes human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised.
4. THAT article 19 (2) states that the purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings.

ii) Clear
Noted. Let the Ag. Senior Legal
Counsel to give us a legal
opinion.
[Signature]
6/11/2024

iii) Ag. S. L. C
Your legal
opinion on
this matter
[Signature]
6/11/2024

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5. THAT article 20 (2) states that every person shall enjoy the rights and fundamental freedoms in the Bill of Rights to the greatest extent consistent with the nature of the right or fundamental freedom.
6. THAT article 21 states that;
- (1) It is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights.
- (2) The State shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed under Article 43.
- (3) All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.
7. THAT article 27 (4) states that the State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.
8. THAT article 43 provides that;
- (1) Every person has the right—
- (a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;

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- (b) to accessible and adequate housing, and to reasonable standards of sanitation;
 - (c) to be free from hunger, and to have adequate food of acceptable quality;
 - (d) to clean and safe water in adequate quantities;
 - (e) to social security; and
 - (f) to education.
- (2) A person shall not be denied emergency medical treatment.
- (3) The State shall provide appropriate social security to persons who are unable to support themselves and their dependants.
9. THAT article 47 provides that every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.
10. THAT article 55 states that the State shall take measures, including affirmative action programmes, to ensure that the youth—
- (a) access relevant education and training;
 - (b) have opportunities to associate, be represented and participate in political, social, economic and other spheres of life;
 - (c) access employment; and
 - (d) are protected from harmful cultural practices and exploitation.
11. THAT article 57 stipulates that the State shall take measures to ensure the rights of older persons--
- (a) to fully participate in the affairs of society;
 - (b) to pursue their personal development;

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- (c) to live in dignity and respect and be free from abuse; and
- (d) to receive reasonable care and assistance from their family and the State.

12. THAT Section 15 of the county governments act provides that everyone has the de facto right to petition the county assembly.

THE FACTS constituting the same include;

13. THAT this petition, brought by the concerned residents of Kitui County, seeks accountability, justice, and the restoration of good governance under the leadership of Governor Julius Malombe.

14. THAT In line with Article 1 of the Constitution of Kenya, which vests sovereign power in the people, and Article 181, which outlines conditions for removing a county governor, this petition demands that the County Assembly of Kitui act decisively in the public interest.

15. THAT through this petition, we assert that the misdeeds, gross misconduct, and legal violations of Governor Malombe undermine not only Kitui County's development but also the foundational democratic principles of transparency and accountability.

16. THAT since assuming office, Governor Malombe was expected to address pressing issues within Kitui County, including infrastructure development, healthcare improvement, and equitable economic opportunities.

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17. THAT Instead, his tenure has been marred by allegations of corruption, abuse of power, and negligence.
18. THAT these actions violate the principles laid out in Chapter Six of the Constitution, which mandates state officers to uphold integrity, responsibility, and selfless service.
19. THAT Governor Malombe has allegedly converted public land in Kanyoonyoo B2 into private property, affecting over 3,000 acres initially intended for community benefit. This diversion of public land represents a blatant abuse of power and a violation of public trust, as laid out in Article 40, which protects public property rights.
20. THAT The Public Officer Ethics Act, Section 12, and Leadership and Integrity Act emphasize the responsibility of leaders to act without conflict of interest. In the case *Patel v. City Council of Nairobi*, it was ruled that public officials must safeguard communal resources.
21. THAT Governor Malombe orchestrated the forced eviction of residents from Kunda Kindu without prior notice, adequate compensation, or adherence to due process. This action directly violates Article 47 of the Constitution, which guarantees fair administrative action, and the Land Act which outlines procedural requirements for lawful evictions.
22. THAT the ruling in *Mitu-Bell Welfare Society v. Attorney General* reiterated that evictions must comply with procedural

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justice. In this landmark case, the court held that evictions infringe upon human dignity, a principle protected by Article 28 of the Constitution.

23. **THAT** the failure to fill critical administrative roles has created operational inefficiencies, delayed essential services and reduced revenue collection effectiveness. This neglect is a breach of the County Governments Act, Section 63, which mandates continuity in county leadership roles.
24. **THAT** In Republic v. Public Service Commission, the High Court emphasized that vacancies in essential public offices impede public service, making it necessary to address them without delay.
25. **THAT** Governor Malombe dismissed several county officers without establishing guilt or providing an opportunity for defense. This disregard for due process violates Article 236 of the Constitution, which protects public officers from arbitrary dismissal.
26. **THAT** In Kenya Union of Commercial Food & Allied Workers v. Rift Valley Bottlers, the court reiterated that employers must observe procedural fairness before dismissals. This principle, extending to public officers, is intended to ensure transparency and respect for labor rights.
27. **THAT** Under Article 10 of the Constitution, public officers are required to uphold national values, including integrity, transparency, and accountability. This provision underscores the duty of all county officials, especially the Governor, to lead by

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example. Chapter Six of the Constitution further demands high standards of integrity, which Governor Malombe has repeatedly violated through actions that undermine public confidence.

28. THAT the affidavit of Witness John Mutua, a resident of Kunda Kindu, describes the impact of the forced evictions on his livelihood. The affidavit details the lack of prior notice, the abrupt demolition of his property, and the distress caused to his family. The affidavit supports the allegation of unlawful evictions.

29. THAT the issues raised herein are substantive and efforts to have the matter addressed by the relevant body have proved futile.

30. THAT the issue in respect of which this petition is made is not pending before any court of law or other constitutional or legal body.


THEREFORE, your humble petitioners pray;

31. THAT the honourable house considers this humble petition.

32. THAT in accordance with Section 15 of the County Governments Act which encapsulates that every person has the right to petition county assemblies to consider any matter within its authority, the Honourable house to initiate formal impeachment proceedings against Governor Malombe on grounds of gross misconduct and violation of the Constitution of Kenya 2010 and all other applicable provisions of the law as aforementioned.

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Name of the 1st petitioner: ANTONY MURIMI KIACHIRA

Signature: 

Address: P.O BOX 151-90203, TUISA

ID Number: 36819733 .

Date: 05-11-2024.



Name of the 2nd petitioner: AUGUSTINE MUTHIANI MUTITHI

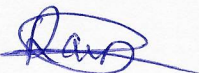
Signature: 

Address: P.O. BOX 05-90207 IKWTHA - KITUI

ID Number: 39901447

Date: 05-11-2024

Name of the 3rd petitioner: RAPHAEL MWANDUKA

Signature: 

Address: P.O BOX 187-90207 KANZIRO - KITUI

ID Number: 32662046

Date: 05/11/2024