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**THE IMPEACHMENT OF DEPUTY PRESIDENT GACHAGUA**

***A Political Storm or Governance Necessity?***

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## INTRODUCTION

The impeachment of Kenya's Deputy President, Rigathi Gachagua, would be a significant political and legal event, governed by Article 145 of the Constitution of Kenya. Article 145 outlines the process of impeachment for the President, and by extension, this can be applied to the Deputy President as per Article 150, which states that the Deputy President shall vacate office on similar grounds and through the same procedure as the President.

## HERE'S AN ANALYSIS OF THE LEGAL IMPLICATIONS AND POTENTIAL SUITS THAT COULD EMANATE FROM THIS PROCESS:

### I. Grounds for Impeachment

Article 145 stipulates that the President (or Deputy President) can be impeached on the following grounds: -

**Gross violation of the Constitution or any other law:** This can include misconduct or abuse of office.

**Where there are serious reasons for believing the individual has committed a crime under national or international law:** If there is evidence suggesting that the Deputy President has been involved in illegal activities, this could serve as a basis for impeachment.

**Gross misconduct:** This covers any serious misbehavior that could bring the office into disrepute.

In Deputy Gachagua's case, the specific charges or allegations would need to meet these thresholds to trigger an impeachment process.



## 2. Impeachment Procedure in a nutshell

The procedure for impeaching the Deputy President is initiated by a member of the National Assembly, who presents a motion supported by at least a third of the members. If the motion passes, a special committee in the Senate is formed to investigate the allegations. For the impeachment to succeed, at least two-thirds of the Senate must support it.

## 3. Legal Challenges to the Process

**Constitutionality of the Grounds for Impeachment:** The Deputy President or his legal team could challenge the legality of the grounds for impeachment. This could be based on whether the alleged conduct constitutes a "gross violation" or "misconduct" as defined in the Constitution.

**Bias or Lack of Due Process:** The Deputy President may argue that the impeachment process is politically motivated or lacks fairness. A suit could be brought to court to challenge the procedural integrity of the impeachment process, including claims of bias in the National Assembly or Senate proceedings.

**Violation of Rights:** The Deputy President might argue that his constitutional rights, such as the right to a fair trial (Article 50), have been infringed. Any irregularities in the handling of the impeachment process could lead to legal action.

## 4. Aftermath of Impeachment – Potential Legal Suits

**Defamation and Malicious Prosecution:** If the impeachment fails or the allegations are proven false, the Deputy President could file suits for defamation or malicious prosecution against individuals or institutions that led the process.



**Compensation Claims:** If the impeachment is deemed to have been conducted improperly, the Deputy President could sue for compensation for reputational damage and loss of income (if any).

**Criminal Charges Post-Impeachment:** If the impeachment is successful based on allegations of criminal activity, the Deputy President could face subsequent criminal charges under national or international law. This could lead to additional legal proceedings in criminal courts, outside the impeachment process.

## 5. Potential Political Suits

**Petitions by Supporters or Political Groups:** Political parties or supporters of the Deputy President may file suits contesting the impeachment, especially if they feel that it has been politically motivated. Such petitions could be filed in the High Court or even the Supreme Court, challenging the legitimacy of the entire process.

## 6. Judicial Review

After the Senate decision, the Deputy President can seek judicial review in the courts to challenge the outcome of the impeachment. The courts would then examine whether the proper legal and constitutional procedures were followed and whether the grounds for impeachment were valid under the law.



## CONCLUSION

The impeachment of Deputy President Gachagua, if it were to happen, would not only be a political matter but also a legal battleground. Key issues that could lead to legal suits include challenges to the constitutionality of the process, allegations of bias or lack of due process, defamation claims, and potential criminal charges following the impeachment. The courts would play a crucial role in determining the legality and fairness of the process, ensuring that the Constitution is adhered to throughout the proceedings.

This process underscores the checks and balances within Kenya's constitutional framework, ensuring that even the highest offices in the land can be held accountable, but also providing mechanisms to challenge any perceived injustice in that process.

However, beneath the legal principles of checks and balances, such an impeachment could also serve as a distraction from other pressing national issues. Political factions could exploit it to divert attention from governance, economic concerns, or other scandals, creating a prolonged legal battle that occupies the public's focus.

Whether or not it's truly a distraction depends on the broader political climate at the time. If key national concerns are being sidelined or ignored due to the process, it could suggest the use of impeachment as a political tool.

**BELT UP, ITS GOING TO BE A BUMPY RIDE!!!**





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