



COUNCIL OF GOVERNORS

**Members of the media,
Citizens of Kenya,
Ladies and gentlemen,**

1. In our earlier press statement, we stated that the war on corruption must be carried out in a transparent and accountable manner, while respecting the rule of law. The Council of Governors is disappointed that the fight against graft has been politicized. We express concern in the manner in which H.E. Sospeter Ojamoong, Governor Busia County has been handled in the ongoing probe on the alleged loss of County funds. Whereas the fight against corruption is inevitable, this fight cannot be politicized and cannot be used selectively to target specific officers. Governors are heads of governments and the war on corruption cannot be used to embarrass them. The right to bail or bond must be respected and cannot be compromised at any cost. It is improper to disguise ‘war on corruption’ as an avenue to settle political scores. In this regard the Council stands with the Governor.
2. The case being interrogated now of Busia County was one of a counterfund in the budget, wherein a development partner put in resources in the project, and this was contained in the MoU. Does it mean that MoUs signed by the National Government are

legal yet the ones signed by the County Governments are illegal? For instance the National Government signed an agreement for the Managed Equipment Services (MES), and later signed MoUs with the County Governments on the MES. Does it make these MoUs between the National Government and the Counties illegal? The Governors have actually just learnt with shock that the cost of the MES has moved from 95 million to 200 million per year, without clear explanations.

3. Article 1 of the Constitution is very clear that sovereignty is exercised at two levels of government, the National Government and the County Governments. This sovereignty does not exist only at the national level, but must be extended to the heads of government at the County level. The best practice in jurisdictions that are devolved is that the heads of both levels of government have immunity on civil and criminal proceedings while they are in office. Government agencies must chase for accountability rightfully. To illustrate, where Cabinet Secretaries have been faced with matters corruption, they have been sent home quietly. But this decorum is lost when a Governor is in similar circumstances. The Council takes offence in the manner in which the Busia Governor has been treated.
4. As it stands, the case of Busia County is indicative that devolution is under threat. Currently, there is no business being transacted in the County Government of Busia since its chief executive has been arrested and charged in court. This has paralyzed the operations of the County and essentially, Busia County has shut down. We are aware that there are Counties who will find themselves in similar situations and they are about to experience the same shut down. This is surely the end of devolution as we know it. Slowly, devolution is being eroded.

5. The law is clear on the procedures for dealing with corruption, and these must be followed. The institutions that are established by the Constitution and other statutes to deal with mismanagement of public funds must undertake their mandate with integrity and the war on corruption must not be stained with political interests. The country is aware that there have been efforts on NYS, but questions continue to linger on procurement in Managed Equipment Service (MES), the mobile containers, Eurobond, the Sugar Scandal, the Health Scandal and the Maize Scandal- where the heads of those institutions have never been charged and arrested yet billions of public money has been lost. Additionally, we are aware that funds like CDF have always attracted massive audit queries but the prosecuting agencies do not seem to take any action. The Governors have actually learned that the Managed Equipment Services cost has been increased from KES 95 million to Kes 200 million.
6. A lot of money was invested in 2014 to establish the **single source of truth** through integration of registries of persons, vehicles and property which was aimed at putting together information on assets, histories and family lines. We and other Kenyans demand that this system is operational so that information is available at the click of a button on all citizens of Kenya. If such a system was operational, there would be no struggle to undertake lifestyle audits, proof of ownership and assets belonging to all Kenyans. This will cure piecemeal and knee-jerking administrative measures that seem to be taken in the name of war on corruption.
7. There are instances where Governors have referred cases of graft to the Office of the Director of Prosecutions and the Ethics and Anti-Corruption Commission but no action has been taken.

8. It is rather unfortunate that the National Government is trying to avert attention from what is happening within the Ministries, Departments and Agencies. The issue of sugar is something we should be discussing. The disappearance of NYS money is something we should be scrutinizing seriously. It is mischievous to call the media and publicly arrest a Governor so that the public can forget about the rot in other ministries, departments and agencies.
9. As far as Counties are concerned, there is more scrutiny on County budgets and expenditures. The last audited accounts for the Counties are 2016-17, while the last audited accounts for the National Government are 2013-14. If the National Government is serious about fighting corruption, all unaudited reports and accounts must be approved by Parliament.
10. Finally on the issue of disbursement of County Governments' equitable share of allocation of the 2017/18 year funds, CS Rotich has gone ahead and published in the Kenya gazette dated 29th June 2018 revised the County Governments share downwards by 14 Billion. This without discussion, consultation and approval of Parliament in the amendment of the Division of Revenue and County Allocation of Revenue Acts. Hereby rendering the process illegal and outright abuse of office.

Signed
H.E. Josphat Nanok
Chairman
Council of Governors