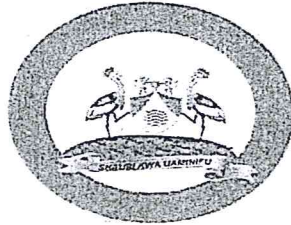


# COUNTY GOVERNMENT OF NAIROBI CITY



*Report considered by  
the Assembly and Agreed  
to on Tuesday 13/06/2019  
A. O. O. / D.C.  
13/6/19*

THE NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY – THIRD SESSION

REPORT OF

THE SELECT COMMITTEE ON POWERS AND PRIVILEGES ON THE INQUIRY INTO  
THE ALLEGED ABUSE OF PRIVILEGES BY HONORABLE MARY ARIVIZA, MCA DURING  
THE COUNTY ASSEMBLIES FORUM 2019 HELD IN KISUMU COUNTY.

JUNE 2019

Clerk's Chambers,  
CITY HALL,  
NAIROBI.

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*Approved for tabling  
[Signature]  
on June 2019*



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## **1.0 Establishment, Mandate and Membership**

### **1.1 Establishment and Mandate**

Hon. Members, the Committee on Powers and Privileges is established pursuant to the Standing Order 183 as read together with Section 15 of the County Assemblies Powers and Privileges Act, 2017 (“the Act”). The Committee’s mandate amongst others, as outlined under Section 15 of the Act is to:

- a. *Inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege; and*
- b. *Either of its own motion or a result of a complaint made by any person, inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege*
- c. *Investigate, table reports and make recommendations to the floor of the house*
- d. *Issue summons to witnesses to appear before the committee,*
- e. *Receive evidence and to request for and receive papers and documents from the Government and the public.*

Further, as envisaged under Section 18 of the Act as read together with Article 195 of the Constitution of Kenya, the Committee as constituted has the same powers as the High Court.

### **1.2 Committee Membership**

The Committee Membership comprises of:

- |                                      |                                   |
|--------------------------------------|-----------------------------------|
| 1. <b>Hon. Chege Mwaura, MCA</b>     | <b>– Ag. Speaker/ Chairperson</b> |
| 2. <b>Hon. Naftaly Mathenge, MCA</b> | <b>– Vice-Chairperson</b>         |
| 3. <b>Hon. Abdi I. Hassan, MCA</b>   | <b>– Majority Leader</b>          |
| 4. Hon. Maurice Ochien’g, MCA        |                                   |
| 5. Hon. Peter Wahinya Njau, MCA      |                                   |
| 6. Hon. Geoffrey Majiwa, MCA         |                                   |
| 7. Hon. Evans Otiso, MCA             |                                   |
| 8. Hon. Carolyne Mayunzu, MCA        |                                   |
| 9. Hon. Jacinta Wanjiru, MCA         |                                   |
| 10. Hon. Margaret Mbote, MCA         |                                   |
| 11. Hon. Sylvia Moseiya, MCA         |                                   |
| 12. Hon. Jackline Apondi, MCA        |                                   |

### 1.3 Secretariat

1. Romeo Castro – Snr. Clerk Assistant
2. Judith Aron – Clerk Assistant
3. Munase Mukhombwa – Intern

### Committee Inquiry into Breaches of Privileges

#### a) Legal Framework

The Select Committee on Powers and Privileges draws its mandates and powers from various Constitutional and statutory provisions, as well as parliamentary dictates derived from long standing practice and procedure.

Primarily the enabling law to the mandate of the Committee is the Nairobi County Assembly Standing Orders, which draws its legality and powers from County Governments Act, 2012 and the Constitution. Standing Order 183 provides for the Powers and privileges of committees, thus-

*Committees shall enjoy and exercise all the powers and privileges bestowed on County Assembly by the Constitution and statute, including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the Government and the public.*

The committee is established under the County Assemblies Powers and Privileges Committee Act, 2017, Section 15 (1). The Act is established under Article 196(3) of the Constitution of Kenya, 2010.

The Committee's powers to summon witnesses for purposes of giving evidence is provided for under Article 196 of the Constitution, thus –

*A county assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information. For the purposes of clause (1), an assembly has the same powers as the High Court to—*

- a) *enforce the attendance of witnesses and examining them on oath, affirmation or otherwise;*
- b) *compel the production of documents; and*
- c) *issue a commission or request to examine witnesses abroad.*

Further, Article 196(3) provides that *Parliament shall enact legislation providing for the powers, privileges and immunities of county assemblies, their committees and members.* It is on the basis of the foregoing that

the Senate and the National Assembly of the Republic of Kenya enacted the County Assemblies Powers and privileges Act, 2017.

Section 16 of the County Assemblies Powers and Privileges Act, 2017 states what constitutes to be a breach of the privileges and Section 15 of the Act gives the Committee the mandate to inquire into conduct of a Member whose conduct is alleged to constitute a breach of privileges in terms of Section 16.

The Act provides comprehensively for offenses, under Section 27 for failure to attend to summons and for general breaches of the law's provisions elsewhere.

### **b) Events Occasioning Breaches and the Inquiry**

The matters for which the Select Committee on Powers and Privileges now undertakes this inquiry arise from the alleged unethical conduct of the honorable Mary Ariviza, MCA, during the County Assemblies Forum 2019, held in Kisumu County, which conduct according to Section 16 (e) the County Assemblies Powers and Privileges Act, 2017 may have been meant to demean the office of the speaker and most likely reflect adversely on the dignity or integrity of the County Assembly and its Members contrary to the best interests of the County Assembly.

On 23<sup>rd</sup> April, 2019, the Leader of the Majority party Hon. Abdi .I. Hassan, MCA rose on the floor of the House under Standing Order No. 45 (2) (b) and made a Statement reporting alleged misconduct by Hon. Mary Ariviza during the County Assemblies Forum, 2019 held in Kisumu County. In his Statement, the Leader of the Majority party alleged that during the address to the delegates by the Hon. Acting Speaker, the Hon. Chege Mwaura, MCA, the Hon. Mary Ariviza, MCA conducted herself in a manner to denounce the leadership of the Hon. Acting Speaker in the midst of the conference hence bringing the Assembly to dispute in violation of section 16 of the Powers and Privileges Act.

It was alleged that the Hon. Mary Arivisa had threatened to disrupt the Hon. Chege Mwaura's speech, proceeding to openly declare before all delegates and anyone who cared to listen to her that the Hon. Chege Mwaura, MCA was an imposter and not the rightful Speaker of the Nairobi City County Assembly. This remarks, the Majority Leader alleged, and the Member's conduct, were willfully timed to cause the Hon. Acting Speaker embarrassment, which matter was raised by other delegates from other Assemblies who implored the Hon. Mary Ariviza, MCA to tone down her uncalled for agitation.



In view of the above, the presiding Chair for the day's sitting directed that the matter be committed to the Select Committee on Powers and Privileges to investigate and report to the House before the Assembly proceeds on Recess on 13<sup>th</sup> May, 2019.

#### **1.4 Witnesses**

As earlier indicated, the Committee called various witnesses for purposes of preparing a comprehensive report on the alleged unethical conduct of the Hon. Mary Arivisa, MCA and the breaches of the County Assemblies Powers and Privileges Act, 2017 as relates to the honorable member acting in a manner to demean the institution of the County Assembly.

On behalf of the Committee, and pursuant to Section 18 of the County Assemblies Powers and Privileges Act, 2017, the Committee, under the direction of the Chairperson, wrote and issued Summonses for the following to appear before the Select Committee on Powers and Privileges to shed light on the alleged misconduct of Hon. Mary Arivisa, MCA during the County Assemblies Forum, 2019.

They include;

- 1) Hon. Abdi .I. Hassan, MCA – Leader of the Majority Party
- 2) Hon. Emily Wanjiru Waithaka, MCA
- 3) Hon. Hon. Mary Arivisa, MCA
- 4) Hon. Melab Atemah, MCA
- 5) Mr. Francis Kivila (Sergeant At Arms - staff)
- 6) Mr. Daniel Osewe (Sergeant At Arms - staff)
- 7) Mr. Patrick Muidi (Sergeant At Arms - staff)
- 8) Mr. John Moyare (Speaker's body guard)
- 9) Mr. Rose Ogonda, MCA

## **1.5 Acknowledgement**

Hon. Members, I wish to acknowledge with gratitude the Members of the Select Committee on Powers and Privileges for the dedication that they have portrayed in ensuring that the Committee implements its mandate and that the County Assembly upholds its dignity and integrity, while looking into the alleged unethical conduct of members within the precincts and investigations into the allegation of bribery of Committees of the Assembly.

Hon. Members, my sincere appreciation also goes to the office of the Clerk of the County Assembly and the Secretariat of the Select Committee on Powers and Privileges for offering sound legal advice on the mentioned cases.



## 2.0 Background to The Inquiry

Hon. Members, the County Assembly Committees are extensions of the Assembly established under the County Assembly Standing Orders and in accordance with Section 14 of the County Governments Act, 2012. The Committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary.

The select Committee on Powers and Privileges exercises its mandate by investigating any matter pertaining conduct of members and staff within the precincts of the Assembly. Pursuant to the provisions of Standing Order 183 as read together with Section 15 of the Act, the Select Committee on Powers and privileges had a meeting to consider, deliberate and lay modalities on how to proceed with matters that had been placed before the Committee for investigation. This was necessary for the effective discharge of the Committee's mandate.

Subsequently, the Select Committee on Powers and Privileges held the first sitting on the 24<sup>th</sup> day of April 2019 at the Assembly Chamber Boardroom between 10:00 Am and 12.00 Noon. Upon deliberations, the Committee resolved to summon both the honorable members and the staffs whom it wished to appear before it to shed light on an alleged incident that occurred in Kisumu during the County Assemblies Forum, 2019.

The Committee held a total of eight (10) Sittings during which evidence was received from witnesses and statements received from the sergeant at arms. During the sittings, witnesses were summoned to appear and adduce evidence in chief. The Committee held sittings on 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup>, 27<sup>th</sup>, 29<sup>th</sup> and 30<sup>th</sup> April 2019 and 8<sup>th</sup>, 28<sup>th</sup>, 29<sup>th</sup> May 2019 and 4<sup>th</sup> June, 2019.

The Select Committee on Powers and Privileges invited members and Assembly staffers who were present at the event and were willing to provide an account of what transpired to enable them to do investigations at the Committee meeting level as directed by the Hon. Speaker and further directing the office of the Clerk to promptly contact and facilitate Members and the Assembly staffs in regards to the same.

The Select Committee on Powers and Privileges invited Hon. Abdi .I. Hassan, MCA; Hon. Mary Arivitsa, MCA; Hon. Melab Afwayi, MCA; Hon. Emilly Wanjiru Waithaka, MCA; Mrs. Rose Ogonda, MCA; Mr. Francis Kivila, Mr. Daniel Osewe, Mr. Patrick Moindi (Sergeant – At – Arms present during the event) and Mr. John Moiware to appear before the committee on respective dates in April and May 2019.

On 23<sup>rd</sup> April, 2019, Hon. Abdi .I. Hassan, MCA rose on the floor of the House under Standing Order No. 45 2 (b) and made a Statement reporting alleged misconduct by Hon. Mary Ariviza during the County Assembly Forum held in Kisumu County. The said Member was accordingly named pursuant to Standing Order No. 115. In his Statement, the Leader of the Majority party alleged that during the address to the delegates by the Hon. Speaker, the Hon. Member conducted herself in a manner to denounce the leadership of the Hon. Speaker in the midst of the delegate hence bringing the Assembly to dispute in violatate of Section 16 of the Powers and Privileges Act, against whom the Select Committee on Powers and Privileges sent invitations to appear before it to shed light on the foregoing.

Standing Order 183 of the Nairobi City County Assembly Standing Orders provides that; *“Committees shall enjoy and exercise all the powers and privileges bestowed on County Assembly by the Constitution and statute, including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the Government and the public.”*

As such, the Committee at its meeting held on **24<sup>th</sup> April 2019** resolved to invite honorable members and named members of staff of Nairobi City County Assembly to appear before it for purposes of shedding light in regards to the alleged misconduct of honorable Mary Arivitsa, MCA during the County Assemblies Forum 2019 in Kisumu County.

### **3.0 Proceedings of the Inquiry Into The Alleged Misconduct By Hon. Mary**

#### **Proceedings**

##### **3.1 Witnesses from the County Assembly membership and staff**

Statements and oral testimony from witnesses from the County Assembly were reviewed and noted as follows.

##### **3.1.1 Mr. Francis Kivila (Sergeant At Arms - staff)**

On Thursday, 24<sup>th</sup> April, 2019 Mr. Francis Kivila (*Sergeant At Arms - staff*) appeared before the Committee for purposes of giving evidence on the events that transpired on or about 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.



**✚ When requested to share with the Committee what transpired on 17<sup>th</sup> April, 2019 in Kisumu during the Speaker's speech.**

He confirmed to have travelled to Kisumu and shared with the Committee the major roles he played during that time in Kisumu which majorly was coordination, logistics and to ascertain that the badges for the honorable members and staffs from Nairobi City County Assembly were ready in good time. As sergeants, they were to coordinate youth and women summit event which had commenced before the main event (Legislative Summit).

He stated that, there were some officers who were assigned duties of manning the plenary point (where the main event was taking place) adding that he was in charge of protocol and access control at the entry point (gate).

He only interacted with the Hon. Speaker at the point of entry to the venue. Further, he did not participate in the plenary sessions. Subsequently, he could not be able to confirm what Hon. Mary Ariviza is alleged to have stated.

**✚ If he Could have heard the Speaker's speech by any chance at the point he was.**

He reaffirmed that the distance from the plenary point to the entrance, where he was assigned the duties, was far (about 200 or 300metres away). He stated that unless one used a loud speaker, one would not be able to hear what was said.

**✚ When asked to name the sergeant –Art –Arm who was assigned the plenary point where the speeches were being delivered.**

He stated, there were two officers, Mr. Patrick Moindi, and Mr. Daniel Osewe (both being commissionaire at Nairobi City County Assembly).

Further, among other duties, Mr. Patrick Moindi was to receive the Hon. Speaker and guide him to a holding room for the Speakers and thereafter escort the Speaker to where the plenary was taking place. He was to reserve a seat for the Speaker too.

Mr. Kivila Francis confirmed that Mr. Patrick Moindi was to be assisted by Mr. Daniel Osewe in the event that he could be out of the plenary and that if the said utterances were loud enough to be heard then, the two officers were in a position to shed more light.

- ⊕ **When asked to confirm that Hon. Mary Ariviza, MCA was in attendance at the summit**

He confirmed that he met Hon. Mary Ariviza, MCA during the summit and he could even recall issuing her with a meal card.

- ⊕ **On whether he heard anybody complain within Kisumu of Hon. Mary Ariviza, MCA utterances**

He stated that he didn't interact with any Member of the County Assembly or members of staff who expressed dissatisfaction on the conduct of one Hon. Mary Arivitsa, MCA.

- ⊕ **On the advice he could give to the Hon. Members in case of any misconduct**

He stated that he would be the least person to give advice, however, public and state officers ought to adhere to the Chapter six of the Constitution.

### **3.1.2 Mr. Daniel Osewe (Sergeant-At-Arms staff)**

On Thursday, 24<sup>th</sup> April, 2019 Mr. Daniel Osewe (*Sergeant-At-Arms - staff*) appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

- ⊕ **When requested to state where he was at the time honorable Speaker was moderating the plenary session**

He confirmed that he was at the venue.

- ⊕ **If there was any interruption during the session moderated by the Honorable Speaker by Hon. Mary Ariviza, MCA**

He did not witness.

- ⊕ **Whether Hon. Mary Ariviza, MCA had an opportunity to address the crowd**

He stated that Hon. Mary Arivitsa, MCA didn't have opportunity to address the crowd.

- ✚ **On whether he heard anybody complain about Hon. Mary Ariviza during the sessions in Kisumu**

He told the Committee that he didn't hear anyone complain.

### **3.1.3 Mr. Patrick Moindi (Sergeant At Arms staff)**

On Thursday, 24<sup>th</sup> April, 2019 Mr. Patrick Moindi (*Sergeant At Arms - staff*) appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

- ✚ **On whether they had been assigned designated areas to perform their duties at the summit**

He stated, they were not assigned specific areas of work for the entire period i.e each day they were allocated different place.

- ✚ **On whether Hon. Mary Arivitsa, MCA got an opportunity to address the plenary**

He stated that much of his work was at the entrance thus he may not have known if the honorable member addressed the plenary.

- ✚ **On whether members of the sergeant at arms department have mechanisms of communication amongst them**

He didn't hear any of his colleagues discuss anything in regards to Honorable Mary Arivitsa's alleged misconduct but only heard the same during plenary in the Assembly on 23<sup>rd</sup> April 2019.

- ✚ **As to whether he saw Hon. Mary Ariviza, MCA on that particular day when the Speaker was moderating the session**

He stated that he met the honorable member at the exhibition which was situated close to main entrance.

- ✚ **As to whether he heard anybody complain about Hon. Mary Ariviza, MCA**

He did not hear anyone complain of her actions at any given point.

### **3.1.4 Mr. John Moyare (Speaker's body guard)**



On Thursday, 24<sup>th</sup> April, 2019 Mr. John Moyare (*Speaker's body guard*) appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa, MCA while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

⚡ **If he was in Kisumu and specifically when the honorable speaker was moderating the session**

He stated that he was not with the speaker on Wednesday 17<sup>th</sup> April 2019 but he witnessed the Speaker moderate the session in the afternoon.

⚡ **Whether he was aware that there is allegation that Hon. Mary Ariviza, MCA shouted down the Speaker during the County Assemblies Forum 2019 held in Kisumu**

He was not aware but was present in the afternoon during the moderation session by the honorable speaker. Further stating on the restrictions and a number of instances that he should neither be close nor get beyond specific distances from the honorable speaker being armed.

### **3.1.5 Hon. Emily Wanjiru Waithaka, MCA**

On Thursday, 24<sup>th</sup> April, 2019, Hon. Emily Wanjiru Waithaka, MCA appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

⚡ **Whether he had knowledge on an incident that happened in Kisumu during the County Assemblies Forum event where Hon. Mary Arivitz, MCA was adversely mentioned to have demeaned the office of the Speaker.**

She stated that on that particular day, she left Kisumu and moved towards Kakamega and that, during the moderation session by the honorable speaker, she was not present later when the speaker was concluding. Further added that, she only heard about it during plenary on 23<sup>rd</sup> April 2019 in the Chamber.

✚ **If he saw Hon. Mary Ariviza, MCA in Kisumu during the conference days.**

She admitted seeing Hon. Mary Arivitsa, MCA.

✚ **Whether she was hearing about the alleged argument between Hon. Mary Ariviza and the Speaker on the floor for the first time.**

She heard it the previous day in the plenary it prompted them to converse being of the same age but refuted the alleged incident.

✚ **If she got an opportunity to engage one on one with Hon. Mary Ariviza concerning the alleged incident.**

She did not have an opportunity since she left before the adjournment of the House while attending to a matter leaving her with no time to converse with the honorable member.

✚ **On her take concerning Hon. Mary Ariviza's alleged abuse of privileges as a leader.**

She termed the allegations as a bad show as the honorable member must not act in a manner to demean the house or expose in – house matters in public adding that, if there was anything concerning the Speaker then, it was advisable to dialogue with the Leadership for solutions.

### **3.1.6 Hon. Mary Ariviza**

On Thursday, 25<sup>th</sup> April, 2019, Hon. Mary Arivitsa, MCA appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry. She informed the Committee as follows:-

✚ **On whether she received a written invitation from the Committee to appear before it.**

She confirmed receipt of an invite via Nairobi County Assembly SMS and an official letter in regards to the same, but noted that the letter had been given to her formally on the morning of her appearance before the Committee.

‡ **On Whether She needs more time to Prepare for her appearance having received her written invite late.**

She noted that despite being served the written invite late, she decided it was appropriate she appear before the Committee if her appearance would not consume a lot of time, seeing as she was within precincts but had a flight later in the day to attend a workshop in Mombasa.

‡ **On what transpired in Kisumu regarding the accusations against her.**

She noted that she was indeed present the Conference from the first day and even attended conference for people with disability, youths and women and also women conference but did not attend the conference on the specific dates during which the honorable speaker moderated sessions.

‡ **On whether she attended the session that was being moderated by the honorable Speaker.**

She stated that she did not attend the session where the honorable Speaker gave a speech.

‡ **Why she arose on the floor of the house to give an apology when she had no issue with the honorable speaker and the house at large.**

She confirmed apologizing on the floor of the Assembly being the subject of discussion at the time.

‡ **If she spoke ill of the Hon. Speaker during the moderating sessions by the honorable speaker.**

She did not speak ill of anyone and did not see the leader of the majority Party sitting anywhere close to her.

‡ **What she meant when she said that Nairobi City County has only one worker.**

She stated that they ought to have three employees while Nairobi City County do not have a single worker or office adding that her prior quotes did not mean to demean anyone or any office

### **3.1.7 Hon. Melab Atemah, MCA**

On Thursday, 25<sup>th</sup> April, 2019, Hon. Melab Atemah, MCA appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by



Hon. Mary Arivitsa while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry

✚ **When asked to confirm whether she had received and invitation to attend the meeting**

She confirmed to have received the invite.

✚ **When asked to confirm the presence of Hon. Mary Ariviza, MCA during the summit**

She stated that she saw the Honorable member attend the said meeting for a couple of days.

✚ **When asked if she witnessed the Honorable Ariviza conducting herself in a way to demean the office of the Speaker**

She didn't remember seeing or witnessing Hon. Arivitsa misconduct herself. Further, she met with the Hon. Arivitsa during the breaks but did not sit with her at the conference.

✚ **When asked if she had heard such allegation anywhere else**

The honorable member said that, she heard it for the first time from the Majority leader in the Assembly which also shocked her because she believed that was not right thing to do.

✚ **When asked to confirm to the committee whether there could be a conspiracy to heckle the Hon. Speaker, Chege Mwaura during the summit**

She may not have known since she kept in touch with the honorable Speaker throughout County Assemblies Forum adding that Hon. Mary Arivitsa, MCA was not with them throughout and that the last time she sat with her was during the last day of the meeting (during resolution of the County Assemblies Forum)

✚ **When asked if she attended any session together with Hon. Mary Arivitsa that was facilitated or moderated by the Hon. Speaker himself**

Hon. Mary Arivitsa, MCA was present and sat about two rows away from where they sat next to Members of Parliament adding that, they only sat close to one another after the summit had ended and they were told to go for people to discuss the constitution of the summit for CAF. that is when Hon. Mary sat in front of her and the Hon. Speaker wasn't there at that time.

In conclusion, the honorable member suggested that if the County have somebody who does psycho - social programs and counselling, it will assist Hon. Mary Arivitsa, MCA going forward.

### **3.1.8 Hon. Abdi I Hassan, MCA**

On Wednesday, 29<sup>th</sup> April, 2019, Hon. Abdi Hassan, MCA appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

The honourable member appeared before the Committee and shared an audio clip of the incident to the Committee. He stated that the source of the audio clip was by a member from another County Assembly who heard Hon. Mary Arivitsa, MCA talk in a manner to demean the office of the speaker.

Subsequent to the Hon. Abdi Hassan's appearance, the Committee resolved that the Hon. Mary Arivisa, MCA be re-invited to appear before the Committee for purposes of responding to the allegations raised by the Hon. Abdi Hassan, MCA, and the recording he tabled as evidence when he appeared before the committee. The member was subsequently invited to appear before the Committee on 8<sup>th</sup> May, 2019.

### **3.1.9 Hon. Mary Ariviza, MCA**

On Wednesday, 8<sup>th</sup> May, 2019, Hon. Mary Arivitsa, MCA re-appeared before the Committee for the second time for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges while attending the County Assemblies Forum Legislative Summit 2019.

‡ **When asked if at all she understood why she was re - invited to the committee.**

She said that she was aware of the invite and confirmed to have received a message from Nairobi City County Assembly that required her to attend the Select Committee on Powers and Privileges meeting that was rescheduled from 30<sup>th</sup> April 2019 to 8<sup>th</sup> May 2019 following a letter that she wrote to the Committee requesting the Committee to give her more days (seven days) to prepare for the meeting. Adding that, in the SMS, the Committee required her to shed light on an alleged misconduct incident that occurred in Kisumu.

‡ **On whether she had had the opportunity to listen to the recording alleging her misconduct and her comments on the same.**



She stated she had not heard the recording.

**≠ When asked to state her reason for apologizing on the floor of the Assembly if she had not done anything**

She noted that she is a Christian, quoting the bible verses while giving examples that when a person is offended with another or aggrieved, then the most important thing by that time is the need to make peace. So the apology was for the anger and the uproar that was in the House and not as perceived.

She even didn't know of her accuser or who might have brought the clip.

*(At this point, the Audio was played for her)*

**≠ On what she understood from the clip and to confirm if she is the one in the recording**

She was not sure if that was her voice and if it was hers then, it might be moved out of context of what was being said and the communication she received.

*(The Chairperson read a letter sent to her on 30th April 2019 and an SMS from Nairobi County Assembly explaining resolutions of the same)*

She agreed to have received the communication but to her understanding, the Committee seemed to have shifted goal posts from the initial letter she received.

On whether it was her voice in the recording, she stated she did not attend the meeting where the Hon. Speaker was speaking and that, while she was in the summit, she did not speak anywhere near people from Nairobi County Assembly and that most of the time she stayed in her village.

She insisted that it may not be her voice since they are leaving in a digital era where anyone could change people's voices on digital machines to suit their needs.

**≠ On her opinion on whether it was proper that the Committee pursue her for the alleged remarks**

She noted that it was her prayer that Nairobi City County be a place where members can legislate and over sight so that it doesn't focus on Honorable members since it has become a routine appearing before the Select Committee on Powers and Privileges.

She wished the committee to take a reconciliatory step and not major in punishing members and that, there is a pre-arrangement that the powers and privileges plan to send her away for three months and not 21 days as was the first report, adding that, she knew Hon. Beatrice Elachi, MCA has been declared as the speaker Nairobi County Assembly by the court and that she would be coming, so she urged the Committee to have a reconciliatory attitude

- ⊕ **When asked to name those she heard making allegations against the powers and privileges committee in regards to her punishment of three months.**

She said that she may not be able to mention anyone.

- ⊕ **If she still believes that Hon. Beatrice Elachi is still the Nairobi City County Assembly Speaker and if she believes the Ag. Speaker has substantive powers**

She stressed on the reconciliation as with that it doesn't mean she has to come to Nairobi City County Assembly but it ought to be beyond that, stating that, people should reconcile and focus ahead. That being a constitution maker, she believed in the rule of law and would urge Nairobi City County Assembly to be reconciliatory and work together to serve Nairobians.

## 4.0 Committee's Observations, Findings and Recommendations

### 4.1 Observations

Having reviewed the audio - clip containing allegations of alleged misconduct of Hon. Mary Arivitsa, MCA from various members of the County Assembly and members of staff who appeared before the committee as witnesses and the oral evidence adduced by the witnesses, the Committee observes that-

1. That indeed Hon. Mary Arivitsa, MCA attended the CAF Legislative Summit, 2019 in Kisumu County, and was indeed present at the material day, time and place that it is alleged she misconducted herself with a view to demeaning the reputation of not just the office of the Speaker, but of the County Assembly as recalled by various witnesses;
2. That the Hon. Mary Arivitsa, MCA had acted in a manner to demean the office she holds, that of the speaker and the Assembly and that it was evident in an audio clip that was presented before the Committee by one of the witnesses, the Hon. Abdi. I. Hassan, MCA, and other witnesses who were present at the material time;
3. That the Hon. Mary Arivitsa, MCA misled, and therefore lied in her witnesses testimony that she did not attend the conference on the material day as alleged and was therefore not present at the time the Hon. Acting Speaker moderated a session, contrary to irrefutable evidence on record that she did sign for her attendance with the Sergeants at Arms on the material day and was indeed present as recalled by other witnesses at the material time and place that the alleged misconduct occurred.

### 4.2 Findings

1. Upon Scrutiny of information from all witnesses by the Committee, and prima facie evidence in an audio clip that was presented before the Committee by one of the witnesses, Hon. Abdi. I. Hassan, MCA – Leader of the majority party, the Committee finds that a strong inference can be made that the Hon. Mary Arivitsa, MCA acted in a manner to demean the office of the speaker.



2. The Committee finds that the Hon. Mary Arivitsa, MCA, misled, and therefore lied in her witnesses testimony that she did attend the conference on the material day as alleged and was therefore not present at the time the Hon. Acting Speaker moderated a session, contrary to irrefutable evidence on record that she did sign for her attendance with the Sergeants at Arms on the material day and was indeed present as recalled by other witnesses at the material time and place that the alleged misconduct occurred.

#### 4.3 RECOMMENDATIONS

Having reviewed the evidence on record, including oral testimony from all witnesses invited to appear before the Committee, the Committee makes the following recommendations: -

#### THAT: -

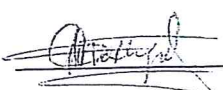

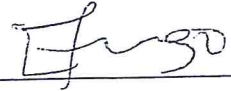
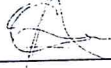
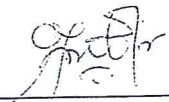

- a. Pursuant to Section 17 (3)(g) of the County Assemblies Powers and Privileges Act, 2017, the Hon. Mary Arivitsa, MCA be suspended from the Assembly for **THIRTY (30)** ~~plenary~~ <sup>plenary</sup> sittings upon adoption of the report for conducting herself in a manner intended to demean the office she holds, that of the honorable speaker and conduct likely to reflect adversely on the dignity or integrity of the County Assembly, or of its members contrary to the best interest of the Assembly and contrary to Section 16 (e) of the County Assemblies Powers and Privileges Act and for violation of Standing Orders 113 (g) and (j).
- b. Pursuant to Section 17 (3) (c) of the County Assemblies Powers and Privileges Act, 2017, the Hon. Mary Arivitsa, MCA shall formally apologize to the Assembly after serving the suspension.
- c. The Assembly forthwith conduct rigorous training for all Honorable members on conduct, powers, immunities and privileges.





## 5.0 ADOPTION OF THE REPORT BY THE COMMITTEE

WE, the undersigned Members of the Committee of Powers and Privileges, having considered this Report on the investigations into alleged unethical conduct of members within the precincts of the Assembly on 6<sup>th</sup> November, 2018, do hereby confirm our agreement with the content of the Report and request the Chairperson to present the Report to the Assembly -

Name	Signature
1. Hon. Chege Mwaura, MCA- Chairperson	_____
2. Hon. Naftaly Mathenge, MCA- V. Chairperson	 _____
3. Hon. Abdi I. Hassan, MCA- Majority Leader	_____
4. Hon. Maurice Ochieng', MCA	_____
5. Hon. Geoffrey Majiwa, MCA	 _____
6. Hon. Evans Otiso, MCA	 _____
7. Hon. Carolyne Mayunzu, MCA	 _____
8. Hon. Jacinta Wanjiru, MCA	_____
9. Hon. Margaret Mbote, MCA	 _____
10. Hon. Sylvia Moseiya, MCA	 _____
11. Hon. Jackline Apondi, MCA	_____
12. Hon. Peter Wahinya Njau, MCA	_____



MINUTES OF THE 15<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEGES COMMITTEE HELD ON 24<sup>TH</sup> APRIL 2019 AT 10:30 A.M IN THE CHAMBER BOARDROOM.

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice- Chairman
2. Hon. Patrick Musili, MCA
3. Hon. Caroline Mayunzu, MCA
4. Hon. Silvia Museiya, MCA
5. Hon. Geoffrey Majiwa, MCA
6. Hon. Evans Otiso , MCA
7. Hon. Peter Wahinya Njau, MCA
8. Hon. Jacinta Wanjiru, MCA

MEMBERS ABSENT WITH APOLOGY

- 1) Hon. Chege Mwaura, MCA Ag. Speaker Nairobi County Assembly.
- 2) Hon. Abdi I. Hassan, MCA- Leader of Majority

SECRETARIAT

1. Ms. Judith Aron - Clerk Assistant

MIN.058/P&P/MAY/2019: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 10:30 am. He prayed and welcomed Members present to the meeting.

The agenda for the day was as follows;

1. Preliminaries (Prayers and adoption of the Agenda)
2. Appearance before the Committee by Hon. Emily Wanjiru Waithaka, MCA, Mr. Francis Kivila, Mr. Daniel osewe, Mr. Patrick Moindi, (Sergeant –Art –Arms) Mr. John Moyare (Speaker's body guard)
3. Any Other Business
4. Adjournment

MIN.059/P&P/MAY/2019 APPEARANCE BEFORE THE COMMITTEE BY HON. EMILY WANJIRU WAITHAKA, MCA, MR. FRANCIS KIVILA, MR. DANIEL OSEWE, MR. PATRICK MOINDI, (SERGEANT –ART –ARMS) MR. JOHN MOYARE (SPEAKER'S BODY GUARD)

1. Mr. Francis Kivila (Sergent At Arms - staff)



On Thursday, 24<sup>th</sup> April, 2019 *Mr. Francis Kivila (Sergeant At Arms - staff)* appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa, MCA while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

When requested to share with the Committee what transpired on 17<sup>th</sup> April, 2019 in Kisumu during the Speaker's speech.

He confirmed to have travelled to Kisumu and shared with the Committee the major roles he played during that time in Kisumu which majorly was coordination, logistics and to ascertain that the badges for the honorable members and staffs from Nairobi City County Assembly were ready in good time. They were too to coordinate youth and women summit event which had commenced before the main event (CAF event).

He stated that, there were other officers who were assigned duties of manning the plenary point (where the main event was taking place) adding that he was in charge of protocol and access control at the entry point (gate).

He further said that he only interacted with the Hon. Speaker at the point he entered the venue. And hence, he didn't participate in the plenary events, so he may not be able to confirm hearing anything in relation to the said matter that was under investigation at that event.

If he could have heard the Speaker's speech by any chance at the point he was.

He reaffirmed that from the plenary point to the entrance where he was assigned the duties was far (about 200 or 300 metres away) unless one used a loud speaker, one may not be able to hear what they said.

When asked to name the sergeant – Art – Arm who was assigned the plenary point where the speeches were being delivered?

They had two officers, that is Mr. Patrick Moindi, and Mr. Daniel Osewe (Commissionaire of Nairobi City County Assembly).

In regards to designation of duties during that time, Mr. Patrick Moindi was to receive the Hon. Speaker and guide him to a holding room for the Speakers and thereafter escort the Speaker to the plenary.

He was to be assisted by Mr. Daniel Osewe. in an event that he could be out of the plenary and that if the said utterances were loud enough to be heard then, they could be the officers to share some information in relation to that.

To confirm whether Hon. Mary Ariviza, MCA was in attendance that day.

He confirmed that he met Hon. Mary Ariviza, MCA on that particular day and he even recalled issuing her with a meal card.

If he heard anybody complain anywhere within Kisumu of Hon. Mary Ariviza, MCA behavior.

He stated that he didn't interact with any Member of the County Assembly or staff who in any way expressed dissatisfaction on the conduct of one Hon. Mary Ariviza, MCA unless it happened somewhere else from where he was.

The advice he could give to the Hon. Members in case of any misconduct.

He stated that he would be the least person to give advice, however, public and state officers ought to adhere to the chapter six of the constitution.

## 2) Mr. Daniel Osewe (Sergeant At Arms staff)

On Thursday, 24<sup>th</sup> April, 2019 *Mr. Daniel Osewe (Sergeant At Arms - staff)* appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Ariviza while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

Where he was at the time honorable Speaker was delivering his speech.

He confirmed that he was at the venue during the speaker's speech.

If there was any interruption to the Speaker's speech by Hon. Mary Ariviza.

He didn't see any interruption during the hon. Speaker's speech

Whether Hon. Mary Ariviza had an opportunity to address the crowd.

He stated that Hon. Mary Ariviza, MCA didn't have opportunity to address the crowd.

If he ever heard anybody complain about Hon. Mary Ariviza during the sessions in Kisumu.

He told the Committee that he didn't hear anyone complain.

## 3) Mr. Patrick Moindi (Sergeant At Arms staff)

On Thursday, 24<sup>th</sup> April, 2019 *Mr. Patrick Moindi (Sergeant At Arms - staff)* appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Ariviza while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

Where he was assigned duties in Kisumu.

They were not assigned to one specific place of work for the entire period i.e each day they were allocated different place.

If hon. Mary Ariviza, MCA got an opportunity to address the plenary.

He stated that much of his work was at the entrance thus he may not have known if the honorable member addressed the plenary.



If they as Sergeant- At- Arms have friendship communication and if so, if they normally chat amongst themselves.

He didn't hear any of his colleagues discuss anything in regards to honorable Mary Arivitsa's alleged misconduct but only heard the same during plenary on 23<sup>rd</sup> April 2019.

Whether he saw Hon. Mary Ariviza, MCA on that particular day when the Speaker gave the speech.

He stated that he met the honorable member at the exhibition which was situated close to main entrance.

If he heard anybody complain about her.

He did not hear anyone complain of her actions at any given point.

#### 4) Mr. John Moyare (Speaker's body guard)

On Thursday, 24<sup>th</sup> April, 2019 *Mr. John Moyare (Speaker's body guard)* appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa, MCA while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

If he was in Kisumu and specifically when the honorable speaker was moderating

He stated that he wasn't with the speaker full time on Tuesday and didn't attend on Wednesday too but went there in the afternoon and found him moderate the event.

Whether he was aware that there is allegation that Hon. Mary Ariviza, MCA shouted down at the Speaker during the County Assemblies Forum 2019 held in Kisumu.

He was not aware but was there in the afternoon when the honorable speaker was moderating but not giving the speech and that was in the afternoon stating that there are instances like in the Chamber where his duties are restricted (he is not supposed to be inside the Chamber adding that the one who is supposed to be protecting the Speaker is the Sargent Art Arms who is not armed and so being armed, he is expected not to be close) hence he could be in the tent but could not move beyond where honorable Members were seated to the point where the Speaker concluding that , at any given point during the workshop.

#### 5) Hon. Emilly Wanjiru Waithaka, MCA

On Thursday, 24<sup>th</sup> April, 2019, Hon. Emilly Wanjiru Waithaka, MCA appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

Whether he had knowledge on an incident that happened in Kisumu during the CAF event where Hon. Mary Arivitsa, MCA was adversely mentioned to have demeaned the office of the Speaker.



MINUTES OF THE 16<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEGES COMMITTEE HELD ON 25<sup>TH</sup> APRIL 2019 AT 10:30 A.M IN THE CHAMBER BOARDROOM.

**MEMBERS PRESENT**

1. Hon. Naftali Mathenge, MCA- Vice- Chairman
2. Hon. Patrick Musili, MCA
3. Hon. Caroline Mayunzu, MCA
4. Hon. Silvia Museiya, MCA
5. Hon. Geoffrey Majiwa, MCA
6. Hon. Evans Otiso, MCA
7. Hon. Peter Wahinya Njau, MCA
8. Hon. Jacinta Wanjiru, MCA

**MEMBERS ABSENT WITH APOLOGY**

1. Hon. Chege Mwaura, MCA Ag. Speaker Nairobi County Assembly.
2. Hon. Abdi I. Hassan, MCA- Leader of Majority

**SECRETARIAT**

1. Ms. Judith Aron - Clerk Assistant

**MIN.062/P&P/MAY/2019: PRELIMINARIES**

The Vice-Chairperson called the meeting to order at 10:30 am. He prayed and welcomed Members present to the meeting.

The agenda for the day was as follows;

1. Preliminaries (Prayers and adoption of the Agenda)
2. Appearance before the Committee by
  - i) Hon. Mary Arivitzza, MCA
  - ii) Hon. Abdi Hassan-Leader of the Majority Party
  - iii) Hon. June ndegwa, MCA
  - iv) Hon. Rose ogonda, MCA
  - v) Hon. Melab Attemah, MCA
  - vi) Mr. Jacob ngwele – Clerk Nairobi County Assembly
3. Any Other Business
4. Adjournment

**MIN.063/P&P/MAY/2019 APPEARANCE BEFORE THE COMMITTEE BY HON. MARY ARIVITZA, MCA, HON. ABDI HASSAN-LEADER OF THE MAJORITY PARTY, HON. JUNE NDEGWA, MCA, HON. ROSE OGONDA, MCA, HON. MELAB ATTEMAH, MCA, MR. JACOB NGWELE – CLERK NAIROBI COUNTY ASSEMBLY**

## **1. Hon. Mary Ariviza, MCA**

On Thursday, 25<sup>th</sup> April, 2019, Hon. Mary Arivitsa, MCA appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

### **To Confirm receipt of an invitation from the Committee.**

She received an invite via SMS but also heard there was a formal letter but she hadn't taken it.

### **To shed light on what transpired in Kisumu as was alleged.**

She was in the Conference from the first day and even attended conference for people with disability, youths and women and also women conference but did not attend the specific dates she is told to have interrupted the Hon. Speaker adding that the Speaker himself passed her by the pool when she was talking with people with disability.

### **To confirm whether she attended the session that was being moderated by our Speaker Hon. Mwaura Chege.**

She stated that she didn't attend the session where the Speaker gave a speech.

### **The session she interrupted**

She didn't interrupt any but was very shocked to hear it on the floor

### **Why she had to rise on the floor of the house and give an apology when she was clean and had no issue with the honorable speaker.**

She said that that she stood on the floor to apologize because she was the subject of discussion urging the Committee members to have time to listen to the you will Hansard on that day so that they may certify whatever she uttered on that day.

### **If she spoke ill of the Hon. Speaker during that time.**

She didn't and at no given time did she see the leader of the majority Party sitting anywhere near her and she would have liked to know the Standing Order that allows one to give an allegation, however she wanted to know other details in regards to the allegations against her.

### **What she meant when she said Nairobi County has only one worker.**

She stated that they ought to have three employees while them, they don't have even one worker or office and added that at no time in her heart did she mean to demean anyone or any office. And that Because she was being asked so much about what she uttered, she requested for evidence since she neither talked to anyone loudly, grabbed nor had a chance to use a microphone in any forum.

## **2. Hon. Melab Atemah, MCA**



She stated that on that particular day, she left Kisumu and moved towards Kakamega and that, when honorable speaker was giving his speech, she was not present but came much later and she didn't hear about it then. She only heard about it during plenary on 23<sup>rd</sup> April 2019 in the Chamber.

If he saw Hon. Mary Ariviza, MCA in Kisumu during the conference days.

He admitted that she saw her but did not attend plenary with her.

Whether she was hearing about the alleged argument between Hon. Mary Ariviza and the Speaker on the floor for the first time.

She heard it the previous day in the plenary and that is what prompted them to converse and being of the same age, she was not pleased with the incident if at all it occurred and was sorry about what transpired.

If she got an opportunity to engage one on one with Hon. Mary Ariviza concerning that incident.

She didn't but left early even before the adjournment of the House because she had a matter to attend to so she could not talk to her during that time.

Her take concerning Mary Ariviza's issues as a leader.


As a leader she saw it as a bad show if the honorable member really said such words in Kisumu because honorable members should not demean the house or dirtify their linens in public adding that, if there was anything concerning the Speaker, it was advisable to come to the Leadership and complain.

MIN.060/P&P/MAY/2019 ANY OTHER BUSINESS

Upon deliberations, the Committee directed that, invitation letters be given to Honorable Mary Arivitsa, MCA, Hon. Abdi Hassan-Leader of the Majority Party, Hon. June Ndegwa, MCA, Hon. Rose Ogonda, MCA, Hon. Melab Attemah, MCA, Mr. Jacob Ngwele – Clerk Nairobi County Assembly. Purposefully to appear before it and shed light on the alleged misconduct against Hon. Mary Arivitsa, MCA.

MIN.061/P&P/MAY/2019 ADJOURNMENT

There being no other business, and the time being 12:00 P.m the Chairperson adjourned the meeting to the following day 25/4/2019.

	SIGN	DATE
CHAIRPERSON		28/05/19
SECRETARY	JH	28/05/2019





On Thursday, 25<sup>th</sup> April, 2019, Hon. Melab Atemah, MCA appeared before the Committee for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry

**To confirm whether she received the Select Committee on Powers and Privileges invite.**

She confirmed to have received an invite.

**To confirm the presence of Hon. Mary Ariviza, MCA during the conference**

She stated that she saw the honorable member attend the said meeting for a couple of days.

**If she witnessed the honorable member conduct herself in a way to demean the office of the Speaker and the Nairobi County Assembly.**

She didn't remember seeing or witnessing something of that kind. Adding that she used to meet the honorable member during tea or lunch breaks but they never used to sit together and she didn't sit in a meeting where she had shown misconducted.

**If she had heard such allegation anywhere else.**

The honorable member said that, she heard it for the first time from the Majority leader in the Assembly which also shocked her because she believed it is not right if at all the Honorable member behaved in such a manner.

**To confirm to the committee whether there could be a conspiracy to heckle the Hon. Speaker, Chege Mwaura during the summit.**

She may not have known since she kept in touch with the honorable Speaker throughout County Assemblies Forum adding that Hon. Mary Arivitsa, MCA was not with them throughout and that the last time she sat with her was during the last day of the meeting (during resolution of the County Assemblies Forum)

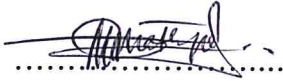
**If she attended any session together with Hon. Mary that was facilitated or moderated by the Hon. Speaker himself.**

Hon. Mary Arivitsa, MCA was present and sat about two rows away from where they sat next to Members of Parliament adding that, they only sat close to one another after the summit had ended and they were told to go for people to discuss the constitution of the summit for CAF. that is when Hon. Mary sat in front of her and the Hon. Speaker wasn't there at that time.

In conclusion, the honorable member suggested that if the County have somebody who does psycho - social programs and counselling, it will assist Hon. Mary Arivitsa, MCA going forward.

MIN.064/P&P/MAY/2019 ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business, and the time being 12:00 P.m the Chairperson adjourned the meeting to the following day 26/4/2019 in Pride Inn Paradise, Mombasa County.

  
.....

Chairperson

  
.....

Date

  
.....

Committee Clerk

  
.....

Date

MINUTES OF THE 17<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEGES COMMITTEE HELD ON 26<sup>TH</sup> APRIL 2019 AT 10:30 A.M IN PRIDE INN PARADISE HOTEL MOMBASA COUNTY.

**MEMBERS PRESENT**

1. Hon. Chege Mwaura, MCA Ag. Speaker Nairobi County Assembly.
2. Hon. Naftali Mathenge, MCA- **Vice- Chairman**
3. Hon. Jecinter Wanjiku, MCA
4. Hon. Margaret Mbote, MCA
5. Hon. Carolyne Mayunzu, MCA
6. Hon. Patrick Musili, MCA
7. Hon. Evans Otiso, MCA
8. Hon. Sylvia Moseiya, MCA
9. Hon. Geoffrey Majiwa, MCA
10. Hon. Peter Wahinya Njau, MCA

**IN ATTENDANCE**

1. Hon. John Kamangu, MCA Deputy Speaker (Chairperson Liaison Committee)

**MEMBERS ABSENT WITH APOLOGY**

1. Hon. Abdi I. Hassan, MCA- **Leader of Majority**

**SECRETARIAT**

1. Mr. Jacob Ngwele - Clerk Nairobi County Assembly
2. Ms. Adah Onyango - Deputy Clerk Nairobi County Assembly
3. Mr. Romeo Castro - Snr. Clerk Assistant
4. Ms. Judith Aron - Clerk Assistant
5. Mr. Klinsman Munase - Intern

**MIN.065/P&P/APR/2019: PRELIMINARIES**

The Vice-Chairperson called the meeting to order at 10:30 am. He prayed and welcomed Members present to the meeting.

**MIN.066/P&P/APR/2019 REVIEW OF SUBMISSIONS BY WITNESSES OF AN ALLEGATIONS ON THE SKIRMISHES INSIDE THE ASSEMBLY CHAMBERS ON 6<sup>TH</sup> NOV 2018 AGAINST HON. KENNEDY OYUGI, MCA AND HON. NICHOLAS OKUMU, MCA.**

Clerk to the Committee took members through a draft report of the Committee for purposes of considerations, scrutiny, deliberations and giving punishment to members found guilty.



There were review of submissions by the following members;

- i) Hon. Elias Otieno Okumu, MCA
- ii) Hon. Peter Imwatok, MCA (Minority Party Whip)
- iii) Hon. Nicholas Okumu, MCA
- iv) Hon. Redson Otieno,
- v) Hon. Kennedy Oyugi, MCA
- vi) Hon. Immapet, MCA Kemmunto, MCA
- vii) Hon. Lawrence Odhiambo, MCA
- viii) Hon. Anne Catherine Akinyi, MCA,
- ix) Hon. Jared Okode, MCA
- x) Hon. Emilly Oduor, MCA
- xi) Mr. Ramadhan Juma and
- xii) Mr. Timothy Osoi (Sergeants present during the event)

Upon deliberations and review of the submissions from witnesses the Committee invited to appear before it on different dates as stated in the report, the Select Committee on Powers and Privileges made observations after scrutiny and made observations and findings as follows;

#### **OBSERVATIONS AND FINDINGS**

Having reviewed the audio-visual footage containing allegations of alleged impropriety attributed to various members of the County Assembly who appeared before the committee as witnesses and the oral evidence adduced by the witnesses, the Committee observes that-

1. That indeed the Orange Democratic Party through the Party National Chairman had written to the Hon. Speaker concerning change in leadership at the County Assembly.
2. That indeed there was a scuffle in the chamber of the Assembly on 6<sup>th</sup> November 2018.
3. That the scuffle was brought about by the occupation of the reserved seats for the minority leadership by Hon. Kennedy Oyugi, MCA and Hon. Nicholas Okumu, MCA.
4. That the Hon. Kennedy Oyugi, MCA and Hon. Nicholas Okumu, MCA did not wait for official communication from the Speaker before occupying designated seats in the house.
5. That Honorable members gathered in the assembly at the said reserved seats and sought to remove the occupants of the reserved seats.
6. That the Hon. Elias Okumu and Hon. Kennedy Oyugi left the chambers together to have dialogue.
7. That the Hon. Kennedy Oyugi, MCA and Hon. Nicholas Okumu, MCA violated the provisions of the Standing Order as to change in leadership.

8. That the Hon. Immapet Kemunto, MCA lied to the committee on oath.
9. By shouting, hurling insults and generally being disorderly, members had conducted themselves in ways worth inquiry and recommendation of appropriate sanction.
10. That Hon. Emily Oduor did not participate in the events of the day and hence were exonerated.

MIN.067/P&P/APR/2019 ANY OTHER BUSINESS AND ADJOURNMENT

The committee reiterated that the three more honourable members who were involved in the scuffle be served with Correspondences inviting them to appear before the Committee on 29<sup>th</sup> April 2019.

The Honorable members include;

- iv) Hon. Catherine Okoth, MCA
- v) Hon. Fredrick Otieno Ngesa, MCA
- vi) Hon. Wilson Ochola, MCA

There being no other business, and the time being 4:30 P.m the Chairperson closed the meeting to the following day 27/4/2019.

	SIGN	DATE
CHAIRPERSON		28/05/19.
SECRETARY		28/05/2019





MINUTES OF THE 18<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEGES COMMITTEE HELD ON 27<sup>TH</sup> APRIL 2019 AT 8:30A.M IN PRIDE INN PARADISE HOTEL MOMBASA COUNTY.

**MEMBERS PRESENT**

1. Hon. Chege Mwaura, MCA Ag. Speaker Nairobi County Assembly.
2. Hon. Naftali Mathenge, MCA- **Vice- Chairman**
3. Hon. Jacinta Wanjiku, MCA
4. Hon. Margaret Mbote, MCA
5. Hon. Carolyne Mayunzu, MCA
6. Hon. Patrick Musili, MCA
7. Hon. Evans Otiso, MCA
8. Hon. Sylvia Moseiya, MCA
9. Hon. Geofrey Majiwa, MCA
10. Hon. Peter Wahinya Njau, MCA

**IN ATTENDANCE**

1. Hon. John Kamangu, MCA Deputy Speaker (Chairperson Liaison Committee)

**MEMBERS ABSENT WITH APOLOGY**

1. Hon. Abdi I. Hassan, MCA- Leader of Majority

**SECRETARIAT**

1. Mr. Jacob Ngwele - Clerk Nairobi County Assembly
2. Ms. Adah Onyango - Deputy Clerk Nairobi County Assembly
3. Mr. Romeo Castro - Snr. Clerk Assistant
4. Ms. Judith Aron - Clerk Assistant
5. Mr. Klinsman Munase - Intern

**MIN.068/P&P/APR/2019: PRELIMINARIES**

The Vice-Chairperson called the meeting to order at 8:30 am. He prayed and welcomed Members present to the meeting.

**MIN.069/P&P/APR/2019 REVIEW OF DOCUMENTATIONS, CCTV FOOTAGE, RECAP OF SESSIONS AND FINAL RECOMENDATIONS.**

The Committee made a review of all documents including letters from the ODM National Chairman and secretary General, letters from the office of the speaker, communication No.9 of 2018 from the chair issued on 6<sup>th</sup> November 2018.

The committee too did a recap of all sessions during the workshop and made recommendations as below.

In consideration of the above observations and findings, the Committee recommends as follows: -

THAT;

- a. The Assembly pursuant to Section 17 (3) of the County Assemblies Powers and Privileges Act, 2017, the Hon. Kennedy Oyugi, MCA; the Hon. Nicholas Okumu, MCA be suspended from the Assembly for 21 sittings (two Calendar months) upon adoption of this report for conducting themselves in a manner intended, and is likely to reflect adversely on the dignity or integrity of the County assembly, or of its members or to be contrary to the best interest of the assembly contrary to Section 16 (e) of the County Assemblies Powers and Privileges Act and for violation of procedure provided for under Standing Order 21 (7) and Standing Order 243 of the Standing Orders. The said suspension begins after the long recess.
- b. The Assembly pursuant to Section 17 (3) of the County Assemblies Powers and Privileges Act, 2017, the Hon. Redson Otieno, MCA; the Hon. Lawrence Odhiambo, MCA, the Hon. Jared Okoth Okode, MCA be suspended from the Assembly for 9 sittings (3 calendar weeks) upon adoption of this report for conducting themselves in a manner intended, and is likely to reflect adversely on the dignity or integrity of the County assembly, or of its members or to be contrary to the best interest of the assembly contrary to Section 16 (e) of the County Assemblies Powers and Privileges Act and pursuant to Standing Order 114 (1) (e).
- c. The Assembly pursuant to Section 17 (3) of the County Assemblies Powers and Privileges Act, 2017, the Hon. Immapet Kemunto be suspended for 9 sittings (three calendar weeks) upon adoption of this report for conducting themselves in a manner intended, and is likely to reflect adversely on the dignity or integrity of the County assembly, or of its members or to be contrary to the best interest of the assembly contrary to Section 16 (e) of the County Assemblies Powers and Privileges Act and for 12 sittings for lying to the Committee on oath. As such, the Hon. Members be suspended for 19 sittings in total commence immediately after the long recess.
- d. All members under suspension shall formally apologize to the Assembly after serving the suspension.
- e. The Assembly upon adoption of this report to conduct a training of all Honorable members on conduct and privileges of being a member of the county assembly.



MIN.070/P&P/APR/2019. COMMITTEE'S RESOLUTIONS.

The Committee upon scrutiny and deliberations on the submissions, it made resolutions on the following;

*The overall Committee resolutions.*

- The Committee recommended that the Select Committee on powers and privileges to initiate an induction process on conduct of Members before the County Assembly. And that it is important to educate Members on the decorum because they are not expected to shout, as Members should argue out their points in a constructive way to be heard. (The time given is usually to argue out the point). It was further added that even the Ethics and Anti-Corruption Commission (EACC) preferred for an induction to all members on the same.
- The Committee to undertake its workshop as soon as possible to have its second report on the events that were unfolding in the Assembly since the Select Committee on Powers and Privileges had a lot before it and to enable it exercise its mandates amicably.
- Going forward, the Committee to share laid Committee reports with the County Executive to harmonize operations between the County Assembly and the County Executive and to avoid any form of engagement with a suspended honorable member. (to avoid side rewards of members from the Executive side if any)
- Upon deliberations, the Committee recommended that the Select Committee on Powers and Privileges be allocated for more funds in the next financial year since it had a lot to dispense.
- The Committee too recommended the Vice Chairperson to represent Chairperson in Liaison Committee in cases of the Chairperson's absentia.

MIN.071/P&P/APR/2019 ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business, and the time being 4:00 P.m the Chairperson adjourned the meeting to Monday 29/4/2019.

	SIGN	
CHAIRPERSON	.....  .....	
COMMITTEE CLERK	.....  .....	

	DATE
	.....28/05/19.....
	.....28/05/2019.....





MINUTES OF 19<sup>TH</sup> THE SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY  
POWERS AND PRIVILEGES COMMITTEE HELD ON 29<sup>TH</sup> APRIL 2019 AT 10:00A.M  
IN THE CHAMBER BOARDROOM.

MEMBERS PRESENT

1. Hon. Naftaly Mathenge, MCA- Vice- Chairman
2. Hon. Jacinta Wanjiku, MCA
3. Hon. Margaret Mbote, MCA
4. Hon. Carolyne Mayunzu, MCA
5. Hon. Patrick Musili, MCA
6. Hon. Evans Otiso, MCA
7. Hon. Geoffrey Majiwa, MCA
8. Hon. Peter Wahinya Njau, MCA

MEMBERS ABSENT WITH APOLOGY

1. Hon. Abdi I. Hassan, MCA- Leader of Majority

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA (Ag. Speaker)
2. Hon. Sylvia Museiya, MCA

SECRETARIAT

1. Mr. Romeo Castro - Snr. Clerk Assistant
2. Ms. Judith Aron - Clerk Assistant
3. Mr. Klinsman Munase - Intern

MIN.072/P&P/APR/2019: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 10:00 am. He prayed and welcomed Members present to the meeting.

The Agenda was then adopted as proposed by Hon. Jacinta Wanjiru, MCA Seconded by Hon. Margaret Mbote, MCA

AGENDA

1. Preliminaries (Prayers and adoption of the Agenda)
2. Confirmation of minutes (Minutes of a workshop held in Pride Inn Paradise hotel in Mombasa on 26<sup>th</sup> and 27<sup>th</sup> April 2019)
3. Appearance before the Committee by;
  - i) Hon. Abdi Hassan-Leader of the Majority Party
  - ii) Hon. June ndagwa, MCA
  - iii) Hon. Rose ogonda, MCA
  - iv) Mr. Jacob ngwele – Clerk Nairobi County Assembly.
  - v) Hon. Wilson Ochola, MCA
  - vi) Hon. Cathyerine Okoth, MCA

- vii) Hon. Francis Otieno Ngesa
- 4. Any Other Business
- 5. Adjournment

MIN.073/P&P/APR/2019 CONFIRMATION OF MINUTES (MINUTES OF THE WORKSHOP HELD 26<sup>th</sup> and 27<sup>th</sup> April 2019 IN PRIDE INN PARADISE HOTEL.

The vice Chairperson took members through the minutes and the Committee adopted the minutes as proposed by Hon. Patrick Musili, MCA seconded by Hon. Margaret Mbote, MCA.

MIN.074 /P&P/APR/2019 APPEARANCE BEFORE THE COMMITTEE BY.

- viii) Hon. Abdi Hassan-Leader of the Majority Party
  - ix) Hon. June Ndegwa, MCA
  - x) Hon. Rose Ogonda, MCA
  - xi) Mr. Jacob Ngwele – Clerk Nairobi County Assembly.
  - xii) Hon. Wilson Ochola, MCA
  - xiii) Hon. Cathyerine Okoth, MCA
  - xiv) Hon. Francis Otieno Ngesa
- a) Hon. Abdi Hassan-Leader of the Majority Party (A witness on Hon. Mary Arivitsa's case)  
The honourable member appeared before the Committee to shed light on an alleged misconduct of Hon. Mary Arivitsa, MCA. He shared an audio clip of the incident to the Committee. Adding that the source of the audio clip was by a member from another County Assembly who heard Hon. Mary Arivitsa, MCA talk in a manner to demean the office of the speaker.
- b) Hon. Catherine Okoth, MCA (A witness in a scuffle that occurred on 6<sup>th</sup> November 2018)  
Hon. Catherine Okoth, MCA appeared before the Committee and shared with the Committee what transpired on that day. The Committee made observations and recommended that she is not liable to be punished since she had no offence but just appeared as a witness to give the Committee more evidence.

MIN.075/P&P/APR/2019 ANY OTHER BUSINESS AND ADJOURNMENT

The Committee recommended that the other members who did not appear before the Committee should neither be punished nor given warning letters since the report was to be tabled the following day and there was no need of the Committee to wait and its report be dragged because of few witnesses when they had collected enough evidence on the matters under investigation i.e



i) Hon. Wilson Ochola, MCA, Hon. Francis Ngesa, MCA in relation to a scuffle that occurred on 6<sup>th</sup> November 2018

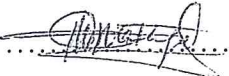

ii) Hon. June Ndegwa, MCA, Hon. Rose Ogonda, MCA and Mr. Jacob Ngwele (Clerk Nairobi County Assembly) in relation to Hon. Mary Arivitsa's alleged misconduct.

The committee agreed that copies of Laid Committee reports be forwarded to the Governor to harmonise operations between the County Assembly and the County Executive to avoid any form of engagement with a suspended member.

The committee resolved that a letter regarding findings and recommendations of matters that have been determined should be forwarded to the executive. Further, that the Committee re – invite Hon. Mary Arivitsa, MCA to appear before it the following day, 30<sup>th</sup> April 2019 at 9:30 a.m in the Chamber boardroom

MIN.076/P&P/APR/2019 ADJOURNMENT

There being no other business, and the time being 4:00 P.m the Chairperson closed the meeting to Tuesday 30/4/2019. In the Chamber Boardroom.

	SIGN	DATE
CHAIRPERSON		28/05/19.
COMMITTEE CLERK		28/05/19.



MINUTES OF THE 20<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEGES COMMITTEE HELD ON 30<sup>TH</sup> APRIL, 2019 IN THE ASSEMBLY COMMITTEE ROOM 1 AT 9.30AM

**MEMBERS PRESENT**

1. Hon. Naftaly Mathenge, MCA- Vice- Chairman
2. Hon. Margaret Mbote, MCA
3. Hon. Evans Otiso, MCA
4. Hon. Wanjiru Jacinta, MCA
5. Hon. Geoffrey Majiwa, MCA
6. Hon. Patrick Musili, MCA
7. Hon. Carolyne Mayunzu, MCA
8. Hon. Sylvia Moseiya, MCA
9. Hon. Peter Wahinya, MCA

**MEMBERS ABSENT**

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Abdi I. Hassan, MCA- Leader of Majority

**SECRETARIAT**

1. Judy Aron- Clerk Assistant
2. Klinsman Munase - Intern

MIN.077/P&P/MAY/2019: PRELIMINARIES

The meeting was Chaired by the Honourable Vice-Chairman. The Chairperson called the meeting to order at 9:30 AM. He welcomed members present to the meeting. The agenda of the meeting was then adopted as proposed by Hon. Evans Otiso, MCA and seconded by Hon. Margaret Mbote, MCA.

AGENDA

1. Preliminaries (Prayers and adoption of the Agenda)
2. Confirmation of minutes (*Minutes of the Committee sitting held on 29<sup>th</sup> April 2019*)
3. Appearance before the Committee by;
  3. Hon. Mary Arivitsa, MCA
  4. Hon. Melab Atemah, MCA
4. Adoption of the Committee Report (*Report on the skirmishes that occurred on 6<sup>th</sup> November 2018*)
5. Any Other Business
6. Adjournment



MIN.078/P&P/MAY/2019 APPEARANCE BEFORE THE COMMITTEE BY HON. MARY ARIVITSA, MCA AND HON. MELAB ATEMAH, MCA

Hon. Mary Arivitsa , MCA through a letter, requested the Committee to give her seven more days to prepare for the meeting as honorable Melab Atemah, MCA did not show up before the Committee.

MIN.079/P&P/MAY/2019 ADOPTION OF THE COMMITTEE REPORT (REPORT ON THE SKIRMISHES THAT OCCURRED ON 6<sup>TH</sup> NOVEMBER 2018)



The report was adopted by the Committee for tabling on the floor.

MIN.080/P&P/MAY/2019 A.O.B

There was no item under this minute.

MIN.081/P&P/MAY/2019 ADJOURNMENT

There being no other business, and the time being 10: 20a.m the Chairperson adjourned the meeting.

	SIGN	DATE
CHAIRPERSON		28/05/19
SECRETARY		28/05/2019

MINUTES OF THE 23<sup>RD</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY  
POWERS AND PRIVILEGES COMMITTEE HELD ON 28<sup>TH</sup> MAY 2019 AT 11:00A.M  
IN THE CHAMBER BOARDROOM.

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice- Chairman
2. Hon. Margret Mbote, MCA
3. Hon. Geoffrey Majiwa, MCA
4. Hon. Evans Otiso, MCA
5. Hon. Jacinta Wanjiru, MCA
6. Jackline Apondi, MCA
7. Hon. Maurice Ochien'g, MCA

MEMBERS ABSENT WITH APOLOGY

1. Hon. Chege Mwaura, MCA Ag. Speaker Nairobi County Assembly.
2. Hon. Abdi I. Hassan, MCA- Leader of Majority

SECRETARIAT

1. Ms. Judith Aron - Clerk Assistant
2. Mr. Klinsman Munase - Intern

MIN.089/P&P/MAY/2019: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 11:00 am. He prayed and welcomed Members present to the meeting.

The agenda for the day was as follows;

1. Preliminaries (Prayers and adoption of the Agenda)
2. Confirmation of Minutes (*15<sup>th</sup>, 16<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup> 19<sup>th</sup> 20<sup>th</sup> 21<sup>st</sup> and 22<sup>nd</sup> sitting of the Nairobi City County Assembly Powers and Privileges Committee*)
3. Deliberations and recommendations on Hon. Mary Arivitsa's alleged misconduct during the County Assemblies Forum by the Committee.
4. Any Other Business
5. Adjournment

The agenda of the day was adopted as proposed by Hon. Evans Otiso, MCA, seconded by Hon. Jackline Apondi, MCA

MIN.090/P&P/MAY/2019 CONFIRMATION OF MINUTES (15<sup>TH</sup>, 16<sup>TH</sup>, 17<sup>TH</sup>, 18<sup>TH</sup> 19<sup>TH</sup>  
20<sup>TH</sup> 21<sup>ST</sup> 22<sup>ND</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND  
PRIVILEGES COMMITTEE

The following minutes of sittings were confirmed as follows;

The minutes of the 15<sup>th</sup> Sitting of The Nairobi City County Assembly Select Committee on Powers and Privilege was confirmed as proposed by Hon. Margret Mbote, MCA seconded by Hon. Geoffrey Majiwa, MCA

The minutes of the 16<sup>th</sup> Sitting of The Nairobi City County Assembly Powers and Privileges Committee was confirmed as proposed by Hon. Margret Mbote, MCA seconded by Hon. Naftaly Mathenge, MCA

The minutes of the 17<sup>th</sup> Sitting of The Nairobi City County Assembly Powers and Privileges Committee was confirmed as proposed by Hon. Jacinta Wanjiru, MCA seconded by Hon. Evans Otiso, MCA

The minutes of the 18<sup>th</sup> Sitting of The Nairobi City County Assembly Powers and Privileges Committee was confirmed as proposed by Hon. Jacinta Wanjiru, MCA seconded by Hon. Margret Mbote, MCA

The minutes of the 19<sup>th</sup> Sitting of The Nairobi City County Assembly Powers and Privileges Committee was confirmed as proposed by Hon. Naftaly Mathenge, MCA seconded by Hon. Margret Mbote, MCA

The minutes of the 20<sup>th</sup> Sitting of The Nairobi City County Assembly Powers and Privileges Committee was confirmed as proposed by Hon. Jackline Apondi, MCA seconded by Hon. Naftaly Mathenge, MCA

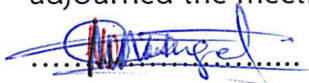
The minutes of the 21<sup>st</sup> Sitting of The Nairobi City County Assembly Powers and Privileges Committee was confirmed as proposed by Hon. Margret Mbote, MCA seconded by Hon. Jackline Apondi, MCA

The minutes of the 22<sup>nd</sup> Sitting of The Nairobi City County Assembly Powers and Privileges Committee was confirmed as proposed by Hon. Jacinta Wanjiru, MCA seconded by Hon. Jackline Apondi, MCA

MIN.088/P&P/MAY/2019 ANY OTHER BUSINESS AND ADJOURNMENT

Upon deliberations, the Committee resolved to deliberate and do recommendations on Hon. Mary Arivitsa's Case the following day 29<sup>th</sup> May 2019

There being no other business, and the time being 12:00 noon, the Chairperson adjourned the meeting to the following day 29/5/2019 in the Chamber Boardroom.



Chairperson

29<sup>th</sup> May 2019

Date



Committee Clerk

29<sup>th</sup> May 2019

Date



MINUTES OF THE 22<sup>ND</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY  
POWERS AND PRIVILEGES COMMITTEE HELD ON 8<sup>TH</sup> MAY 2019 AT 10:30A.M IN  
THE CHAMBER BOARDROOM.

**MEMBERS PRESENT**

1. Hon. Naftali Mathenge, MCA- Vice- Chairman
2. Hon. Margret Mbote ,MCA
3. Hon. Caroline Mayunzu, MCA
4. Hon. Geofrey Majiwa, MCA
5. Hon. Evans Otiso , MCA
6. Hon. Peter Wahinya Njau,MCA
7. Hon. Jacinta Wanjiru,MCA
8. Jackline Apondi,MCA

**MEMBERS ABSENT WITH APOLOGY**

1. Hon. Chege Mwaura, MCA Ag. Speaker Nairobi County Assembly.
2. Hon. Abdi I. Hassan, MCA- Leader of Majority

**IN ATTENDANCE**

1. The press
2. Hon. Mary Arivitsa's personal lawyer

**SECRETARIAT**

1. Ms. Judith Aron - Clerk Assistant

**MIN.086/P&P/MAY/2019: PRELIMINARIES**

The Vice-Chairperson called the meeting to order at 10:30 am. He prayed and welcomed Members present to the meeting.

The agenda for the day were as follows;

- i) Preliminaries (Prayers and adoption of the Agenda)
- ii) Appearance before the Committee by Hon. Mary Arivitsa, MCA
- iii) Any Other Business
- iv) Adjournment

**MIN.087/P&P/MAY/2019 APPEARANCE BEFORE THE COMMITTEE BY HON. MARY ARIVITZA, MCA**

On Wednesday, 8<sup>th</sup> May, 2019, Hon. Mary Arivitsa, MCA appeared before the Committee for the second time for purposes of giving evidence on events of 15<sup>th</sup> – 17<sup>th</sup> April 2019 over the alleged abuse of privileges by Hon. Mary Arivitsa while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County now under inquiry.

Hon. Mary Arivitsa, MCA appeared before the Committee. the vice chairperson welcomed her and thanked her for having honoured the Committee

The vice chairperson made reference to Hon. Mary Arivitsa's letter dated 30<sup>th</sup> April 2019 requesting the Committee to give her more time to adequately prepare for the meeting of the Committee to shed light on the alleged abuse of privileges while attending the County Assemblies Forum, Legislative Summit 2019 held in Kisumu County from 15<sup>th</sup> – 17<sup>th</sup> April 2019 refer,

Adding that, the Committee at its sitting held on 30<sup>th</sup> April 2019, considered her request and resolved to grant her request and that the said meeting therefore had been rescheduled to 8<sup>th</sup> May 2019.

The vice chair added that the Committee thereby resolved to request her to attend the Committee meeting on **8<sup>th</sup> May 2019 at 10:30 a.m.**

The committee took the member through an audio clip that was presented by one of the witnesses (leader of the Majority Party) and requested the Hon. Member to confirm if the voice was hers. she said that the voice was not hers and that they are in a world of technology where people's voices can be interfered with to suit their needs.

**If at all she understood why she was re - invited to the committee.**

She said that she was aware of the invite and confirmed to have received a message from Nairobi City County Assembly that required her to attend the Select Committee on Powers and Privileges meeting that was rescheduled from 30<sup>th</sup> April 2019 to 8<sup>th</sup> May 2019 following a letter that she wrote to the Committee requesting the Committee to give her more days (seven days) to prepare for the meeting. Adding that, in the SMS, the Committee required her to shed light on an alleged misconduct incident that occurred in Kisumu.

She felt that she had been over followed by the Select Committee on Powers and Privileges. And that her cases were always hurried unlike for other honorable members whom she referred their cases to be taking longer time before being followed. Giving instances of what she referred to as harsh punishment for having picketed by the Committee than other Members. Hence she felt like she has been over focused on by the Committee.

**Her take on the issue since the Committee had recordings before it and do not rely on hearsay.**

She may not have a take since she has not heard the recordings.

**Reasons for apologizing on the floor of the Assembly**

That she is a Christian quoting the bible verses while giving examples that when a person is offended with another or aggrieved, then the most important thing by that



time is the need to make peace. So the apology was for the anger and the uproar that was in the House and not as perceived.

She even didn't know of her accuser or who might have brought the clip.

*(the Audio clip was played)*

How she understood the clip.

She was not sure if that was her voice and if it was hers then, it might be moved out of context of what was being said and the communication she received.

*(she was read for a letter that was forwarded to her on 30th April 2019 and an SMS from Nairobi County Assembly explaining resolutions of the same)*

She agreed to have received the communication but to her understanding, the Committee seemed to have shifted goal posts from the initial letter she received and an SMS from Clerk.

*(Vice chair rectified her that the message was from NCCA and not Clerk as she said and agreed that it was from NCCA).*

To confirm whether the voice is hers.

She may not know because she did not attend the meeting where the Hon. Speaker was speaking and that, while she was in the summit, she was led by the spirit of God and did not speak anywhere near people from Nairobi County Assembly and that most of the time she stayed in her village.

She insisted that it may not be her voice since they are leaving in a digital era where anyone could change people's voices on digital machines to suite their needs.

To advice the Committee going forward.

It was her prayer that Nairobi City County be a place where people can do legislate, do over sight role so that it doesn't focus on Honorable members since it has become a routine appearing before the Select Committee on Powers and Privileges.

She wished the committee to take a reconciliatory step and not major in punishing members and that, there is a pre-arrangement that the powers and privileges plan to send her away for three months and not 21 days as was the first report, adding that, she knew Hon. Beatrice Elachi, MCA has been declared as the speaker Nairobi County Assembly by the court and that she would be coming, so she urged the Committee to have a reconciliatory attitude

To name those she heard putting allegation against the powers and privileges committee in regards to her punishment of three months.

She said that she may not be able to mention anyone.

If she still believes that Hon. Beatrice Elachi is still the Nairobi City County Assembly Speaker and if she believes the Ag. Speaker have substantive powers.



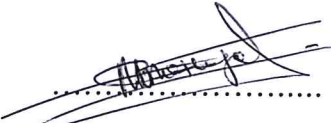
she stressed on the reconciliation as with that it doesn't mean she have to come to Nairobi City County Assembly but it ought to be beyond that, stating that, people should reconcile and focus ahead.

Being a constitution maker, she believes in the rule of law and would urge Nairobi City County Assembly to be reconciliatory and work together to serve Nairobians.

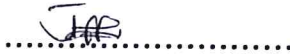
The committee released Hon. Arivitsa Mary, MCA to such a time they may call her. Adding that the Committee will recommend on her alleged misconduct on its own.

MIN.088/P&P/MAY/2019 ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business, and the time being 11:00 a.m the Chairperson adjourned the meeting to the following day 9/5/2019 in Pride in the Chamber Boardroom.



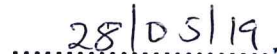
Chairperson



Committee Clerk



Date



Date

MINUTES OF THE 24<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY  
POWERS AND PRIVILEGES COMMITTEE HELD ON 29<sup>TH</sup> MAY 2019 AT 11:00A.M  
IN THE CHAMBER BOARDROOM.

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice- Chairman
2. Hon. Margret Mbote, MCA
3. Hon. Silvia Museiya, MCA
4. Hon. Evans Otiso, MCA
5. Hon. Jacinta Wanjiru, MCA
6. Hon. Jackline Apondi, MCA
7. Hon. Carolyn Mayunzu, MCA

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA Ag. Speaker Nairobi County Assembly.
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Peter Wahinya Njau, MCA
4. Hon. Maurice Ochieng', MCA
5. Hon. Geoffrey Majiwa, MCA

SECRETARIAT

1. Ms. Judith Aron - Clerk Assistant

MIN.092/P&P/MAY/2019: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 11:00 am. He prayed and welcomed Members present to the meeting.

The agenda for the day was as follows;

1. Preliminaries (Prayers and adoption of the Agenda)
2. Confirmation of Minutes (*23<sup>rd</sup> sitting of the Nairobi City County Assembly Select Committee on Powers and Privileges held on 28<sup>th</sup> May 2019*)
3. Deliberations and recommendations on Hon. Mary Arivitsa's alleged misconduct during the County Assemblies Forum by the Committee.
4. Any Other Business
5. Adjournment

The agenda of the day was adopted as proposed by Hon. Jacinta Wanjiru, MCA, seconded by Hon. Jackline Apondi, MCA

MIN.093/P&P/MAY/2019 CONFIRMATION OF MINUTES (23<sup>RD</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SELECT COMMITTEE ON POWERS AND PRIVILEGES HELD ON 28<sup>TH</sup> MAY 2019)

The minutes of the 23<sup>rd</sup> Sitting of The Nairobi City County Assembly Select Committee on Powers and Privilege was confirmed as proposed by Hon. Evans Otiso, MCA seconded by Hon. Naftaly Mathenge, MCA.

MIN.094/P&P/MAY/2019 DELIBERATIONS AND RECOMMENDATIONS BY THE COMMITTEE ON HON. MARY ARIVITSA'S ALLEGED MISCONDUCT DURING THE COUNTY ASSEMBLIES FORUM BY THE COMMITTEE.

OBSERVATIONS

Having reviewed the audio- clip containing allegations of alleged misconduct of Hon. Mary Arivitsa, MCA from various members of the County Assembly and members of staff who appeared before the committee as witnesses and the oral evidence adduced by the witnesses, the Committee observes that-

1. That indeed Hon. Mary Arivitsa, MCA had acted in a manner to demean the office of the speaker and that it was evident in an audio clip that was presented before the Committee by one of the witnesses Hon. Abdi. I. Hassan, MCA
2. Honorable member had lied before the Committee that she did not act in anyway at any given point in a manner to demean the office of the speaker and was not present at the time the Hon. Speaker moderated a session

FINDINGS

1. Upon Scrutiny of information from all witnesses by the Committee, it was evident in an audio clip that was presented before the Committee by one of the witnesses Hon. Abdi. I. Hassan, MCA that it was true that Hon. Mary Arivitsa, MCA acted in a manner to demean the office of the speaker.
2. The Committee also noted that the honorable member had lied before the Committee that she did not act in anyway at any given point in a manner to demean the office of the speaker and even after an audio clip from one of the witnesses was played she, she told the committee that she was not sure if the voice was hers and that she was not present during that time *(The committee therefore concluded that it was their role as a Committee to judge and give recommendations accordingly).*

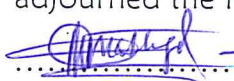


COMMITTEE RESOLUTIONS ON HON. MARY ARIVITSA'S, MCA CASE;

- i) The Assembly pursuant to Section 17 (3) of the County Assemblies Powers and Privileges Act, 2017, the Hon. Mary Arivitsa, MCA be suspended from the Assembly as anchored in the Standing Orders 114 (2) (c) for 30 sittings upon adoption of the report for conducting herself in a manner intended, to demean the office of the honorable speaker and conduct likely to reflect adversely on the dignity or integrity of the County assembly, or of its members and contrary to the best interest of the assembly and contrary to Section 16 (e) of the County Assemblies Powers and Privileges Act and for violation of procedure provided for under Standing Order 113 (g) and (j). The said suspension begins immediately upon adoption of this report by the Assembly.
- ii) Apart from being denied all the Committee sitting allowances, the honorable member should neither access Assembly precincts nor the County Assembly Parking Area.
- iii) The honorable member under suspension shall formally apologize to the Assembly after serving the suspension.
- iv) The Assembly upon adoption of this report to conduct a training of all Honorable members on conduct and privileges of being a member of the county assembly.

MIN.095/P&P/MAY/2019 ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business, and the time being 12:00 noon, the Chairperson adjourned the meeting.

  
.....

Chairperson

  
.....

Committee Clerk

04/6/019.....

Date

04/6/019.....

Date



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MINUTES OF THE 25<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY  
POWERS AND PRIVILEGES COMMITTEE HELD ON 4<sup>TH</sup> JUNE 2019 AT 11:00A.M IN  
THE CHAMBER BOARDROOM.

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice- Chairman
2. Hon. Margret Mbote, MCA
3. Hon. Silvia Museiya, MCA
4. Hon. Evans Otiso, MCA
5. Hon. Geophrey Majiwa, MCA
6. Hon. Maurice Ochieng', MCA
7. Hon. Carolyn Mayunzu, MCA

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA Ag. Speaker Nairobi County Assembly.
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Peter Wahinya Njau, MCA
4. Hon. Jacinta Wanjiru ', MCA
5. Hon. Jackline Apondi, MCA

SECRETARIAT

1. Ms. Judith Aron - Clerk Assistant

MIN.096/P&P/MAY/2019: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 11:00 am. He prayed and welcomed Members present to the meeting.

The agenda for the day was as follows;

1. Preliminaries (Prayers and adoption of the Agenda)
2. Confirmation of the 24<sup>th</sup> sitting of the Nairobi City County Assembly Powers and Privileges Committee held on 29<sup>th</sup> May 2019 at 11:00a.m in the Chamber Boardroom.
3. Adoption of the Select Committee on Powers and Privileges third report on Hon. Mary Arivitsa's alleged misconduct during the County Assemblies Forum by the Committee.
4. Any Other Business
5. Adjournment

The agenda of the day was adopted as proposed by Hon. Evans Otiso, MCA, seconded by Hon. Margret Mbote, MCA



MIN.097/P&P/MAY/2019 CONFIRMATION OF THE 24<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEGES COMMITTEE HELD ON 29<sup>TH</sup> MAY 2019 AT 11:00A.M IN THE CHAMBER BOARDROOM.

The minutes of the 24<sup>th</sup> Sitting of The Nairobi City County Assembly Select Committee on Powers and Privilege was confirmed as proposed by Hon. Margret Mbote, MCA seconded by Hon. Geophrey Majiwa, MCA.

MIN.098/P&P/MAY/2019 ADOPTION OF THE SELECT COMMITTEE ON POWERS AND PRIVILEGES THIRD REPORT ON HON. MARY ARIVITSA'S ALLEGED MISCONDUCT DURING THE COUNTY ASSEMBLIES FORUM BY THE COMMITTEE.

Committee adopted the report as proposed by Hon. Magret Mbote, MCA seconded by Hon. Evans Otiso, MCA.

MIN.095/P&P/MAY/2019 ANY OTHER BUSINESS AND ADJOURNMENT

Upon Deliberations, the Committee recommended that they have other cases i.e the one Hon. Benson Mwangi, MCA and Hon. Warutere, MCA case to be looked into soon.

There being no other business, and the time being 11:30 a.m, the Chairperson adjourned the meeting.



Chairperson



Committee Clerk

.....4<sup>th</sup> June 2019.....

Date

.....4.06.2019.....

Date