

REPUBLIC OF KENYA



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THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY PAPERS LAID	
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THIRTEENTH PARLIAMENT- FIRST SESSION

COMMITTEE ON APPOINTMENTS

FIRST REPORT ON THE VETTING OF NOMINEES FOR APPOINTMENT TO THE  
OFFICES OF CABINET SECRETARIES,  
SECRETARY TO THE CABINET AND THE ATTORNEY-GENERAL

DIRECTORATE OF AUDIT, APPROPRIATIONS AND OTHER SELECT  
COMMITTEES

THE NATIONAL ASSEMBLY  
PARLIAMENT BUILDINGS

NAIROBI

OCTOBER, 2022

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## LIST OF ABBREVIATIONS AND ACROYNMS

AG	Attorney- General
BBI	Building Bridges Initiative
DCI	Directorate of Criminal Investigations
EACC	Ethics and Anti-Corruption Commission
H.E.	His Excellency
HELB	Higher Education Loans Board
KEMSA	Kenya Medical Supplies Agency
KPLC	Kenya Power and Lightning Company
KRA	Kenya Revenue Authority
NHIF	National Hospital Insurance Fund
ORPP	Office of the Registrar of Political Parties
PWDs	Persons with Disabilities
REREC	Rural Electricity and Renewable Energy Company
UHC	Universal Health Care



## ANNEXURES

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## FOREWORD

Pursuant to Articles 152(2), 154(2) and 156(2) of the Constitution and section 5 of the Public Appointments (Parliamentary Approval) Act, No. 33 of 2011, His Excellency the President nominated **Hon. Wycliffe Musalia Mudavadi, EGH**, for appointment as Prime Cabinet Secretary; **Hon. Justin Bedan Njoka Muturi, EGH**, for appointment as Attorney General; **Hon. Aden Barre Duale, EGH, MP**, for appointment as Cabinet Secretary for Defence; **Hon. (Dr.) Alfred Nganga Mutua, EGH**, for appointment as Cabinet Secretary for Foreign & Diaspora Affairs; **Hon. Alice Muthoni Wahome, MP**, for appointment as Cabinet Secretary for Water, Sanitation & Irrigation; **Hon. (Prof.) Kithure Kindiki, EGH**, for appointment as Cabinet Secretary for Interior & National Administration; **Prof. Njuguna Ndung'u, PhD, CBS**, for appointment as Cabinet Secretary for National Treasury & Economic Planning; **Hon. Aisha Jumwa Karisa Katana**, for appointment as Cabinet Secretary Public Service, Gender & Affirmative Action; **Mr. Davis Kimutai Chirchir**, for appointment as Cabinet Secretary for Energy & Petroleum; **Hon. Moses Kuria**, for appointment as Cabinet Secretary for Trade, Investment & Industry; **Hon. Onesimus Kipchumba Murkomen, EGH, MP**, for appointment as Cabinet Secretary for Roads, Transport & Public Works; **Hon. Roselinda Soipan Tuya, MP CBS**, for appointment as Cabinet Secretary Environment & Forestry; **Hon. Peninah Malonza, OGW**, for appointment as Cabinet Secretary, Tourism, Wildlife & Heritage; **Mr. Zacharia Mwangi Njeru**, for appointment as Cabinet Secretary Lands, Housing & Urban Development; **Ms. Susan Nakhumicha Wafula**, for appointment as Cabinet Secretary Health; **Hon. Franklin Mithika Linturi**, for appointment as Cabinet Secretary Agriculture & Livestock Development; **Mr. Eliud Okech Owalo**, for appointment as Cabinet Secretary Information Communications & The Digital Economy; **Hon. Ezekiel Machogu Ombaki, CBS**, for appointment as Cabinet Secretary Education; **Hon. Ababu Namwamba, EGH**, for appointment as Cabinet Secretary Youth Affairs, Sports & The Arts; **Ms. Rebecca Miano, MBS**, for appointment as Cabinet Secretary East African Community, Arid & Semi-arid Lands & Regional Development; **Mr. Simon Kiprono Chelugui, EGH**, for appointment as Cabinet Secretary Co-operatives & Micro, Small and Medium Enterprises Development; **Hon. Salim Mvurya, EGH**, for appointment as Cabinet Secretary Mining, Blue Economy & Maritime Affairs; **Hon. Florence Chepng'etich Koske-Bore**, for appointment as Cabinet Secretary Labour & Social Protection; and **Ms. Mercy Kiiru Wanjau, CBS**, for appointment as Secretary to the Cabinet.

The nomination of the twenty-four (24) persons was conveyed to the Speaker of the National Assembly through letters Ref. Nos. OP/CAB.26/4A VOL.1/ (38), OP/CAB.26/4A VOL.1/ (42) and OP/CAB.26/4A VOL.1/ (43) dated 29<sup>th</sup> September, 2022. The nominees' curricula vitae and testimonials were enclosed in the letters.

On Thursday, 6<sup>th</sup> October, 2022 and pursuant to Standing Order 42(1), the Speaker of the National

Assembly read the Message from His Excellency the President communicating the names of the nominees to the House for the position of Cabinet Secretaries, Attorney-General and the Secretary to Cabinet. Pursuant to section 4 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 204(4), the names of the nominees were referred to the Committee on Appointments for vetting and reporting to the House within twenty-eight (28) days.

Consequently, and in accordance with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the Clerk of the National Assembly placed an advertisement in the print media on Friday, 7<sup>th</sup> October, 2022, inviting the public to submit memoranda by way of written statements on oath (*affidavit*) on the suitability or otherwise of each of the nominees in accordance with the Public Appointments (Parliamentary Approval) Act, 2011. The advertisement indicated that the submissions were to be received by Friday, 14<sup>th</sup> October, 2022 at 5.00 pm. By close of the submission deadline, the Committee had received twenty-three memoranda touching on the suitability of the nominees for appointment.

Further, in fulfilment of the provisions of Article 118 of the Constitution, section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 45(3), the Clerk of the National Assembly on Thursday, 13<sup>th</sup> October, 2022, notified the public through the print media that the Committee on Appointments would conduct the approval hearings from Monday, 17<sup>th</sup> October, 2022 to Saturday, 22<sup>nd</sup> October, 2022.

The nominees appeared before the Committee as scheduled between Monday, 17<sup>th</sup> October, 2022 and Saturday 22<sup>nd</sup> October, 2022 for approval hearings in accordance with the provisions of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the National Assembly Standing Orders on their suitability or otherwise for appointment to the position of Cabinet Secretaries, Attorney General and Secretary to the Cabinet, respectively.

Pursuant to section 6(7) & (8) and section 7 of the Public Appointments (Parliamentary Approval) Act, 2011, the Committee observed that the following nominees met the integrity threshold; demonstrated knowledge of topical, administrative and technical issues touching on the portfolios to which they had been nominated; and had the requisite abilities, academic qualifications and professional experience to be approved for appointment-

a) as Cabinet Secretaries in accordance with Article 152(2) of the Constitution:

- (1) Hon. Wycliffe Musalia Mudavadi, EGH, nominee, Prime Cabinet Secretary;
- (2) Hon. Aden Barre Duale, EGH, MP, nominee, Cabinet Secretary nominee for Defence;
- (3) Hon. (Dr.) Alfred Nganga Mutua, EGH, nominee, Cabinet Secretary for Foreign & Diaspora Affairs;
- (4) Hon. Alice Muthoni Wahome, MP, nominee, Cabinet Secretary for Water, Sanitation & Irrigation;

- (5) Hon. (Prof.) Kithure Kindiki, EGH, nominee, Cabinet Secretary for Interior & National Administration;
  - (6) Prof. Njuguna Ndung'u, PhD, CBS, nominee, Cabinet Secretary for National Treasury & Planning;
  - (7) Hon. Aisha Jumwa Karisa Katana, nominee, Cabinet Secretary for Public Service, Gender & Affirmative Action;
  - (8) Mr. Davis Kimutai Chirchir, nominee, Cabinet Secretary for Energy & Petroleum;
  - (9) Hon. Moses Kuria, nominee, Cabinet Secretary for Trade, Investment & Industry;
  - (10) Hon. Onesimus Kipchumba Murkomen, EGH, MP, nominee, Cabinet Secretary for Roads, Transport & Public Works;
  - (11) Hon. Roselinda Soipan Tuya, MP CBS, nominee, Cabinet Secretary for Environment & Forestry;
  - (12) Mr. Zacharia Mwangi Njeru, nominee, Cabinet Secretary Lands, Housing & Urban Development;
  - (13) Ms. Susan Nakhumicha Wafula, nominee, Cabinet Secretary for Health;
  - (14) Hon. Franklin Mithika Linturi, nominee, Cabinet Secretary for Agriculture & Livestock Development;
  - (15) Mr. Eliud Okech Owalo, nominee, Cabinet Secretary for Information Communications & The Digital Economy;
  - (16) Hon. Ezekiel Machogu Ombaki, CBS, nominee, Cabinet Secretary for Education;
  - (17) Hon. Ababu Namwamba, EGH, nominee, Cabinet Secretary for Youth Affairs, Sports & The Arts;
  - (18) Ms. Rebecca Miano, MBS, nominee, Cabinet Secretary for East African Community, Arid & Semi-arid Lands & Regional Development;
  - (19) Mr. Simon Kiprono Chelugui, EGH, nominee, Cabinet Secretary for Co-operatives & Micro, Small and Medium Enterprises Development;
  - (20) Hon. Salim Mvurya, EGH, nominee, Cabinet Secretary nominee for Mining, Blue Economy & Maritime Affairs; and
  - (21) Hon. Florence Chepngetich Koske-Bore, nominee, Cabinet Secretary for Labour & Social Protection.
- b) as Secretary to the Cabinet in accordance with Article 154(2) of the Constitution: Ms. Mercy Kiiru Wanjau, CBS.
- c) as Attorney-General in accordance with Article 156(2) of the Constitution: Hon. Justin Bedan Njoka Muturi, EGH.

Further, pursuant to section 6(7) & (8) and section 7 of the Public Appointments (Parliamentary Approval) Act, 2011, the Committee observed that Hon. Peninah Malonza, OGW, nominee,



Cabinet Secretary for Tourism, Wildlife & Heritage did not demonstrate knowledge on topical, administrative and technical issues touching on the Ministry of Tourism, Wildlife & Heritage, lacked the requisite abilities and professional experience to be approved for appointment to the office of Cabinet Secretary; and

Despite the Observations under paragraph 905, a minority of the Members of the Committee recorded a dissenting/minority opinion with regard to the integrity of the **Hon. Aisha Jumwa Karisa Katana** and the **Hon. Franklin Mithika Linturi**.

Having conducted the approval hearings for the nominees pursuant to Article 152(2) of the Constitution, sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 204 (4), **the Committee recommends that this House —**

- (1) approves the nomination of Hon. Wycliffe Musalia Mudavadi, EGH for appointment as Prime Cabinet Secretary by His Excellency the President of the Republic of Kenya.**
- (2) approves the nomination of Hon. Justin Bedan Njoka Muturi, EGH, for appointment as The Attorney General by His Excellency the President of the Republic of Kenya.**
- (3) approves the nomination of Hon. Aden Barre Duale, EGH, MP for appointment as Cabinet Secretary for Defence by His Excellency the President of the Republic of Kenya.**
- (4) approves the nomination of Hon. (Dr.) Alfred Nganga Mutua, EGH for appointment as Cabinet Secretary for Foreign & Diaspora Affairs by His Excellency the President of the Republic of Kenya.**
- (5) approves the nomination of Hon. Alice Muthoni Wahome, MP, for appointment as Cabinet Secretary for Water, Sanitation & Irrigation by His Excellency the President of the Republic of Kenya.**
- (6) approves the nomination of Hon. (Prof.) Kithure Kindiki, EGH, for appointment as Cabinet Secretary for Interior & National Administration by His Excellency the President of the Republic of Kenya.**
- (7) approves the nomination of Prof. Njuguna Ndung'u, PhD, CBS, for appointment as Cabinet Secretary for National Treasury & Planning by His Excellency the President of the Republic of Kenya.**
- (8) approves the nomination of Hon. Aisha Jumwa Karisa Katana, for appointment as Cabinet Secretary for Public Service, Gender & Affirmative Action by His Excellency the President of the Republic of Kenya.**

- (9) approves the nomination of Mr. Davis Kimutai Chirchir, for appointment as Cabinet Secretary for Energy & Petroleum by His Excellency the President of the Republic of Kenya.
- (10) approves the nomination of Hon. Moses Kuria, for appointment as Cabinet Secretary for Trade, Investment & Industry by His Excellency the President of the Republic of Kenya.
- (11) approves the nomination of Hon. Onesimus Kipchumba Murkomen, EGH, MP, for appointment as Cabinet Secretary for Roads, Transport & Public Works by His Excellency the President of the Republic of Kenya.
- (12) approves the nomination of Hon. Roselinda Soipan Tuya, MP CBS, for appointment as Cabinet Secretary for nominee for, Environment & Forestry by His Excellency the President of the Republic of Kenya.
- (13) approves the nomination of Mr. Zacharia Mwangi Njeru, for appointment as Cabinet Secretary for Lands, Housing & Urban Development by His Excellency the President of the Republic of Kenya.
- (14) approves the nomination of Ms. Susan Nakhumicha Wafula, for appointment as Cabinet Secretary for Health by His Excellency the President of the Republic of Kenya.
- (15) approves the nomination of Hon. Franklin Mithika Linturi, for appointment as Cabinet Secretary for Agriculture & Livestock Development by His Excellency the President of the Republic of Kenya.
- (16) approves the nomination of Mr. Eliud Okech Owalo, for appointment as Cabinet Secretary for Information Communications & The Digital Economy by His Excellency the President of the Republic of Kenya.
- (17) approves the nomination of Hon. Ezekiel Machogu Ombaki CBS, for appointment as Cabinet Secretary for Education by His Excellency the President of the Republic of Kenya.
- (18) approves the nomination of Hon. Ababu Namwamba, EGH, for appointment as Cabinet Secretary for Youth Affairs, Sports & The Arts by His Excellency the President of the Republic of Kenya.
- (19) approves the nomination of Ms. Rebecca Miano, MBS, for appointment as Cabinet Secretary for East African Community, Arid & Semi-arid Lands & Regional Development by His Excellency the President of the Republic of Kenya.

- (20) approves the nomination of Mr. Simon Kiprono Chelugui, EGH, for appointment as Cabinet Secretary for Co-operatives & Micro, Small and Medium Enterprises Development by His Excellency the President of the Republic of Kenya.
- (21) approves the nomination of Hon. Salim Mvurya, EGH, for appointment as Cabinet Secretary for Mining, Blue Economy & Maritime Affairs by His Excellency the President of the Republic of Kenya.
- (22) approves the nomination of Hon. Florence Chepngetich Koske-Bore for appointment as Cabinet Secretary for Labour & Social Protection by His Excellency the President of the Republic of Kenya.
- (23) approves the nomination of Ms. Mercy Kiiru Wanjau, CBS, for appointment as Secretary to the Cabinet by His Excellency the President of the Republic of Kenya.

Further, pursuant to Article 152(2) of the Constitution, sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 204 (4), the Committee recommends that this House rejects the nomination of Hon. Peninah Malonza OGW, for appointment as Cabinet Secretary for Tourism, Wildlife & Heritage by His Excellency the President of the Republic of Kenya.

In addition to the Recommendations under Paragraph 908, a minority of the Members of the Committee recorded a minority/dissenting opinion against the approval of the Hon. Aisha Jumwa Karisa Katana and the Hon. Franklin Mithika Linturi. The Minority/Dissenting Opinion is set out at Chapter 6.0.

May I take this opportunity to thank all the Members of the Committee for their input and valuable contributions and time during the approval hearings and deliberations during the writing of the report. The Committee also takes this opportunity to thank the Offices of the Speaker and of the Clerk of the National Assembly for the technical support accorded to it during the exercise.

On behalf of the Committee on Appointments and pursuant to Article 124(4)(b) of the Constitution, section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 and the provisions of Standing Order 199(6), it is now my duty and privilege to present to the House, the First Report of the Committee on Appointments on the approval hearings of the nominees for appointment to the positions of Cabinet Secretaries, Attorney-General and Secretary to the Cabinet, respectively.

**Rt. Hon. Moses M. Wetang'ula, EGH, M.P**

**Speaker of the National Assembly/Chairperson, Committee on Appointments**

## PREFACE

### Establishment and Mandate of the Committee

1. Article 124(4)(a) of the Constitution provides that when a House of Parliament considers any appointment for which its approval is required under the Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the relevant House.
2. The Committee on Appointments is established under Standing Order 204(1). Standing Order 204(4) provides that the *Committee on Appointments shall consider, for approval by the House, appointments under Article 152(2) of the Constitution (Cabinet Secretaries)*.

### 1.1 Committee Membership

3. The Committee on Appointments was constituted by the House on Wednesday, 12<sup>th</sup> October, 2022 and comprises of the following Members:

- |  |  |
|--|--|
| 1. Rt. Hon. Moses Wetang'ula, EGH, M.P | - <b>Speaker of the National Assembly/<br/>Chairperson</b> |
| 2. Hon. Gladys J. Boss, CBS, M.P       | - Deputy Speaker   |
| 3. Hon. Kimani Ichung'wah, CBS, M.P.   | - Leader of the Majority Party                             |
| 4. Hon. Opiyo Wandayi, CBS, M.P.       | - Leader of the Minority Party                             |
| 5. Hon. Owen Baya, M.P.                | -Deputy Leader of the Majority Party                       |
| 6. Hon. Robert Mbui, MP                | -Deputy Leader of the Minority Party                       |
| 7. Hon. Junet Mohamed, CBS, M.P.       | -Minority whip   |
| 8. Hon. Abdul Rahim Dawood, M.P.       |  |
| 9. Hon. David Gikaria, M.P.            |  |
| 10. Hon. David Pkosing, CBS, M.P.      |  |
| 11. Hon. Dido Ali Raso, M.P.           |  |
| 12. Hon. Ferdinand Wanyonyi, M.P.      |  |
| 13. Hon. Mishi Mboko, CBS, M.P.        |  |
| 14. Hon. Stephen Mule, M.P.            |  |
| 15. Hon. Naisula Lesuuda, M.P.         |  |
| 16. Hon. Mary Emaase, M.P.             |  |
| 17. Hon. Abdi Shurie, M.P.             |  |
| 18. Hon. Caleb Amisi, M.P.             |  |
| 19. Hon. George Gitonga Murugara, M.P. |  |
| 20. Hon. Nelson Koech, M.P.            |  |
| 21. Hon. Rahab Wachira Mukami, M.P.    |  |



## 1.2 Committee Secretariat

### 4. The Secretariat comprises —

1. Ms. Serah M. Kioko, MBS	Ag. Clerk of the National Assembly
2. Ms. Florence Abonyo-Atenyo	Director, AA&OS Committees
3. Mr. Michael Karuru	Deputy Director, Legal Services
4. Ms. Leah W. Mwaura	Principal Clerk Assistant II
5. Mr. Evans Oanda	Principal Clerk Assistant II
6. Ms. Chelagat Tungo Aaron	Senior Clerk Assistant
7. Ms. Jemimah Waigwa	Senior Legal Counsel
8. Mr. Ronald Walala	Senior Legal Counsel
9. Dr. Donald K. Manyala, PhD	Research Officer II
10. Ms. Naserian Lotuai	Clerk Assistant II
11. Ms. Kathleen Nanzala	Clerk Assistant III
12. Mr. James Macharia	Media Relations Officer I
13. Ms. Deborah Mupusi	Media Relations Officer II
14. Mr. Sakana Ole Saoli	Hansard Reporter III
15. Ms. Sylvia Ocharo	Hansard Reporter III
16. Mr. Alvin Ochieng'	Research Officer III
17. Ms. Vivienne Ogega	Research Officer III
18. Mr. Nimrod Ochieng	Audio Technician
19. Ms. Rahab Chepkilim	Audio Officer
20. Mr. Benson Muthuri	Sergeant-at-Arms
21. Mr. Moses Kariuki	Sergeant-at-Arms

## BACKGROUND

### 2.1 Notification of Nominations

5. Pursuant to Articles 152(2), 154(2) and 156(2) of the Constitution as read with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, No. 33 of 2011, His Excellency the President, through the Head of Public Service forwarded to the Clerk of the National Assembly the following letters:
- (a) Letter dated 29<sup>th</sup> September, 2022, referenced OP/CAB.26/4A VOL.1/ (38), (*Annexure 1a*) forwarding the names of the following twenty-two (22) persons nominated for appointment as Cabinet Secretaries:
- (1) Hon. Wycliffe Musalia Mudavadi, EGH, nominee, Prime Cabinet Secretary;
  - (2) Hon. Aden Barre Duale, EGH, MP, nominee, Cabinet Secretary for Defence;
  - (3) Hon. (Dr.) Alfred Nganga Mutua, EGH, nominee, Cabinet Secretary for Foreign & Diaspora Affairs;
  - (4) Hon. Alice Muthoni Wahome, MP, nominee, Cabinet Secretary for Water, Sanitation & Irrigation;
  - (5) Hon. (Prof.) Kithure Kindiki, EGH, nominee, Cabinet Secretary for Interior & National Administration;
  - (6) Prof. Njuguna Ndung'u, PhD, CBS, nominee, Cabinet Secretary for National Treasury & Economic Planning;
  - (7) Hon. Aisha Jumwa Karisa Katana, nominee, Cabinet Secretary for Public Service, Gender & Affirmative Action;
  - (8) Mr. Davis Kimutai Chirchir, nominee, Cabinet Secretary for Energy & Petroleum;
  - (9) Hon. Moses Kuria, nominee, Cabinet Secretary for Trade, Investment & Industry;
  - (10) Hon. Onesimus Kipchumba Murkomen, EGH, MP, nominee, Cabinet Secretary for Roads, Transport & Public Works;
  - (11) Hon. Roselinda Soipan Tuya, MP CBS, nominee, Cabinet Secretary for Environment & Forestry;
  - (12) Hon. Peninah Malonza, OGW, nominee, Cabinet Secretary for Tourism, Wildlife & Heritage;
  - (13) Mr. Zacharia Mwangi Njeru, nominee, Cabinet Secretary Lands, Housing & Urban Development;
  - (14) Ms. Susan Nakhumicha Wafula, nominee, Cabinet Secretary for Health;
  - (15) Hon. Franklin Mithika Linturi, nominee, Cabinet Secretary for Agriculture & Livestock Development;
  - (16) Mr. Eliud Okech Owalo, nominee, Cabinet Secretary for Information Communications & The Digital Economy;
  - (17) Hon. Ezekiel Machogu Ombaki, CBS, nominee, Cabinet Secretary for Education;
  - (18) Hon. Ababu Namwamba, EGH, nominee, Cabinet Secretary for Youth Affairs, Sports & The Arts;

- (19) Ms. Rebecca Miano, MBS, nominee, Cabinet Secretary for East African Community, Arid & Semi-arid Lands & Regional Development;
  - (20) Mr. Simon Kiprono Chelugui, EGH, nominee, Cabinet Secretary for Co-operatives & Micro, Small and Medium Enterprises Development;
  - (21) Hon. Salim Mvurya, EGH, nominee, Cabinet Secretary nominee for Mining, Blue Economy & Maritime Affairs; and  
Hon. Florence Chepngetich Koske-Bore, nominee, Cabinet Secretary for Labour & Social Protection.
- (b) Letter dated 29<sup>th</sup> September, 2022, referenced OP/CAB.26/4A VOL.1/(42), (*Annexure 1b*) forwarding the name of Ms. Mercy Kiiru Wanjau, CBS, for appointment as the Secretary to the Cabinet; and
  - (c) Letter dated 29<sup>th</sup> September, 2022, referenced OP/CAB.26/4A VOL.1/(43), (*Annexure 1c*) forwarding the name of Hon. Justin Bedan Njoka Muturi, EGH for appointment as the Attorney-General.
6. The notification contained the curriculum vitae and testimonials of the twenty-four (24) nominees.

## 2.2 Notification to the House and Referral to the Committee on Appointments

- 7. Pursuant to the provisions of Standing Order 42(1), the Speaker, vide a Communication dated Thursday, 6<sup>th</sup> October, 2022, informed the House of the President's message to the House on nomination of Cabinet Secretaries, the Attorney General and the Secretary to the Cabinet for approval by the National Assembly.
- 8. Pursuant to section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 204, the names and curriculum vitae of the nominees were referred to the Committee on Appointments for approval hearings and reporting to the House on or before Thursday, 27<sup>th</sup> October, 2022.

## 2.3 Notification to the Public

- 9. Article 118 of the Constitution provides that Parliament shall facilitate public participation and involvement in the legislative business and other business of Parliament and its Committees.
- 10. Section 6(4) of the Act further provides that the Clerk shall notify the public of the time and place for holding an approval hearings at least seven days prior to the hearings.
- 11. Further, section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011 provides that "*any person may, prior to the approval hearings and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated*".
- 12. Pursuant to Article 118 of the Constitution as read with section 6(9) of Public Appointments (Parliamentary Approval) Act, 2011, the Clerk of the National Assembly placed an advertisement in the print media on Friday, 7<sup>th</sup> October, 2022 (*Annexure 2*) inviting the public to submit memoranda by way of a written statement on oath (affidavit) on the suitability or



otherwise of the nominees in conformity with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011. The advertisement indicated that the submissions were to be received by Friday, 14<sup>th</sup> October, 2022 at 5.00 pm.

13. Further, pursuant to Article 118 of the Constitution, section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 45(3), the Clerk of the National Assembly notified the general public on Thursday, 13<sup>th</sup> October, 2022 in the print media that the approval hearings of the nominees would be conducted from Monday, 17<sup>th</sup> to Saturday, 22<sup>nd</sup> October, 2022. (*Annexure 3*).

## **2.4 Notification to the Nominees**

14. On Wednesday, 12<sup>th</sup> October, 2022, the Clerk of the National Assembly invited the nominees, in writing and through print media, for the approval hearings in accordance with section 6(3) of the Public Appointments (Parliamentary Approval) Act, 2011. (*Annexure 4*).

## **2.5 Clearance and Compliance Requirements**

15. On Thursday, 6<sup>th</sup> October, 2022, the Clerk of the National Assembly wrote to the Ethics and Anti-Corruption Commission (EACC), Kenya Revenue Authority (KRA), Directorate of Criminal Investigations (DCI), the Higher Education Loans Board (HELB) and the Office of the Registrar of Political Parties (ORPP) (*Annexure 5*) requesting for reports with respect to the nominees on the following matters:
  - (a) ethics and integrity;
  - (b) tax compliance;
  - (c) criminal records;
  - (d) higher education loan repayments; and
  - (e) political party affiliations.
16. On matters of ethics and integrity, the Ethics and Anti-Corruption Commission (EACC) vide a letter Ref. No. EACC.7/10/5 VOL. XX (180) dated 13<sup>th</sup> October 2022, (*Annexure 6*) stated that it had not undertaken any investigations or recommended prosecution pursuant to its mandate against the following nominees-
  - (1) Hon. Wycliffe Musalia Mudavadi, EGH;
  - (2) Hon. Justin Bedan Njoka Muturi, EGH;
  - (3) Hon. Aden Barre Duale, EGH, MP;
  - (4) Hon. (Dr.) Alfred Nganga Mutua, EGH;
  - (5) Hon. Alice Muthoni Wahome, MP;
  - (6) Hon (Prof.) Kithure Kindiki, EGH;
  - (7) Prof. Njuguna Ndung'u, PhD, CBS;
  - (8) Hon. Aisha Jumwa Karisa Katana;
  - (9) Mr. Davis Kimutai Chirchir;
  - (10) Hon. Onesimus Kipchumba Murkomen EGH, MP;
  - (11) Hon. Roselinda Soipan Tuya, MP CBS;
  - (12) Hon. Peninah Malonza, OGW;



- (13) Mr. Zacharia Mwangi Njeru;
- (14) Ms. Susan Nakhumicha Wafula;
- (15) Mr. Eliud Okech Owalo;
- (16) Hon. Ezekiel Machogu Ombaki, CBS;
- (17) Hon. Ababu Namwamba, EGH;
- (18) Ms. Rebecca Miano, MBS;
- (19) Mr. Simon Kiprono Chelugui, EGH ;
- (20) Hon. Salim Mvurya, EGH;
- (21) Hon. Florence Chepngetich Koske-Bore; and
- (22) Ms. Mercy Kiiru Wanjau, CBS.

17. The Commission further stated that it had received adverse reports against the following nominees:

Name	Allegations	Status
Hon. Franklin Mithika Linturi	Allegations that he is in possession of a forged KCSE certificate and Bachelor of Commerce Degree from Marathwada University India which he used to register for the Bachelor of Laws degree in the University of Nairobi	Pending under investigation.
Hon. Moses Kiarie Kuria	Allegations of procurement irregularities, conflict of interest and receipt of benefits by trading with the Gatundu South Constituency CDF	Pending under investigation

18. With regard to tax compliance, the Kenya Revenue Authority (KRA) confirmed vide a letter Ref. No. KRA/5/1002/5/(8053), dated 13th October, 2022, (*Annexure 7a*) that all the twenty-four (24) nominees were tax compliant.
19. The Directorate of Criminal Investigations (DCI) through a letter Ref. No. DCI/CRO/SEC/6/7/A/VOL.XI/28, dated 13<sup>th</sup> October, 2022 (*Annexure 8a*) stated that the Police Clearance Certificates for the following nominees were genuinely issued and had negative results in both the nominal and criminal data base of the DCI:

- (1) Hon. Wycliffe Musalia Mudavadi, EGH;
- (2) Hon. Justin Bedan Njoka, Muturi EGH;
- (3) Hon. Aden Barre Duale, EGH, MP;
- (4) Hon. (Dr.) Alfred Nganga Mutua, EGH;
- (5) Hon. Alice Muthoni Wahome, MP;
- (6) Hon (Prof.) Kithure Kindiki, EGH;
- (7) Prof. Njuguna Ndung'u, PhD, CBS;
- (8) Mr. Davis Kimutai Chirchir;
- (9) Hon. Onesimus Kipchumba Murkomen EGH, MP;
- (10) Hon. Roselinda Soipan Tuyu, MP CBS;
- (11) Hon. Peninah Malonza, OGW;

- (12) Mr. Zacharia Mwangi Njeru;
  - (13) Ms. Susan Nakhumicha Wafula;
  - (14) Mr. Eliud Okech Owalo;
  - (15) Hon. Ezekiel Machogu Ombaki, CBS;
  - (16) Hon. Ababu Namwamba, EGH;
  - (17) Ms. Rebecca Miano, MBS;
  - (18) Mr. Simon Kiprono Chelugui, EGH;
  - (19) Hon. Salim Mvurya, EGH;
  - (20) Hon. Florence Chepngetich Koske-Bore;
  - (21) Hon. Franklin Mithika Linturi;
  - (22) Hon. Moses Kuria; and
  - (23) Ms. Mercy Kiiru Wanjau, CBS.
20. The DCI further stated that the Police Clearance Certificate for Hon. Aisha Jumwa Karisa Katana had positive results as follows:
- Hon. Aisha Jumwa Karisa
    - (i) Offence: Murder  
Results: Outstanding
    - (ii) Offence: Conspiracy to commit an offence of corruption  
Results: Outstanding
21. The Higher Education Loans Board (HELB) vide a letter dated 11<sup>th</sup> October, 2022 (*Annexure 10*), stated that the following nominees had cleared their higher education loans on various dates:
- (1) Hon. Wycliffe Musalia Mudavadi, EGH;
  - (2) Hon. Justin Bedan Njoka Muturi, EGH;
  - (3) Hon. Aden Barre Duale, EGH, MP;
  - (4) Hon. Alice Muthoni Wahome, MP;
  - (5) Hon. (Prof.) Kithure Kindiki, EGH;
  - (6) Prof. Njuguna Ndung'u, PhD, CBS;
  - (7) Mr. Davis Kimutai Chirchir;
  - (8) Hon. Moses Kuria;
  - (9) Hon. Onesimus Kipchumba Murkomen, EGH, MP;
  - (10) Hon. Peninah Malonza, OGW;
  - (11) Mr. Zacharia Mwangi Njeru;
  - (12) Mr. Eliud Okech Owalo;
  - (13) Hon. Ezekiel Machogu Ombaki, CBS;
  - (14) Hon. Ababu Namwamba, EGH;
  - (15) Ms. Rebecca Miano, MBS;
  - (16) Hon. Salim Mvurya, EGH; and
  - (17) Ms. Mercy Kiiru Wanjau, CBS.
22. The Higher Education Loans Board further stated that the following nominees were not beneficiaries of the higher education loans:
- (1) Hon. (Dr.) Alfred Nganga Mutua, EGH;
  - (2) Hon. Aisha Jumwa Karisa Katana;

- (3) Hon. Roselinda Soipan Tuya, CBS, MP;
- (4) Ms. Susan Nakhumicha Wafula;
- (5) Hon. Franklin Mithika Linturi ;
- (6) Mr. Simon Kiprono Chelugui, EGH; and
- (7) Hon. Florence Chepngetich Koske-Bore.

23. On the issue of party affiliation, pursuant to Article 77(2) of the Constitution, the Office of the Registrar of Political Parties (ORPP), vide Ref. No. RPP/ORG/34 Vol. VI(33) dated 12<sup>th</sup> October, 2022 (*Annexure 9*) indicated that the nominees were not officials of any political party.

## 2.6 Issues for Consideration during the Approval Hearings

24. Section 6(7) and (8) of the Public Appointments (Parliamentary Approval) Act, 2011 provides that:

*(7) An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background.*

*(8) The criteria specified in the Schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate.*

25. Additionally, section 7 of the Act provides that the issues for consideration by the relevant House of Parliament in relation to any nomination shall be—

*(a) the procedure used to arrive at the nominee;*

*(b) any constitutional or statutory requirements relating to the office in question; and*

*(c) the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.* While conducting the approval hearings,

the Committee was guided by the provisions of section 6(7) and (8) and section 7 of the Public Appointments (Parliamentary Approval) Act, 2011.

### (a) Procedure for Nomination

27. Articles 132(2), 152(2), 154(2) and 156(2) of the Constitution confers upon the President the power to appoint Cabinet Secretaries, the Secretary to the Cabinet and the Attorney-General respectively, with the approval of the National Assembly.
28. Section 5(1) of the Public Appointments (Parliamentary Approval) Act, 2011 further requires the appointing authority, upon nominating a person for appointment, to notify the relevant House of Parliament.
29. In this regard, pursuant to Articles 132(2), 152(2), 154(2) and 156(2) of the Constitution and section 5(1) of the Public Appointments (Parliamentary Approval) Act, 2011, the President notified the National Assembly of the nomination of twenty-four (24) persons for appointment to the offices of Cabinet Secretaries, Secretary to the Cabinet and the Attorney-General.

## **(b) Constitutional and Statutory Requirements**

30. The Constitution in addition gives guidelines on how to appoint persons to public office which include -

### ***(i) Two-Third Gender Rule***

31. Article 27(8) of the Constitution provides that the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

### ***(ii) Representation of Regional and Ethnic Diversity***

32. Article 130(2) of the Constitution provides that the composition of the national executive shall reflect the regional and ethnic diversity of the people of Kenya.

### ***(iii) Leadership and Integrity***

33. The Committee, in determining the suitability of the nominees, was also guided by the provisions on leadership and integrity as outlined under Chapter Six of the Constitution. In particular, Article 73 (2) of the Constitution provides that the guiding principles of leadership and integrity include –

- (a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
- (b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;
- (c) selfless service based solely on the public interest, demonstrated by —
  - (i) honesty in the execution of public duties; and
  - (ii) the declaration of any personal interest that may conflict with public duties;
- (d) accountability to the public for decisions and actions; and
- (e) discipline and commitment in service to the people.

34. Article 75 of the Constitution requires a State Officer, whether in public or private life to behave in a manner that avoids conflict between personal interest and public official duties. This Article further prohibits a State Officer who has been removed from office under it from holding any other State Office.

35. Article 77(1) of the Constitution prohibits a full time State Officer from participating in any other gainful employment.

36. Article 77(2) of the Constitution prohibits an appointed State officer from holding office in a political party. Article 78 of the Constitution disqualifies persons who are not Kenyan Citizens from appointment as State Officers. Further, a State Officer is barred from holding dual citizenship.

37. In addition, the Committee considered section 10 of the Leadership and Integrity Act, 2012 in particular which provides that –

*A State officer shall, to the best of their ability—*

- (a) carry out the duties of the office efficiently and honestly;*



*(b) carry out the duties in a transparent and accountable manner;*

*(c) keep accurate records and documents relating to the functions of the office;  
and*

*(d) report truthfully on all matters of the organization which they represent.*

- c) Suitability of the nominees for the proposed appointment having regard to whether the nominees' abilities, experience and qualities meet the needs of the body to which the nomination is being made**

38. The suitability of the nominees was assessed after scrutiny of the nominees' academic credentials, professional training and experience, personal integrity, background and qualities as well as their performance during the approval hearings conducted between Monday, 17<sup>th</sup> October, 2022 and Saturday, 22<sup>nd</sup> October, 2022.

## **2.7 Memoranda from Members of the Public in respect of the Nominees**

39. Pursuant to section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011 which provides that *"any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold office to which the candidate has been nominated"*, the Clerk of the National Assembly placed an advertisement in the print media on Friday, 7<sup>th</sup> October, 2022 (*Annexure 2*) inviting the public to submit memoranda by way of written statements on oath (affidavit) on the suitability or otherwise of the nominees in conformity with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011.
40. In this regard, by close of business on Friday 14<sup>th</sup> October, 2022 at 5.00 pm the Committee had received the following memoranda:

### **2.7.1 Affidavit by Mr. Davis Malombe**

41. Mr. Davis Malombe, the Executive Director of Kenya Human Rights Commission and the deponent in the affidavit averred that Prof. Njuguna Ndung'u, the Hon. Alice Muthoni Wahome, the Hon. Aisha Jumwa, the Hon. Moses Kuria and the Hon. Ababu Namwamba did not meet the requirements of Chapter Six of the Constitution, which should guide the vetting process. He further averred that—
- (a) Article 2, 3, 10, 73, and 75 of the Constitution; Chapter Six of the Constitution; and section 3 and 13 of the Leadership and Integrity Act, 2012 establish certain mandatory ethical and moral standards required of any public or state officer that are inherently different from criminal or civil standards;
- (b) the use of ethical and moral standards in vetting is supported by judicial and quasi-judicial pronouncements which have either barred or proposed barring of individuals from occupying public office including—
- (i) The Report on Vetting of the Nominee for Appointment as Chairperson NACADA by the Departmental Committee on Administration and National Security in 2013 which captured the importance of integrity in public office;



- (ii) The Report on Removal of the Chairperson of the Ethics and Anti-Corruption Commission by the Departmental Committee on Justice and Legal Affairs in 2016 that recommended the removal of the Chairperson for failing to disclose material information during his vetting exercise;
  - (iii) The Report on Vetting of Nominee for Appointment as Chairperson of the Salaries and Remuneration Commission by the Departmental Committee on Finance and National Planning in 2018 that reported on integrity issues on the nominee in relation to accusations of economic crimes and the nominee's failure to step aside as a public officer despite being the subject of an ongoing case; and
  - (iv) The Report and Recommendation into the Conduct of the Hon. Lady Justice Nancy Makokha Baraza in 2012 which recommended removal from office for assaulting and threatening a security guard.
- (c) in vetting suitability of candidates based on Chapter Six of the Constitution, Parliament should bar persons—
- (i) adversely mentioned by reports of competent public fact-finding institutions to possibly have or to have violated the law, abused their office, or acted in a manner that causes indignity to themselves or another person;
  - (ii) who have been recommended for criminal charges by fact finding or investigative bodies or for investigation or prosecution;
  - (iii) who have been charged in court on corruption charges, abuse of office charges, felonies or other serious offences;
  - (iv) who have been found to have engaged in offences by courts of first instance;
  - (v) who have been removed from office through an impeachment process or any other administrative process.
- (d) that the cited nominees did not meet the requirements of Chapter Six of the Constitution on the basis of public information specifically as follows—
- (i) **Prof. Njuguna Ndung'u** for facing abuse of office charges involving irregular award of a tender while serving as Central Bank Governor in 2014 and for being adversely mentioned or being involved in the irregular sale of the Grand Regency Hotel in 2008 according to the Report of the Commission of Inquiry into the sale of the Grand Regency Hotel;
  - (ii) **Hon. Alice Muthoni Wahome** for being captured on video assaulting an IEBC official on 27<sup>th</sup> October, 2017;
  - (iii) **Hon. Aisha Jumwa** for being charged with murder in Criminal Case No. E011 of 2020; and for being charged with fraudulent misappropriation of monies from the Malindi Constituency NGCDF;
  - (iv) **Hon. Moses Kuria** for being under investigation for embezzlement of NGCDF funds in Gatundu South Constituency; and for making a public confession to have received a bribe of KES 100,000 in 2020 to vote for the Hon. Amos Kimunya as the Leader of the Majority Party; and
  - (v) **Hon. Ababu Namwamba** for being adversely mentioned in a bribery scandal involving the Parliamentary Accounts Committee in 2014.

- (e) Parliament should reject the shortlisted nominees for failing to meet the requirements of Article 27(8) and Article 54 (2) that no more than two-thirds of the members of elective or appointive bodies be of the same gender; and that at least five percent of the members of the public in elective and appointive bodies be persons with disabilities.

42. **Observation:** The affidavit was a written statement on oath and therefore complied with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011.

### 2.7.2 Affidavit by Ms. Sheila Masinde

43. Ms. Sheila Masinde, the Executive Director of Transparency International Kenya and the deponent in the affidavit, averred that Prof. Njuguna Ndung'u, the Hon. Alice Muthoni Wahome, the Hon. Aisha Jumwa, the Hon. Moses Kuria, the Hon. Ababu Namwamba, Mr. Davis Chirchir and the Hon. Mithika Linturi did not meet the requirements of Chapter Six of the Constitution, which should guide the vetting process.

### 44. Observations

- (1) The Affidavit was similar in wording and content to the Affidavit of Mr. Davis Malombe above except that it also contested the suitability of Mr. Davis Chirchir and the Hon. Mithika Linturi as follows:
- (i) **Mr. Davis Chirchir** for being adversely mentioned in the "Chicken-gate" scandal where officials of the Interim Independent Electoral Commission received kick-backs from a UK-based printing company; and
  - (ii) **Hon. Mithika Linturi** for being accused and charged with the offence of attempted rape on 30<sup>th</sup> January, 2021.
- (2) The affidavit was a written statement on oath and therefore complied with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011.

### 2.7.3 Affidavit of Mr. Devshi Narran Kanbi

45. Mr. Devshi Narran Kanbi, the deponent, petitioned against the approval of Hon. Aisha Jumwa as Cabinet Secretary. He attached pleadings in Malindi Chief Magistrates Court ELC Case No. 57 of 2020 and averred that—

- (1) he was the legal owner of a property in Malindi until 16th April 2018 when he agreed to sell the property to the nominee for Kenya Shillings Eleven Million (KES 11,000,000/-);
- (2) the nominee paid the deposit of Kenya Shillings Five Million Five Hundred Thousand (KES. 5,500,000/-) and an additional Kenya Shillings One Million (KES 1,000,000/-). This left a balance of Kenya Shillings Four Million Five Hundred Thousand only (KES. 4,500,000/-);
- (3) the parties to the Agreement were represented by the same firm of Advocates;
- (4) the nominee transferred the property in her favour without his knowledge and is in possession of the property;
- (5) over four (4) years have lapsed without the balance of the purchase price being paid;



- (6) he has instituted court proceedings against the nominee at the Chief Magistrates' Court in Malindi in ELC Case No. 57 of 2020 where both of the parties have filed pleadings;
- (7) the nominee dishonestly and fraudulently secured the transfer the disputed land and therefore she does not possess the required competence, integrity and suitability for appointment to a public office;
- (8) the nominee was not a person of integrity on account of—
  - (i) failing to demonstrate honesty in the aforesaid land transaction;
  - (ii) engaging in a wrongful conduct for furtherance of her own benefit;
  - (iii) falsifying documents to transfer the suit property in her favour;
  - (iv) failing to conduct her private affairs, specifically the land transaction in a manner that maintains public confidence in a state officer; and
  - (v) using her position for bullying by being vindictive and malicious in the manner she handled the whole illegal transfer.

#### 46. **Observations**

- (1) The land case was a civil matter between the nominee and the deponent seeking several orders of the Court including a declaration that the nominee was in breach of the Sale Agreement dated 16<sup>th</sup> April 2018.
- (2) The affidavit was a written statement on oath and therefore complied with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011.

#### 2.7.4 **Memorandum Submitted by Mr. Allan Ibrahim Otota**

47. Mr. Allan Ibrahim Otota, a former driver to the Hon. Aden Duale when he was the Leader of the Majority Party, submitted a letter in which he cites a case No. 659 of 2016 filed against the Hon. Duale and the National Assembly for wrongful dismissal. Mr. Otota contests the suitability of the nominee.

48. **Observations:** Contrary to section 6(9) of the Act, the letter was not a written statement on oath.

#### 2.7.5 **Affidavit by Mr. Eliud Karanja Matindi**

49. The Affidavit by Mr. Eliud Karanja contested the suitability of the nominee for the position of the Cabinet Secretary Public Service, Gender and Affirmative Action, The Hon. Aisha Jumwa, on the following grounds:
  - (1) That the nominee lacked personal integrity based on her background. She did not meet the requirements to hold the office to which she had been nominated as required by the Constitution and the law;
  - (2) That it was a matter of public record that the nominee, a former state officer as a Member of the National Assembly for Malindi Constituency, was facing criminal charges for alleged serious offences;
  - (3) That in a press statement dated 27<sup>th</sup> August, 2020 published by the Office of the Director of Public Prosecutions, it was announced that the nominee together with

- others would be charged with offences under the Anti-Corruption and Economic Crimes Act and the Proceeds of Crime and Anti-Money Laundering Act, 2009;
- (4) That the Office of the Director of Public Prosecutions in several media reports provided information about the progress of the court proceedings in relation to the murder and assault charges against the nominee, a matter that was also listed for hearing at the Mombasa Magistrate's Criminal Court;
  - (5) That at the date of the nomination of the nominee by H.E The President, criminal proceedings against the candidate were still ongoing and no verdict had been reached;
  - (6) That under Article 73(2) and 232(1)(a) of the Constitution, the guiding principles of leadership and integrity include selection of State Officers based on personal integrity, competence and suitability, among others;
  - (7) That Article 1, 2, 3, 10, 73, 75, 94, 95, 131, 152 and 153 of the Constitution imposed a binding duty on the President, Cabinet and the National Assembly to defend, uphold and protect the Constitution.
  - (8) That the nomination of the nominee while she was subject to ongoing criminal prosecutions for allegedly committing very serious offences while she was a state officer is unconstitutional, null and void;
  - (9) That the decision by the Director of Public Prosecutions to charge the nominee and her co-accused suspects was based on the Constitution, applicable statutes and guiding policies;
  - (10) That the decision by the Office of the Director of Public Prosecutions was made on the basis of sufficient evidence to provide a realistic prospect of conviction;
  - (11) That it was unconstitutional and against public interest to nominate for approval and if approved to appoint the nominee to the position of the Cabinet Secretary;
  - (12) That the National Assembly is under a constitutional obligation under Article 1, 2, 3, 10, 94, 95, 152, 157, 159, 160, 162, 172, 172, 232, 249, 259 and 260 of the Constitution to refuse to approve the nomination of Hon. Aisha Jumwa as Cabinet Secretary;
  - (13) That the ongoing criminal prosecution of the candidate provides grounds to make the nominee unsuitable for nomination and, if approved, for appointment.

## 50. Observations

- (1) The affidavit noted that there were ongoing criminal proceedings against the nominee.
- (2) The affidavit was a written statement on oath and therefore complied with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011.

### 2.7.6 Petition by Residents of Uasin Gishu and Trans-Nzoia

51. The Petitioners averred as follows in relation to the nominee for the position of Cabinet Secretary, Ministry of Agriculture, Hon. Mithika Linturi:

- (1) That the office of the Cabinet Secretary is a fundamental position that ought to be occupied by an individual of unimpeachable morals;
- (2) That the nominee is anti-ethical and has numerous court cases facing him;



- (3) That the nominee is facing charges of fraud and forgery in which through forgery he obtained credit from Family Bank in favour of Atticon Limited, a company in which he is the majority shareholder and managing director;
- (4) That the Cabinet Secretary for Interior, Fred Matiangi, while reporting to the Senate the circumstances under which the nominee had been arrested, gave a record of several counts under which the nominee had been charged;
- (5) That the case has been a subject of litigation in the High Court Petition E068 of 2021, *Hon. Mithika Linturi versus the Director of Public Prosecutions*, where the DPP was directed to hold charges against the nominee for 90 days. The timeline has since lapsed and the nominee ought to be arraigned in court;
- (6) That it is a matter of public information that Hon. Linturi was accused of the offence of attempted rape contrary to section 4 of the Sexual Offences Act, 2006 and an indecent act contrary to section 11(a) of the Sexual Offences Act, 2006;
- (7) That the two cases have since been withdrawn pursuant to an out of court settlement;
- (8) That the fact that the nominee has resulted to negotiating covertly instead of clearing his name in a court of law is indicative of his moral inclinations;
- (9) That the public does not have confidence that the nominee is morally fit to be part of the Cabinet;
- (10) That the nominee also faced charges of allegedly inciting the public to violence in a rally held in Eldoret and the case was similarly withdrawn; and
- (11) That to allow persons who have violated Chapter Six of the Constitution to be nominated is a violation of the Constitution.

52. **Observation:** Contrary to section 6(9) of the Act, the Petition was not a written statement on oath. However, the Petitioners had attached a supporting affidavit in support of the Petition.

#### 2.7.7 Supporting Affidavit for The Petition by Dennis Mogere

53. The Supporting Affidavit by Mr. Dennis Mogere was in support of the Petition. The deponent averred that persons who have violated Chapter Six of the Constitution should not be allowed to hold public office.

#### 54. Observations

- (1) The supporting affidavit is a written statement on oath in support of the Petition in terms of section 6(9) of the Act.
- (2) However, whereas the Petition has five Petitioners, the supporting affidavit was only sworn by one Petitioner.
- (3) Additionally, although the Affidavit makes reference to the content of the Petition, the Affidavit did not contain all the specific allegations contained in the Petition.

#### 2.7.8 Memorandum by Mr. Gichuna Wahome

55. The Memorandum by Mr. Gichuna Wahome is in respect to the nominee for the position of the Cabinet Secretary, Ministry of Education, Hon. Ezekiel Machogu. Mr. Gichuna averred



that the nominee as a District Officer in Ol-Joro-Rok Division in Nyandarua County failed to distribute land to colonial villagers and squatters as per the directions of the late President Moi. Further, he averred that the nominee allegedly allocated himself and his cronies land and discriminated against women and widows. To this end, he contested the suitability of the nominee to hold office.

56. **Observation:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath.

#### **2.7.9 Affidavit by Mr. James Wangai**

57. Mr. James Wangai, the deponent in the affidavit averred that he supported the nomination of Hon. Justin Bedan Njoka Muturi as the Attorney-General due to his great leadership skills and vast experience and expertise. The deponent also noted that the nominee had previously served as a Member of Parliament and a Principal Magistrate. He further averred that the nominee while serving as a Member of Parliament was also a Member of the Parliamentarians Network Against Corruption among other organizations.
58. **Observation:** Although the memoranda was a written statement on oath, section 6(9) of the Act envisages that the statement on oath should be evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated. The affidavit was not contesting the suitability of the candidate.

#### **2.7.10 Memorandum by Ms. Valentine Obongoya**

59. The Memorandum by Ms. Valentine Obongoya is in support of the nominee for the position of the Cabinet Secretary, Ministry of Health, Ms. Susan Nakhumicha Wafula. Ms. Valentine Obongoya observed that the nominee was an experienced healthcare practitioner for over a decade in strategic supply chain and healthcare programs. The deponent noted that her nomination would boost the constitutional pursuit of the two-thirds gender rule.
60. **Observation:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath contesting the suitability of a candidate to hold the office to which the candidate has been nominated.

#### **2.7.11 Affidavit by Mr. James Wangai**

61. Mr. James Wangai, the deponent in the affidavit averred that he supported the nomination of Hon. Roselinda Soipan Tuya for the position of the Cabinet Secretary, Ministry of Environment and Forestry. The deponent further averred that the nominee understood the emerging environmental challenges and once appointed she would facilitate the conservation of the Maasai Mau Forest among other things. The deponent also observed that the nominee holds a Master's Degree in Law from the University of Washington and a Law Degree from the University of Nairobi.

62. **Observation:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath contesting the suitability of a candidate to hold the office to which the candidate has been nominated.

**2.7.12 Affidavit by Mr. James Wangai and Mr. Kevin Kiarie**

63. Mr. James Wangai and Mr. Kevin Kiarie, the deponents in the affidavit averred that they supported the nomination of Hon. Prof. Kithure Kindiki for the position of the Cabinet Secretary, Ministry of Interior and National Administration. The deponents further averred that the nominee was competent, skilled, dedicated and had vast experience on matters law and governance.
64. **Observation:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath contesting the suitability of a candidate to hold the office to which the candidate has been nominated.

**2.7.13 Affidavit by Mr. James Wangai and Mr. Kevin Kiarie: Hon. Aisha Jumwa**

65. Mr. James Wangai and Mr. Kevin Kiarie, the deponents in the affidavit averred that they supported the nomination of Hon. Aisha Jumwa for the position of the Cabinet Secretary, Ministry of Public Service, Gender and Affirmative Action. The deponents further averred that the nominee had previously served as a Member of Parliament representing the Malindi Constituency, had been a Commissioner of the Parliamentary Service Commission, Women Representative, Kilifi County and a Councillor in Takaungu Ward. The deponents also averred that the nominee had several initiatives towards women empowerment and noted that, as a legislator, she had been vocal in advancing the rights of women.
66. **Observation:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath contesting the suitability of a candidate to hold the office to which the candidate has been nominated.

**2.7.14 Affidavit by Mr. James Wangai and Mr. Kevin Kiarie: Hon. Ababu Namwamba**

67. Mr. James Wangai and Mr. Kevin Kiarie, the deponents in the affidavit averred that they supported the nomination of Hon. Ababu Namwamba for the position of the Cabinet Secretary, Ministry of Youth, Sports and Arts. The deponents further noted that the nominee is a public interest litigator and is one of the pioneers of public interest litigation. They further averred that the nominee initiated the Ababu Namwamba Foundation, a charity that supports education and talent growth. Additionally, the deponents noted that the nominee was best suited for the position as he had previously served under a similar position in the Grand Coalition government.
68. **Observation:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath contesting the suitability of a candidate to hold the office to which the candidate has been nominated.

### 2.7.15 Affidavit by Dr. Samuel Thenya Maina

69. Dr. Samuel Thenya Maina, the deponent in the affidavit is the Founder and Director of Strategy at the Nairobi Womens Hospital Group. The deponent averred that he supported the nomination of Ms. Susan Wafula Nakhumicha for the position of the Cabinet Secretary, Ministry of Health. The deponent noted that the nominee brings a wealth of experience in the healthcare industry, in business strategy, social entrepreneurship and sustainable development. The deponent further observed that during the tenure of the nominee at the Nairobi Women's Hospital Group, the nominee modernized procurement processes and applied innovative management strategies.
70. **Observations:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath contesting the suitability of a candidate to hold the office to which the candidate has been nominated.

### 2.7.16 Letter by Dr. George Rutherford

71. Dr. George Rutherford, the Chair of the Board of Directors for Global Programs for Research and Training, submitted a letter dated 11<sup>th</sup> October, 2022 addressed to the Committee. In the letter, he observed that the nominee for the position of the Cabinet Secretary, Ministry of Health, Ms. Susan Wafula Nakhumicha is a member of the University of California, San Francisco Global Programs. He further stated that the nominee is a seasoned and results oriented supply chain management professional with over twenty years of experience in establishing processes, streamlining workflow and improving efficiency. He further recommended the nominee for appointment as Cabinet Secretary due to her experience and capabilities in leading the Ministry of Health.
72. **Observation:** Contrary to section 6(9) of the Act, the letter was not a written statement on oath. The letter was also not contesting the suitability of the candidate.

### 2.7.17 Representations On Cabinet Nominees by Mr. Felix Anyona Moturi

73. Mr. Felix Anyona submitted a memorandum *vide* an email requesting the Committee to pose certain questions to the nominee for the position of the Cabinet Secretary, Ministry of Sports, Arts and Youth Affairs. The questions were general in nature touching on sports management in the country and implementation of the Sports Act, 2013.
74. **Observation:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath.

### 2.7.18 Complaints On Cabinet Secretaries Nominees by Mr. Peter Masolo

75. Mr. Peter Masolo submitted a memorandum *vide* an email where he averred that the list of the Cabinet Secretaries did not include persons with specialization in certain sectors. He further objected to the list of nominees on grounds that the list did not comply with the requirements



of Chapter Six of the Constitution. Further, he averred that the nominee for the position of Cabinet Secretary, Public Service, Gender and Affirmative Action was unfit to hold office due to utterances that she had made in public. Additionally, he also averred that the nominating authority did not consider past poor performance of some of the nominees in particular that of the former Central Bank Governor.

76. **Observation:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath.

#### **2.7.19 Memorandum by Mr. Gilbert Langat**

77. Mr. Gilbert Langat submitted a memorandum *vide* email contesting the list of nominees to the Cabinet on grounds that no single engineer had been nominated to the Cabinet yet engineers were key in ensuring the development of the country.
78. **Observation:** Contrary to section 6(9) of the Act, the memorandum is not a written statement on oath.

#### **2.7.20 Memorandum by Mr. Cyrus Kariuki**

79. Mr. Cyrus Kariuki submitted a memorandum *vide* email contesting the nomination of Hon. Aden Duale as the Cabinet Secretary for Defence on grounds that the nominee is temperamental and had previously made unsettling remarks that bordered towards sympathizing with terrorists.
80. **Observation:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath.

#### **2.7.21 Memorandum by Mr. Peter Mungai**

81. Mr. Peter Mungai submitted a memorandum *vide* email contesting the nomination of Hon. Moses Kuria as the Cabinet Secretary on grounds that the nominee had made unsettling remarks that allegedly insinuated that he would target persons who had voted for the Hon. Raila Odinga.
82. **Observation:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath.

#### **2.7.22 Affidavit by Mr. John Mark Ojiambo and Mr. Michael Mwangi**

83. Mr. John Mark Ojiambo and Mr. Michael Mwangi, the deponents in the affidavit supporting the candidature of Hon. Ababu Namwamba averred that the nominee for the position of the Cabinet Secretary, Ministry of Youth, Sports and The Arts was an international lawyer who had practiced law effectively both within and outside the country. The deponents further averred that the nominee was also known for his scholarly achievements and talent in growth

and economic empowerment of the youth in Kenya. Additionally, they averred that the nominee was intelligent, hardworking and delivers on promises.

84. **Observation:** Contrary to section 6(9) of the Act, although the affidavit was a written statement on oath, the affidavit was not contesting the suitability of the nominee.

#### **2.7.23 Letter of Concern Against the Nominee for the Ministry of Trade, Investment and Industry**

85. Former workers of Nguo Yetu Limited submitted a letter pursuant to section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011 where they averred that in the year 2021, Hon. Moses Kuria being the Chairman of Nguo Yetu Limited located at EPZ Athi-river, declined to pay salaries in the month of June, July and August 2021 to the employees. The former employees further submitted that the firm never honoured its undertaking that it would pay the employees once the firm had received a payment from the Kenya National Chamber of Commerce and Industry. Further, the Labour office, upon receiving complaints from the workers, made a follow-up with the nominee but to date the nominee was yet to pay the employees.
86. **Observation:** Contrary to section 6(9) of the Act, the memorandum was not a written statement on oath contesting the suitability of a candidate to hold the office to which the candidate had been nominated. It is also notable that the memorandum was received on Sunday, 16<sup>th</sup> October, 2022. In this regard, the memorandum was not received by Friday, 14<sup>th</sup> October, 2022 at 5.00 pm being the date and time within which the public was required to submit memoranda.

#### **2.8 Notification of the Nominees of the issues raised in the Memoranda**

87. From the foregoing, the Committee received a total of twenty-three (23) Memoranda from the public, out of which, only four (4) complied with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011.
88. In this regard, the Clerk of the National Assembly *vide* letters dated 15<sup>th</sup> October, 2022 wrote to seven (7) nominees to respond to issues that were raised in the four (4) affidavits by the public pursuant to section 6(9) of the Act contesting their suitability for appointment to office. (*Annexure 11*).
89. The letters were addressed to the following nominees:
- (1) Mr. Davis Kimutai Chirchir;
  - (2) Hon. Aisha Jumwa Karisa Katana;
  - (3) Hon. Alice Muthoni Wahome;
  - (4) Hon. Ababu Namwamba;
  - (5) Hon. Franklin Mithika Linturi;
  - (6) Prof. Njuguna Ndung'u; and
  - (7) Hon. Moses Kuria.
90. The Clerk of the National Assembly *vide* a letter dated 15<sup>th</sup> October, 2022, Ref No. NA./CAN/CORR/2022 (147), wrote to the Director of Public Prosecutions requesting a status report on whether there were any pending criminal proceedings against the twenty-four (24)



nominees (*Annexure 12*). However, the DPP did not reply to the request for information on the nominees.

## APPROVAL HEARINGS OF THE NOMINEES

91. The Committee held a sitting on Monday, 17<sup>th</sup> October, 2022 to deliberate on the approval hearings and noted the following –
- (i) **THAT**, the nominees had not notified the Clerk of the National Assembly of their withdrawal from the approval process as outlined under section 6(10) of the Public Appointments (Parliamentary Approvals) Act, 2011.
  - (ii) **THAT**, Article 152(1)(d) of the Constitution provides that the Cabinet consists of not fewer than fourteen and not more than twenty-two Cabinet Secretaries. In this regard, it was notable that in compliance with the provisions of Article 152(1)(d) of the Constitution, the President had nominated twenty-two Cabinet Secretaries among them being the Prime Cabinet Secretary.
  - (iii) **THAT**, consequently, the Office of the Prime Cabinet Secretary finds its constitutional basis under Article 152(1)(d) of the Constitution and the nominee if approved, will be one of the Cabinet Secretaries.
  - (iv) **THAT**, further, it was worth noting that through the Executive Order No. 1 of 2022, on the Organization of Government, the President assigned specific roles to the Office of the Prime Cabinet Secretary which included coordinating and supervision of the Ministries and State Departments.
  - (v) **THAT**, however, the designation of the roles of a Cabinet Secretary did not change the nature of the position of a Cabinet Secretary as anchored under Article 152(1)(d) of the Constitution. It was further noted that Article 152 of the Constitution did not prescribe the designation of the title or functions to be conferred to each Cabinet Secretary. Accordingly, it is within the powers of the President under Article 132 of the Constitution as read with section 10(1) of the National Government and Co-ordination Act No. 1 of 2013, to designate the title and assign functions to a Cabinet Secretary.
  - (vi) **THAT**, the Committee would therefore proceed with the approval hearings from Monday, 17<sup>th</sup> to Saturday, 22<sup>nd</sup> October, 2022; and
  - (vii) **THAT**, the Committee would examine the nominees against the criteria set out in section 7 of the Public Appointments (Parliamentary Approval) Act, 2011.

### 3.1 HON. WYCLIFFE MUSALIA MUDAVADI, EGH, – NOMINEE FOR THE POSITION OF PRIME CABINET SECRETARY

92. Hon. Wycliffe Musalia Mudavadi, EGH, the nominee to the Office of the Prime Cabinet Secretary, appeared before the Committee on Monday 17<sup>th</sup> October, 2022 at 9.00 am and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary approvals) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:

#### *Date and place of Birth*

93. The nominee is a male Kenyan born on 1<sup>st</sup> January, 1960 in Vihiga County. The nominee confirmed that he was a Kenyan citizen and did not hold any other citizenship.

### ***Academic and Professional Qualifications***

94. The nominee holds a Bachelor's Degree in Land Economics from the University of Nairobi.

### ***Employment Record***

95. The nominee served as Vice-President of the Republic of Kenya between October 2002 and December 2002. He also served as a Deputy Prime Minister between April 2008 and May 2012. Further, he served as a Cabinet Minister for nineteen (19) years in various dockets, including:

- (a) as Minister for Transport & Communication between July 2001 and December, 2002 where he facilitated liberalization of the communications sector and he established the Communications Commission of Kenya (CCK);
- (b) as Minister for Information, Transport & Communication between September 1999 - Jun 2001 where he started the process of privatization of Kenya Railways (KR) and Modernization of the national Civil Aviation navigation facilities;
- (c) as Minister for Agriculture between January 1998 and September 1999 where he streamlined and strengthened the Management of the Agricultural Sector towards flourishing in a liberalized economy. He also facilitated the enactment of Kenya Tea Development Agency (KTDA) Act that created local farmer ownership of Tea Factories;
- (d) as Minister for Finance between January, 1993 and December, 1997 where he oversaw sweeping programme of privatization. Spearheaded restoration of bilateral and multilateral aid;
- (e) as Minister for Supplies & Marketing between May 1989 – 1993 where he abolished movement permits for grain and oversaw the expansion of grain storage facilities in order to ensure food security.

96. He has been in politics for the last 33 years where he has served as a Member of Parliament for Sabatia Constituency for three terms between 1989 and 2002; and 2007 and 2013.

97. The nominee was a Leader of Government Business in Parliament between July 1998 and May 1999. He was a Presidential Candidate in the 2013 general elections.

98. The nominee, in 2008, was the Orange Democratic Movement's Chief Negotiator and Chairman of the National Dialogue & Reconciliation, National Accord under former United Nations Secretary General, Kofi Annan.

99. The nominee was a Member of leading political parties in Kenya including KANU Chairman; Kakamega Branch. ODM Deputy Party Leader & Convener, Finance & Resource Mobilization Committee; and Party Leader, Amani National Congress (ANC) Party.

### ***Honors and awards***

100. The nominee indicated that he was awarded the Elder of the Golden Heart of Kenya (EGH); awarded M.I.S.K. (RV), by the Institution of Surveyors of Kenya; and was awarded a research grant on Initiatives to Support the growth of MSMEs in Kenya.

### ***Income and net worth***

101. The nominee estimated his net worth to be Kshs. 4 billion with the sources of income being rental income, dividends from shares, interests accrued and others from farming.

### ***Professional Association and Memberships***

102. He is a member of the Karen and Muthaiga Country Clubs; Nairobi Royal Club; Kakamega Sports Club and Kitale Club.

### ***Published writings***

103. The nominee has published a book by the title “*Soaring Above the Storms of Passion*”. He also published the Rethinking Development in Africa in the 21st Century: The Case study of Kenya.

### ***Potential Conflicts of Interest***

104. The nominee declared that he currently does not have any persons or matter that would present a potential conflict of interest should he assume the position of Prime Cabinet Secretary. Should a conflict of interest arise, the nominee stated that he would declare the interest in writing to the appointing authority in accordance with the law.

### ***Pro-bono/Charity Work***

105. The nominee is involved in charity work through the Mudavadi Memorial Foundation Trust Fund.

### ***Integrity***

106. The nominee has neither been charged in a court of law nor mentioned in any investigatory report of Parliamentary or any Commission of Inquiry in the last three (3) years. He has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

107. The nominee further indicated that he had resigned from his position as Party Leader of Amani National Congress in compliance with the law.

### **3.1.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO HON. WYCLIFFE MUSALIA MUDAVADI, EGH**

108. The Committee posed several questions to the nominee on his knowledge of the Public Service. The nominee responded as follows: -

### ***On attainment of the Kenya Kwanza manifesto***

109. The nominee informed the Committee that the Kenya Kwanza manifesto at the earliest possible time should be translated to a policy paper. He stated that he would engage all stakeholders, and do away with any pitfalls and support all legislations that would be of benefit to the country.

### ***On the Big 4 Agenda under the current regime***

110. The nominee underscored the need to deliver the Big 4 Agenda under the current regime as contained in the Kenya Kwanza manifesto. He informed the Committee that the Kenya Kwanza government will prioritize Agriculture; Micro Small and Medium Enterprise economy; Housing and Settlement; Healthcare and Creative economy as its five key pillars.



### ***On priority Legislative Proposals***

111. The nominee informed the Committee that his priorities will include matters climate change programs which comes with lots of funding from national and international development partners; coordinating matters diplomacy as well as issues of migrant workers; and legal instruments to be put in place to facilitate the proposed Hustler fund. There is need for laws on wastage and other legislations that will unlock economic potential of the Kenyan people.

### ***On Cabinet Secretaries failing to honour parliamentary summons and not responding adequately***

112. The nominee informed the Committee that any Cabinet Secretary (CS) not honouring summons to parliament will be doing so on their own peril. He indicated the need to respect institutions created by the Constitution of Kenya. There may be need to amend Standing Orders to ensure more accountability from the CS's and ensure public participation is adequately done. The nominee committed to cooperate with Parliament.

### ***On constitutionality of the position of Prime Cabinet Secretary Office***

113. The nominee informed the Committee that a coalition agreement was entered into by the parties in the Kenya Kwanza Coalition which was submitted to the Registrar of Political Parties. The President through the Executive Order No.1 of 2022, established the office of Prime Cabinet Secretary as was agreed in the Coalition Agreement. Even without an amendment, the President has powers to assign work to his Cabinet by dint of Article 132 of the Constitution

### ***On regarding the Director of Public Prosecution withdrawing cases***

114. The nominee informed the Committee that the Director of Public Prosecution is an independent office. The details and circumstance on why he would drop charges would be best addressed by the DPP.

### ***On position on Kenya Kwanza and BBI***

115. On his previous position that Kenya Kwanza was not hell-bent in creating positions for individuals while opposing the BBI now that one of the positions has been created for him, he indicated that he did not oppose the whole BBI but some provisions such as the Office of the Judiciary Ombudsman. He further intimated that the Government can be reorganized without necessarily increasing cost to the taxpayer.

### ***On Public Debt***

116. The nominee informed the Committee that the country is facing a challenge of debt. It was his view that there should be wide consultations, targeted borrowing and focus on productive sectors of the economy. He stated that his Office would have to work closely with Parliament in enacting legislation to address the ballooning public debt.

### ***On Perception of duplication of roles between the Office of the Deputy President and Prime Cabinet Secretary***

117. The nominee noted that the office of the Prime Cabinet Secretary will have greater collaboration and interaction with all stakeholders. He noted that the office will not usurp the

role of the DP but would only amplify the political coordination that has been low in the last regime.

118. On how to avoid perceived overlap in the functions of his office with that of the DP, he indicated that there would be no overlap, given that in Government, there would always be cross-cutting issues.

***On appointing Cabinet Secretaries who lost in the general elections***

119. The nominee informed the Committee that nominating those who had lost election was not an offence and no one ought to be discriminated against. He further stated that all individuals have a right to serve in different capacities without discrimination.

***On Ministries making delegated legislation that contradict the law***

120. The nominee informed the Committee that he would ensure that there is coordination and collaboration within the Ministries and Parliament. He underscored the need to have a coordinated engagement on the development of statutory instruments to enhance synergy between Parliament and the Executive.

***On experience in economics on fuel subsidies***

121. The nominee informed the Committee that subsidies are a targeted intervention to spur economic activities. They can however be very expensive to maintain. He suggested that inflation should be tamed. He informed the Committee that it was during his tenure at the Treasury that price controls were removed. He was of the view that to address subsidies, inflation needs to be managed.

***On implementation of the taskforce report on reforming state corporations***

122. The nominee admitted that there are too many entities that could be having functional overlaps. He undertook to study the reports compiled on the matter and devise the way forward. He singled out the stalled privatization programmes and urged Parliament to cooperate when called up to disengage the government from these costly ventures.

***On National Government taking up functions of Counties***

123. The nominee informed the Committee that the national government could only intervene for ninety (90) days as opposed to making the intervention open ended. This should be limited, targeted and rights restored to enable the county to operate normally. He stated that at the time of winding up the operations of NMS, a huge debt had accumulated, which debt was inherited by the Nairobi City County Government. He expressed confidence that the Report of the Auditor-General on the operations of the Nairobi Metropolitan Services (NMS) would recommend appropriate actions on the matter. He also noted that the Nairobi Metropolitan Service left a debt of 16 Billion Shillings and may not have followed proper procedure in public finance management.

***On Anglo leasing***

124. The nominee informed the Committee that he went to testify as a state witness and that the matter was canvassed in Court without anybody being convicted.

***On Goldenberg***



125. The nominee averred that Goldenberg was an export compensation scheme and a policy position of the Government which was abused. He stated that as the then Minister of Finance, he stopped the abuse by dismantling the Goldenberg cartel. He further stated that there was a Commission of Judicial Inquiry that inquired into the scheme, which exonerated him and lauded his efforts in ending the scheme.

#### ***On cemetery land issue***

126. The nominee addressed the issue of the overpricing of the cemetery land that arose while he was the Minister for Local Government. The nominee stated that the relevant authorities had dealt with the matter and those found culpable were convicted.

#### ***On Civil Case 280 of 2007, Kenya Anti-Corruption Commission vs Mudavadi***

127. The nominee informed the Committee that he was accused of fraudulently acquiring property in Woodley Estate belonging to the government. He indicated that his family leased the property from the Nairobi City Council to which the family pays rent. He further stated that he had sued the Kenya Anti-Corruption Commission for defamation and giving misleading information relating to the ownership of the property.

#### ***On Parastatal Reforms***

128. The nominee informed the Committee that there were more than 300 state corporations and hence there was need to re-align the state corporations in light of the recommendations of the Presidential Taskforce on Parastatal Reforms of 2013.
129. The nominee further stated that as part of his legislative agenda, he would request Parliament to consider reviewing the prioritization programmes of some of the state corporations to improve on their efficiency.

#### ***On stalled Government Projects***

130. The nominee informed the Committee that there was need for the forum of all Principal Secretaries to deal with the issue of stalled government projects including undertaking audit with a view of determining the viability of the projects.

#### ***On leveraging on East Africa Community (EAC)***

131. The nominee informed the Committee that there was need to entrench economic diplomacy within the East African Community and within the framework of the African Continental Free Trade Agreement. He further stated that there was need to foster peace and stability in the Horn of Africa.

### **3.1.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

132. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, 2011, his curriculum vitae and having heard his oral submissions during the approval hearing, made the following observations on his suitability for appointment as Prime Cabinet Secretary:

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born in 1960 in Vihiga County and does not hold dual citizenship.
- (2) **THAT**, the nominee has previously served as Cabinet Minister for nineteen (19) years in various dockets including Marketing and Supplies; Finance; Agriculture; Transport; Information and Communication; Local Government; Deputy Prime Minister; and Vice-President of the Republic of Kenya. He holds a Bachelor of Arts in Land Economics (Hons.) degree from the University of Nairobi. His academic credentials, professional training and experience thus comply with section 6(7) of the Public Appointments (Parliamentary Approval) Act, No. 33 of 2011.
- (3) **THAT**, the nominee meets the requirements of Chapter 6 of the Constitution on leadership and integrity having obtained clearance from the following statutory bodies; the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, although the nominee was a member and Party Leader of the Amani National Congress Party, the nominee had since relinquished the position of party leader and thus does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on government and has the requisite abilities, qualifications and experience to serve as the Prime Cabinet Secretary.
- (8) **THAT** at the commencement of the approval hearings, the Speaker of the National Assembly addressed the issue of the constitutionality of the position of the Prime Cabinet Secretary. He noted that it is within the powers of the President under Articles 132 and 152(2) of the Constitution as read with section 10(1) of the National Government and Co-ordination Act No. 1 of 2013, to appoint, designate the title and assign functions to a Cabinet Secretary, provided the total number of the Cabinet Secretaries does not exceed twenty-two. In its deliberations, after the approval hearing of the nominee, the Committee



observed that it may be necessary to establish a legislative framework to further elaborate the roles and functions of the office of the Prime Cabinet Secretary.

### **3.2 HON. JUSTIN BEDAN NJOKA MUTURI, EGH – NOMINEE FOR THE POSITION OF ATTORNEY GENERAL**

133. Hon. Justin Bedan Njoka Muturi, EGH appeared before the Committee on Monday, 17<sup>th</sup> October, 2022 at 10.30 am and was vetted under oath pursuant to Article 156(2) of the Constitution, the Public Appointments (Parliamentary approvals) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:

#### ***Citizenship, Date and Place of Birth***

134. The nominee is a male Kenyan born on 28<sup>th</sup> April, 1956 in Embu County. The nominee confirmed that he is a Kenyan citizen and does not hold any other citizenship.

#### ***Academic and Professional Qualifications***

135. He holds a Postgraduate Diploma in Law, from the Kenya School of Law (1982), a Bachelor of Laws degree from the University Nairobi (1981). He sat for his Kenya Advanced Certificate of Education (KACE) examination in 1977 at Kangaru High School and sat for his Certificate of Primary Education examination in 1971 at Kanyuombora Primary School.

#### ***Work and Professional Experience***

136. In terms of work and professional progression, the nominee has served as Speaker of the National Assembly and Chairperson of the Parliamentary Service Commission from 28<sup>th</sup> March, 2013 to 8<sup>th</sup> September 2022; Chairperson of the Centre for Multi-Party Democracy; Member of Parliament for Siakago Constituency from 1999 to 2007; and as a Magistrate from 1982 to 2002.

#### ***Honours and awards***

137. The nominee was awarded the Elder of the Order of the Golden Heart (EGH).

#### ***Professional Associations, other activities and membership***

138. The nominee submitted that he is a member of the Law Society of Kenya; the African Parliamentarians Network Against Corruption; and the Global Organization of Parliamentarians against Corruption.

#### ***Published Writings***

139. The nominee submitted that as the Speaker of the National Assembly during the 11<sup>th</sup> and 12<sup>th</sup> Parliaments, he delivered forty-five (45) considered rulings on salient constitutional, legal and procedural matters.

140. As the Vice President of the Global Organization of Parliamentarians Against Corruption (GOPAC), the nominee attended the 8<sup>th</sup> Conference of the State Parties held in Abu Dhabi and the 25<sup>th</sup> Conference of Speakers and Presiding Officers of the Commonwealth in Ottawa Canada and presented the following papers on the *Role of Anti-corruption and GOPAC*

***Public Office, Political Activities and Affiliations***

141. The nominee has held the following positions in various public offices in addition to those highlighted under the section on work and professional experiences—

- i) Party Leader, Democratic Party of Kenya from February 2022 to October 2022;
- ii) Chairperson, Centre for Multi-Party Democracy from 2008 to 2013;
- iii) National Organizing Secretary, Kenya Africa National Union (KANU) from 2005 to 2012;
- iv) Member of the National Executive Council, Kenya Africa National Union (KANU) from October 2002 to January 2005.

***Potential Conflict of Interest***

142. The nominee stated that he has no immediate associations that are likely to present potential conflict of interest should he assume the position of the Attorney-General.

***Sources of Income and Net-worth***

143. The nominee stated his net worth to be approximately Kshs. 761.3 Million.

***Current and anticipated sources of income***

144. His current sources of income include monies he makes from farming and offering consultation services.

145. He anticipates income in form of pension as prescribed under the Deputy President and Designated State Officers Act, No. 8 of 2015.

***Pro-bono/Charity Work***

146. The nominee is involved in charity work through the Justin Muturi Foundation which gives support to the less privileged in the society.

***Integrity***

147. The nominee has neither been charged in a court of law nor mentioned in any investigatory reports of Parliament or any Commission of Inquiry in the last three (3) years. He has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

**3.2.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO HON. JUSTIN BEDAN NJOKA MUTURI, EGH**

148. The Committee posed several questions to the nominee on his suitability for appointment as follows—

***On Government losing high profile cases***

149. The nominee acknowledged the loss of cases and the burden it causes to the taxpayer in regard to legal fees that ought to be paid. He stated that in as much as the judicial system in Kenya is adversarial and the Government may lose or win cases, there has been negligence and laxity by the office of the Attorney General which has caused the Government to lose some cases. He stated that there is need for ministries and other Government institutions to involve the



office of the Attorney General at the pre-contractual period when making financial agreements to avoid litigation. He informed the committee of his plan to create an integrated case management system that will ensure the Attorney-General is kept in the loop of all ministerial dealings.

***On abuse of the Criminal Justice System for political ends***

150. The nominee stated that the criminal justice system falls under the mandate of the Director of Public Prosecutions and the Director of Criminal Investigations. He stated that being in power does not entitle any person to abuse the criminal justice system.

***On pending legal fees owed by Government***

151. The nominee informed the Committee that the current legal awards owed by the Government stand at Kshs. 151 billion. He attributed this to failure by ministries to settle debts arising from lost cases. He stated that remedying this should be a policy question and ministries should factor the awards in their budget.

***On questions on his integrity***

152. The nominee acknowledged that he had been charged with a criminal offence while serving as a Magistrate in Nairobi. He informed the Committee that the case was dismissed and a subsequent appeal was not successful.

153. With regard to being adversely mentioned in Oduor Ong'wen's book "*Stronger than Faith*", the nominee distanced himself from any wrongdoing and stated that he was simply expressing a divergent opinion. He further stated that at the time of the occurrence, he was a student leader and politely urged other students against engaging in a strike, something which did not infringe on any person's rights.

***On human rights and democracy***

154. The nominee informed the Committee of his plan to ensure robust engagement and ensure rights and democracy are upheld. He intends to advise the President on steps taken to uphold human rights and the national principles and values of governance under Article 10 of the Constitution.

***On defection from parties that elect Members to office without informing the electorate***

155. The nominee informed the Committee that the Bill of Rights in the Constitution clearly articulates the liberties that Kenyans have with respect to forming, joining and leaving a political party and it is not the mandate of the Attorney General to limit such rights. He stated that the Political Parties Act contains effective disciplinary measures that a political party may use to discipline its members.

***On withdrawal of cases by the Director of Public Prosecutions***

156. The nominee stated that it would be premature to comment on the issue since the DPP has not ascribed reasons for the withdrawal. He further stated that the DPP has power to withdraw cases with leave of court.

***On management of Government contracts***

157. The nominee stated that there has been negligence in negotiating financial agreements. He further stated that ministries and other government agencies often ignore advice from the office of the Attorney General. He reiterated his plan to create an integrated case management system to keep him abreast of happenings in the ministries at the earliest possible stages.

***On access to legal aid and high cost of legal fees***

158. The nominee informed the Committee that ineffectiveness in provision of pro bono legal services was as a result of lack of human and financial resources. He stated that he intends to devolve information on legal services to the lowest possible level to ensure the public is conversant with court processes. Further, he informed the Committee that the Office of the Attorney General only has offices in 13 counties, which he intends to change to ensure effective service delivery, if appointed.

***On strengthening prosecution of corruption cases***

159. The nominee emphasized the need to look at corruption from both the criminal and civil perspective. He stated that in prosecuting corruption, public information and public awareness is vital to ensure that the public knows the progress of the cases.

***On laxity among judicial officers causing delayed justice***

160. The nominee stated that the Judicial Service Commission has internal processes to deal with judicial officers. He stated that in most cases delays are caused by lack of information on court processes. He further stated that there is need to come up with other methods through which the public can access cause lists to increase awareness on court processes. He acknowledged that lateness of judicial officers, non-appearance and unnecessary adjournments affect delivery of justice.

***On declaration of laws as unconstitutional by the courts***

161. The nominee stated that it is the role of Parliament to make laws and that of the Judiciary to interpret them.

***On supremacy battle between the National Assembly and the Senate***

162. The nominee informed the Committee that disputes are common in most jurisdictions that have bicameral systems. On the current issue between the National Assembly and the Senate on the interpretation of Article 110(3) of the Constitution, he stated that the dispute is before the Supreme Court for adjudication. He further stated that the roles of both Houses are clearly defined in the Constitution.

***On the court decision on the position of the Chief Administrative Secretary***

163. The nominee informed the Committee that the court declared the position unconstitutional because of lack of public participation and not because it is not anchored in the Constitution. He stated that he is not certain of whether the Public Service Commission concluded public participation on the same.

***On interference in the functioning of the Judiciary and Parliament by the Executive***

164. The nominee emphasized the need to ensure separation of powers and to uphold the rule of law. He stated that every arm of Government has a distinct mandate under the law and the



Office of the Attorney General deploys State Counsel to various ministries to ensure compliance.

***On Court Ruling against CDF***

165. The nominee lauded the achievements that CDF has made to constituencies and stated that it should not be done away with. He further stated that there is need adjustment to amend the law governing the Fund to align it with the Constitution and ensure its proper functioning.

***On Extra-judicial killings and enforced disappearances***

166. The nominee stated that he advocates for zero tolerance on extra-judicial killings and enforced disappearances. He further stated that he intends to advise against such malpractices which eventually burden taxpayers when aggrieved families are awarded compensation by the courts. He recommended surcharge of persons found culpable.

***On International cases affecting Kenya in the context of International Agreements***

167. The nominee stated that there is need to amicably resolve issues rather than resort to war. He assured the Committee that he would study reports and recommendations on Migingo Island, the Maritime Dispute between Kenya and Somalia, and the Agreement between Kenya and the United Kingdom on the British Army Training Unit in Kenya and duly advise the President.

***On the state of the Office of the Attorney General***

168. The nominee stated that there is need to develop policies and strategies that will restore the glory of the office of the AG. He further stated that the office of the AG should operate like a premier law firm where all citizens are free to visit and seek legal advice. He also stated that revamping the office and changing its face would help retain qualified and experienced personnel.

***On whether the Presidential system is working***

169. Having had the benefit of working in two arms of Government, the nominee assured the Committee that the system is working. He stated that if appointed Attorney-General, he would ensure that the Executive implements adopted parliamentary reports.

170. In his closing statement, the nominee undertook to provide the best legal advice to Government whenever called upon.

**3.2.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

171. The Committee having considered the nominee's filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following observations on his suitability for appointment as Attorney-General-

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 28<sup>th</sup> April 1956 in Embu County and does not hold dual citizenship.

- (2) **THAT**, the nominee is the immediate former Speaker of the National Assembly having served the 11<sup>th</sup> Parliament from 28<sup>th</sup> March 2013 to 31<sup>st</sup> August 2017 and 12<sup>th</sup> Parliament from 31<sup>st</sup> August 2017 to 8<sup>th</sup> September 2022; has served as the Member of Parliament for Siakago Constituency in the 8<sup>th</sup> and 9<sup>th</sup> Parliament from 1999 to 2007; and served as a magistrate in the Judiciary of Kenya from 1982 to 1999.
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, although the nominee is a member of Democratic Party of Kenya, he does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Office of Attorney General and has the requisite abilities, qualifications and experience to serve as the Attorney General of the Republic of Kenya.

### 3.3 HON. ADEN BARRE DUALE, M.P. – NOMINEE FOR THE POSITION OF CABINET SECRETARY, DEFENCE

172. The Hon. Aden Barre Duale, EGH, the nominee, Cabinet Secretary for Defence appeared before the Committee on Monday 17<sup>th</sup> October, 2022 at 2.00 pm and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary approvals) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:

#### ***Citizenship, Date and Place of Birth***

173. The nominee is a male Kenyan, Identity Card Number 1260241, born in 1965 in Garissa County. The nominee confirmed that he is a citizen of Kenya by birth and does not hold any dual citizenship.

#### ***Academic and Professional Qualifications***

174. The nominee holds an Executive Master of Business Administration degree from the Jomo Kenyatta University of Agriculture and Technology; a Bachelor of Education degree from Moi University; a Kenya Advanced Certificate of Education from Moi Forces Academy; and



Kenya Certificate of education from Garissa Secondary School and a Certificate of Primary Education from Boys Town Primary School in Garissa County.

### ***Work and Professional Experience***

175. In terms of work and professional progression, the nominee is a former Leader of the Majority Party of the National Assembly of the Republic of Kenya and he previously served as Assistant Cabinet Minister for Livestock and is the current Member of Parliament for Garissa Township Constituency, a position he has held for four consecutive terms. He has over 20 years' experience in various management positions including Chief Executive Officer, Livestock Traders and Marketing Society, Director, Kenya Broadcasting Corporation and a graduate teacher at Sankuri Secondary School.

### ***Honours and Awards***

176. He was awarded Elder of the Order of the Golden Heart which was awarded by the President in the Office of the President of the Republic of Kenya on 12<sup>th</sup> December 2015.

### ***Professional Associations Published Writing***

177. The nominee has not been involved in any professional associations and does not have any published writings.

### ***Public Office, Political Activities and Affiliations***

178. The nominee submitted that he is a founder member of the the United Democratic Alliance (UDA); founder member and vice chair political affairs -Orange Democratic Movement (ODM); founder member United Republican Party (URP); and founder member Jubilee Party (JP). However, he does not hold office in any political party.

### ***Potential Conflict of Interest***

179. The nominee stated that he had no immediate associations that were likely to present potential conflict of interest, if appointed.

### ***Sources of Income and Net-worth***

180. The nominee informed the Committee that his current net worth is Kshs. 851 million including sheep, goats, 231 camels, and other assets. While addressing the question of his current and anticipated sources of income, the nominee informed the meeting that his current sources of income include rentals which give him approximately Kshs 10 million annually.

### ***Integrity***

181. The nominee stated that he has never been dismissed or otherwise removed from office for contravening the provisions of Article 75 of the Constitution. He has also stated that he has never been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties. He informed the Committee that he has fully complied with his tax obligations to the State for the financial year immediately preceding his nomination for the appointment as evidenced by the Tax Compliance Certificate issued by Kenya Revenue Authority.

182. Further, the nominee submitted that he has not been charged in any court of law in the last three years and neither has he been adversely mentioned in an investigatory report of Parliament or any other commission of inquiry in the last three years.

### **3.3.1 GENERAL AND SECTOR SPECIFIC QUESTIONS**

183. In order to assess the nominee's overall suitability on the position, the Committee examined the nominee on general and specific thematic areas which the nominee responded to as follows:

#### ***Personal Statement***

184. The nominee informed the meeting that he was born in Garissa County and his early education was in Boys Town Primary School between 1975 and 1981. He then joined Garissa High School from 1982 to 1985 and thereafter joined Moi Forces Academy from 1986 to 1987. He later joined Moi University in 1988 graduating with a Bachelor of Arts Degree in Education (History and Economics) in 1991. In 2012, he joined Jomo Kenyatta University of Agriculture & Technology (JKUAT) and graduated with a Master's in Business Administration.

185. He has served in various capacities in both public and private institutions: as a Director, at the Kenya Broadcasting Corporation, as Chief Executive Officer, at Livestock Traders and Marketing Society Kenya, as Director of Madina Chemical Ltd, and as a businessperson engaged in large-scale beef Ranching at the Coast Region;

186. He joined elective politics in 2007 when he was elected as a Member of Parliament representing Dujis Constituency and served as Assistant Minister for Livestock. In 2013 and 2017 he was elected as the Member of Parliament representing Garissa Township Constituency and served as the Leader of the Majority Party in the National Assembly where he oversaw the passage of over one hundred and fifty (150) Bills and over five hundred (500) motions during the period.

#### ***On securing Kenya's territorial integrity***

187. The nominee informed the Committee that the key mandate of the Kenya Defence Forces (KDF) under Article 241 of the Constitution is to protect the sovereignty and territorial integrity of the Country and that the KDF will at all times protect the country against all forms of external aggression.

188. On the conflict between Kenya and Uganda over the ownership of Migingo Island, the nominee informed the Committee that the National Boundary Committee on the Migingo Island Conflict is handling the matter but is yet to submit its report, and that the International Boundaries Committee under the office of the President is also handling the matter. Further, the Kenya Defence Forces (KDF) and the Ugandan Defence Forces (UDF) have signed a Memorandum of Understanding on various areas of cooperation.

#### ***On performance as a Cabinet Secretary for Defense being a Kenyan of Somali ethnicity***

189. On whether the nominee would be conflicted in performing his role as a Cabinet Secretary for Defence in case of any insurgency by the Al-Shabaab, the nominee informed the Committee that he is first a Kenyan citizen and only Somali by ethnicity and that his allegiance, therefore, is to Kenya and he has fidelity to the Constitution of Kenya. If approved, he assured the Committee that he would serve the people of Kenya in the assigned portfolio in accordance



with the Constitution and the mandate of the KDF as provided for under Article 241 of the Constitution.

***On involvement of the military in civilian functions***

190. On the involvement of the military in civilian functions, for instance where the Military was involved by the previous government in managing the Kenya Meat Commission and the Nairobi Metropolitan Service, the nominee informed the Committee that the mandate of KDF is clearly outlined under Article 241 of the Constitution and that in cases where the Military is called upon to undertake civilian duties, there are elaborate legal mechanisms on how it can be engaged. If appointed, he would ensure that the KDF performs its constitutional mandates and seek relevant House approvals as required by the constitution.

***On his abrasive personality and various controversial remarks***

191. On his abrasive personality and various controversial remarks attributed to the nominee during Garissa Terrorist attacks and previous utterances in Eastleigh over terrorist threats, the nominee informed the Committee that he had been misquoted by various media Houses and that if approved by the House, he would conduct the affairs of the office in the manner expected of a Cabinet Secretary for Defence and there was, therefore, no cause for concern over his demeanor.

***On his view on the social media posts attributed to the Ugandan General threatening to take-over Nairobi***

192. The nominee reminded the Committee that Kenya's diplomacy is achieved through official channels and not social media.

***On corruption in the recruitment of cadets and Servicemen***

193. The nominee informed the Committee that the matter of corruption in the recruitment process had been canvassed on the floor of the House and the KDF has since begun public sensitization programs on the recruitment process. He also stated that several officers had been charged with corruption related offences and were being dealt with in accordance with the law.

***On budgeting for military hardware***

194. Regarding why it was necessary for the military to continually budget for Military hardware yet the Country had never been engaged in a war, the nominee informed the Committee that external threats are ever increasing and there is, therefore need to have the military always prepared to defend the country and to maintain its military posture at all times.

***On transparency and audit in procurement in the military***

195. The nominee informed the Committee that the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act, 2015 have provisions that provide for limiting disclosure on procurement of particular services and equipment in order to not expose the Country. He however assured Members that he would ensure accountability for taxpayers' funds.

***On accusations that the military has been engaged in extrajudicial killings***

196. The nominee reiterated that the Kenya Defence Forces is there to protect and defend the rights of Kenyans and must at all times follow the national values as enshrined in the Constitution in handling civilian population. Further, the national security organs in line with national values cannot order extrajudicial killings and where that has happened in the past, it shall not be the case under the new administration.

***On legality of roadblocks mounted by the military***

197. The nominee informed the Committee that the roadblocks are multiagency managed and are set up based on intelligence reports. They should however not be abused or used to interfere with individual's human rights of innocent persons.

***On involvement of the military to quell cattle rustling in Baringo and West Pokot***

198. The nominee informed the Committee that involvement in internal affairs is a function provided for under Article 241(3) of the Constitution. Further, the nominee stated that to effectively deal with cattle rustling there was need for political goodwill and a multi-agency approach. The nominee further noted that the Ministry of Defence had plans to set up camps in volatile regions in order to deal with the menace.

***On involvement of the military in politics***

199. The nominee informed the Committee that the Military should steer clear of politics and remain impartial in the discharge of their functions.

***On gender mainstreaming and the protection of female soldiers***

200. The nominee informed the Committee that gender mainstreaming is an ongoing process and at the moment, the military has women progressing to senior ranks for example the current Head of the Defence academy and the Head of the Legal Department are women in the rank of Brigadier. The nominee further stated that female soldiers are given equal opportunities with the male counterparts and are protected from abuse and discrimination.

***On construction of the wall between Kenya and Somalia***

201. The nominee informed the Committee that this was international practice and countries like the US, Egypt, and Israel had established such border walls. He further informed the meeting that the KDF had also established nineteen fortified bases along the Kenya-Somalia border for surveillance and deterrence.

***On defence training and exchange programme***

202. The nominee informed the meeting that defence training and exchange is an international practice and that Kenyan soldiers also benefit from training in other countries. Further, he stated that the National Defence College is established as a training institute, and Trainees from other countries pay for the training. There is also no exposure of the internal affairs of the military to the trainees and no leakage of military secrets to outsiders.

***On bias in the recruitment methodology***

203. On bias in the recruitment methodology and the need to reconsider changing the methodology from the current one focusing on physical attributes, the nominee informed the Committee that the criteria for physical fitness are crucial as Military training is rigorous and requires physical strength. Otherwise there was no bias in the recruitment methodology.



### ***On regional balancing in the recruitment process***

204. The nominee informed the Committee that the Kenya Defence Forces Act, 2012 stipulates the numbers based on the census. He however noted the need for fair distribution of KDF positions across the country bearing in mind regional balance considerations.

### ***On defence cooperation and involvement of the KDF in peacekeeping Missions***

205. The nominee informed the Committee that KDF has been involved in various peacekeeping missions in Africa and is well known and respected for its professionalism.

### ***On KDF officers' engagement in nation building***

206. The nominee informed the Committee whenever officers are not involved in combat, the KDF is usually involved in civilian activities such as construction of roads and infrastructure as well as disaster and relief management when called upon.

### ***On African Union Security Architecture and plans***

207. The nominee noted that the establishment of the East African Community Standby Force has not been actualized due to budgetary constraints. The nominee however committed to engage with his counterparts in the region to fast-track the process if appointed. He further informed the meeting that he would actively be involved in the peace and security agenda in the Horn of Africa.

### ***On wellness of KDF and veterans***

208. The nominee informed Members that there are wellness clinics across the country. He stated that the Military Veterans Act, 2022 which was passed in the 12<sup>th</sup> Parliament required to be implemented. He further informed the Committee that the preparation of the Regulations is ongoing and shall be forwarded to Parliament once complete in order to operationalize the law for the welfare of veterans.

### ***On introduction of controversial Security Laws Bills***

209. The nominee recognized that he was implementing government functions and those that were found to be in violation of the Constitution were declared as such by the Court.

### ***On dealing with cattle rustling***

210. On dealing with cattle rustling through the recruitment of untrained but highly skilled sharp shooters, the nominee informed the Committee that there was need for policy to guide such scenarios matters.

### ***On engaging in politics***

211. On whether he would continue engaging in politics once appointed, the nominee stated that he would only articulate the government's agenda.

### ***Closing statement***

212. In his closing statements, the nominee requested the Committee to approve him for appointment, and amend the relevant standing orders to allow Cabinet Secretaries to appear in the plenary to respond to questions from Members in order to enhance the oversight role of the House.

### 3.3.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE

213. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submissions during the approval hearing, made the following observations on his suitability for appointment as Cabinet Secretary in the Ministry of Defence:

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born in 1965 in Garissa County and does not hold dual citizenship.
- (2) **THAT**, the nominee is a former Leader of the Majority Party of the National Assembly of the Republic of Kenya, previously served as Assistant Cabinet Minister for Livestock, and Member of Parliament for Garissa Constituency. He has over 20 years' experience in various management positions including Chief Executive Officer Livestock Traders and Marketing Society, Director Kenya Broadcasting Corporation, and graduate teacher Sankuri Secondary School. He holds a Bachelor of Education (Hons.) degree from Moi University and a Master's in Business Administration from the Jomo Kenyatta University of Agriculture. His academic credentials, professional training and experience thus make him compliant with section 6 (7) of the Public Appointments (Parliamentary Approval) Act, No. 33 of 2011.
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, although the nominee is a member of United Democratic Alliance Party, he does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Defence and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Defence.



### **3.4 HON. (DR.) ALFRED NGANGA MUTUA, EGH, NOMINEE FOR THE POSITION OF CABINET SECRETARY, FOREIGN AND DIASPORA AFFAIRS**

214.Hon. (Dr.) Alfred Nganga Mutua, EGH, appeared before the Committee on Monday, 17<sup>th</sup> October, 2022 at 2.30 p.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary approvals) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:

#### ***Citizenship, Date and Place of Birth***

215.The nominee is a male Kenyan, born on 22<sup>nd</sup> August 1970 in Masii, Machakos County. The nominee confirmed that he is a citizen of Kenya by birth and does not hold any dual citizenship.

#### ***Academic and Professional Qualifications***

216.The nominee holds a Doctorate from University of Western Sydney, awarded in 2002. He holds a Master's of Science in Communication from the Eastern Washington University awarded on 12<sup>th</sup> December 1997 and a Bachelor of Arts, Journalism from Whitworth University awarded on 16<sup>th</sup> August 1996. He sat for his Kenya Certificate of Education at Dagoretti High School in 1987.

#### ***Work and Professional Experience***

217.In terms of work and professional progression, the nominee is the immediate former Governor of Machakos County, having served for two terms from 2013 to 2022, served as Government Spokesman of Kenya and Public Communications Secretary from 2004 to 2012. He has also been a director and shareholder in the following companies: Ndash Enterprises, Golden Dreams Company and Brazilian Rodizio.

#### ***Honours and Awards***

218.He was awarded Elder of the Golden Heart, (EGH), and the Elder of the Burning Spear, (EBS)

#### ***Published Writing***

219.The nominee published the Book: *How to be rich in Africa*. The nominee has been a Journalist and has published articles in various media publications including, The Daily Nation, The Standard, The New York Times, L.A Times and The Sydney Morning Herald.

#### ***Public Office, Political Activities and Affiliations***

220.The nominee submitted that he has held positions in various public offices in addition to those highlighted under the section on work and professional experiences. He was elected as Governor of Machakos, serving two terms from 2013 to 2022.

221.The nominee has also been a Principal of the Kenya Kwanza Coalition, Founder and Party Leader Maendeleo Chap Chap and was also a Member of the Wiper party.

#### ***Potential Conflict of Interest***

222.The nominee stated that he has no immediate associations that are likely to present potential conflict of interest when he assumes the position.

### ***Sources of Income and Net-worth***

223. The nominee informed the Committee that his current net worth is Kshs 420 million held in assets and shareholding and that the A & K hotel in Machakos is registered under his name but is currently on a loan to be cleared in 10 years. He further informed the Committee that before he became the Governor of Machakos County, his net worth was approximately Kshs. 200 million which has steadily grown due to the income generated during the period and the appreciating assets.

### ***Current and anticipated Sources of income***

224. The nominee informed the Committee that his current and anticipated sources of income are businesses, a hotel, and apartments and that he expects to double his income in the next ten years from the investments in his businesses.

### ***Integrity***

225. The nominee stated that he has never been dismissed or otherwise removed from office for contravening the provisions of Article 75 of the Constitution. He further stated that he has never been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties.

226. Further, the nominee submitted that he has not been charged in any court of law in the last three years and neither has he been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years.

#### **3.4.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

In order to assess the nominee's overall suitability for the position, the Committee examined the nominee on general and specific thematic areas which the nominee responded to as follows—

### ***Nominee's Personal Statement***

227. The nominee informed the Committee that he was born in Ukambani; studied at Dagoretti High School, and that he holds a Bachelor of Arts degree in Journalism from Whitworth College in the United States of America. He further stated that he holds a Masters of Science Degree in Communication from Eastern Washington University and a Ph.D. in Communication. He informed the Committee that he served as the Government spokesperson and as the Governor of Machakos County for ten years.

### ***On suitability for appointment***

228. The nominee informed the Committee that having lived and worked overseas for over 15 years as a government spokesperson where he dealt with a lot of international issues, he had gathered experience that would come in handy if appointed to the position. He requested the Committee to approve his nomination for appointment and promised to work tirelessly to better Kenya's foreign policy.

### ***On the Plight of Kenyan Migrant workers in Asia and Middle East (Saudi Arabia)***

229. The nominee informed the Committee that 85 girls working in the Kingdom of Saudi Arabia have lost their lives in the three months. He attributed this to systematic failures in the recruitment process and the manner in which recruitment agencies were operated.



230. He regretted that the reaction to the issue has been victim blaming as opposed to seeking solutions between the Kenyan and Saudi Governments. The nominee stated that if appointed, he would work closely with the Ministry of Labour to ensure that there are clear systems on how migrant workers are recruited.
231. He undertook to visit the Gulf States to assess the situation. He also informed the Committee that he would work closely with the Ministry of Interior, Saudi Embassy and other government agencies to pursue investigations of Kenyan immigrant workers killed, and address the matter amicably.

#### ***On Allegations of misappropriation of funds***

232. The nominee informed the meeting that he personally supervised the de-silting works done in Marumba dam where it was alleged that the County Government of Machakos spent Kshs 80 million Shillings and no works were done and misappropriation of Kshs 50 million shillings provided by the Finnish Government through DANIDA. Regarding the DANIDA funds, he informed the meeting that the officers involved were surcharged.

#### ***On Procurement of vehicles by the Machakos County Government***

233. The nominee informed the meeting that the County Government had set aside Ksh. 140 million to purchase luxury vehicles for senior officers and as governor and based on his assessment of the needs of his people, the money was used to purchase 16 second-hand vehicles and the balance was used to purchase 8 ambulances which have had a positive impact in the delivery of healthcare, and reduction of maternal deaths in the county during his tenure. He clarified that he was acquitted of any wrongdoing regarding the matter.

#### ***On Abuse of Public Office***

234. The nominee informed the meeting that he used the slogan “*Maendeleo chap chap*” as a symbol of his government quick service delivery which later became his party slogan as a Wiper party governor, following recommendations by his constituents.

#### ***On Capacity to Comprehend and Sign International Agreements***

235. On his capacity to comprehend and sign international agreements that would bind Kenya considering that he was unable to comprehend a coalition agreement he signed with the Azimio coalition claiming he did not see what he was signing into, the nominee informed members that the document he assigned with the Azimio was materially different from one that was produced and later tabled in Parliament.

#### ***On Lack of capacity in Kenyan missions and Consular services***

236. The nominee informed the Committee that lack of attaches and office workers in missions and embassies which can boost trade, was due to budgetary constraints. He stated that if approved, he would engage the National Assembly to ensure adequate financing.
237. He informed the Committee that if the Foreign Affairs Ministry was better resourced, Kenya would advance economic diplomacy being advocated by the current government. He underscored the importance of proper marketing and having well-resourced embassies in order to promote the country abroad. He also acknowledged the need to have a consulate in Milan, Italy noting it would promote tourism. The nominee further noted that he would seek to identify and create markets overseas through well-capacitated foreign missions.

#### ***On the role of Kenya as a member of the United Nations Security Council***



238. On the role of Kenya as a member of the United Nations Security Council (UNSC) in the Russia – Ukraine War, the nominee informed the Committee that Kenya recently participated in the United Nations General Assembly where it urged on de-escalation.

***On diversification of Kenyan Economy***

239. With regard to how Kenya can diversify her economy and be at par with countries such as the Philippines that have 40% of GDP from their labour remittances, the nominee promised to create a department in the Ministry to sensitize Kenyans on how to look for better jobs abroad and inform them of their availability and to further publicize the opportunities through the Ministry.

***On engaging the diaspora in economic development***

240. The nominee informed the Committee that if appointed, he would pursue plans to get Kenyan overseas to save locally through an infrastructure bond and to set up a network aimed at ensuring that funds sent are well utilized.

***On who to be held responsible for the pending bills***

241. With respect to who should be held responsible for the pending bills totalling to Kshs. 2.8 billion accrued during his tenure as Governor, the nominee informed the Committee pending bills left by his Government totalled to Kshs. 1.6 billion and not Kshs. 2.8 billion as alleged, adding that the amount was accumulated due to delayed confirmations of executions of projects and services. He stated that some of the bills were not payable due to lack of evidence of project implementation.

***On agencies recruiting Kenya migrant workers***

242. Concerning the scrupulous agencies that recruit Kenyans to go work abroad and detain their passports, the nominee noted that workers ought to bear their own passports wherever they are employed to work adding that he would work with the Saudi Government to ensure that domestic workers are treated with respect.

***On acquisition of visas for Kenyans***

243. On proposals to hasten the acquisition of visas by Kenyans from some embassies such as the United Kingdom High Commission where Kenyans were facing difficulties and delays in acquiring visas, the nominee undertook to negotiate bilateral agreements with targeted countries to address the matter and requested that Parliament approves the USA–Kenya agreement on visa processing.

244. He further proposed the introduction of a service passport for senior government officials that do not require stringent visa requirements, which is a common practice in other countries. The nominee further stated that he would seek reciprocal treatment by other countries in visa processing. He sought to strengthen the Kenyan passport in a bid to eliminate the hurdle of acquiring visas.

***On scholarship opportunities for Kenyan students***

245. On scholarship opportunities for needy students to study in other countries, the nominee noted that there were many agreements in place but not implemented. He committed to ensuring

liaison between the Ministry of Foreign Affairs and other Government Ministries and ensuring that the available information on scholarship opportunities is made public. The nominee further committed to ensure that scholarships are awarded on merit and not favouritism.

***On role of the new Department of Diaspora Affairs***

246. On the role of the new department of Diaspora Affairs, the nominee informed the Committee that he would engage heads of missions to ensure that Kenya's foreign policy is advanced. He further stated that he would operationalize the Kenya Diaspora Council to provide a forum for effective engagement with Kenyans in the diaspora, adding that issues of Kenyans overseas would be domiciled under the Ministry of Foreign Affairs but he would work closely with the Ministry of Labour to address any challenges.

***On appointments to senior levels in the Ministry***

247. On concerns raised by the Committee that the list of appointments to senior levels in the Ministry does not reflect the face of the country, the nominee committed to address the issue by entrenching skill-based appointments promotions. He further informed the Committee that he would ensure that foreign postings in the Ministry are done in a transparent manner and that he would strive to create a sense of fairness in the Ministry if appointed.

***On career progression by civil servants***

248. In regards to ensuring career progression by civil servants to ambassadorial positions, the nominee informed the committee that there was a need to have a system that acknowledges the service of technocrats and accords them an opportunity to rise to those positions.

***On treatment of Kenyan athletes and other sportsmen outside the Country***

249. With respect to how Kenyan athletes and other sportsmen are treated outside of the Country, the nominee acknowledged the need to recognize our sportsmen and that if approved, he would set up protocol offices to handle them abroad. He also proposed the establishment of an emergency kitty and provide financial advice to guide them on how to invest their huge earnings.

***On safeguarding the sanctity of the Kenyan passport***

250. On the Kenyan passport, the nominee informed the Committee that there was a need to safeguard the sanctity of the Kenyan passport to ensure that it does not lose its standing internationally. In this regard, he stated that he would seek a Cabinet memo to determine who is eligible for a diplomatic passport and to whom service passports would be issued.

**3.4.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

251. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following Observations on

his suitability for appointment as Cabinet Secretary in the Ministry of Foreign and Diaspora Affairs –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 22<sup>nd</sup> August 1970 in Masii, Machakos County and does not hold dual citizenship.
- (2) **THAT**, the nominee is a Principal in Kenya Kwanza Coalition and the immediate former Governor for Machakos County where he served as Governor for two terms from the period 2013 to 2022. He also served as the Government Spokesman and Public Communications Secretary from 2004 to 2012.
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, the nominee is a Party Leader of Maendeleo Chap Chap Party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Foreign and Diaspora Affairs and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Foreign and Diaspora Affairs.

### **3.5 HON. ALICE MUTHONI WAHOME, MP, – NOMINEE FOR THE POSITION OF CABINET SECRETARY, WATER, SANITATION AND IRRIGATION**

252. Hon. Alice Muthoni Wahome, MP, appeared before the Committee on Monday, 17<sup>th</sup> October, 2022 at 5.30 p.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary approvals) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:

#### ***Citizenship, Date and Place of Birth***

253. The nominee is a female Kenyan of Identity Card Number 5482723, born on 28<sup>th</sup> April, 1959 in Muranga County. The nominee confirmed that she was a citizen of Kenya by birth and did not hold any dual citizenship.

#### ***Academic and Professional Qualifications***



254. The nominee holds a Bachelor of Laws (LLB) degree (1984) from the University of Nairobi and a Diploma in Law (1985) from the Kenya School of Law. She sat for the Examination of East African Advance Levels ('A' Level) at Ngandu Girls High School in 1979, her East African Certificate of Education at Siakago Girls Secondary in 1977 and her Certificate of Primary Education (C.P.E) in 1973 at Karumu Primary School.

### ***Work and Professional Experience***

255. The nominee is currently the elected Member of National Assembly for Kandara Constituency having been re-elected in August 2022 for a third term. She was the Managing Partner for the law firm A.M Wahome & Co. Advocates from 1989 to 2013. She also worked at Makecha & Co. Advocates and as a State Counsel at the Office of the Attorney General from 1985 to 1987.

### ***Honours and Awards***

256. The nominee was awarded Diocese of Murang'a South Certificate of Recognition for contribution to development of Kandara Sub-County by the Anglican Church of Kenya on 3rd June, 2022.

257. Further, she was awarded a Certificate of Appreciation for her contribution and support in ushering the Kenyan Constitution 2010, by the Mt. Kenya Foundation.

258. The nominee was awarded a Certificate for Co-operative Governance Training Course in 2005 and a Certificate in Director's training course in 2004 from the Centre for Corporate Governance Kenya (CCG).

259. The nominee was also awarded Certificate of Training in effective use of media by the Association of Media Women in Kenya (AMWIK)

### ***Professional Associations***

260. The nominee is a Member of the Law Society of Kenya Number P.105/1454/85 and the Federation of Women Lawyers (FIDA) Kenya. She is the Chairperson of the League of Kenya Women Voters (LKWV) Kenya and the co-founder of the National Women Steering Committee (NWSC).

### ***Other Activities and Membership***

261. The Nominee while serving as a Member of the National Assembly served in the following Committees: Vice Chair-Justice and Legal Affairs; Vice Chair Parliamentary Committee on Delegated Legislation; Member of Administration and National Security Committee; Member of the Constitutional Implementation Oversight Committee; Member of the Parliamentary Committee on Selection; and Chair Leading Women Caucus-KEWOPA.

### ***Public Office, Political Activities and Affiliations***

262. The nominee submitted that she has held positions in various public offices in addition to those highlighted under the section on work and professional experiences. She has been a Director and Vice Chairperson of the Centre for Multi-Party Democracy (CMD) Kenya. The nominee is also a member of the United Democratic Alliance Party (UDA) and she has been the Member of National Assembly for Kandara constituency for two terms, since 2013 to date.

### ***Potential Conflict of Interest***

263. The nominee stated that she has no immediate associations that are likely to present potential conflict of interest if she assumes the position. However, the Committee noted that she serves as a Chairperson of various Boards and is a Member of the Kisumu County Social and Economic Council. The nominee indicated that she was honoured and privileged to serve at the Council at the time and there would be consequential de-gazettement of his position in due course, if she assumes office.

### ***Sources of Income and Net-worth***

264. The nominee estimated her net worth to be Kshs. 218,400,000 and stated that her current source of income was from employment as a Member of National Assembly, from the firm of Wahome & Akedi Advocates and rental income of Kshs. 500,000 per year.

### ***Integrity***

265. The nominee stated that she has not been dismissed or otherwise removed from office for contravening the provisions of Article 75 of the Constitution. She also stated that she has not been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties.

266. Further, the nominee submitted that she has not been charged in any court of law in the last three years and neither has she been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years.

### ***Pro-bono/Charity Work***

267. The nominee is involved in charity work through the Alice Muthoni Wahome Foundation which focuses on social welfare issues for Kandara constituents. Further, the nominee stated that through her membership in FIDA Kenya, she offered free legal aid for indigent men and women.

## **3.5.1 GENERAL AND SECTOR SPECIFIC QUESTIONS**

268. In order to assess the nominee's overall suitability for the position, the Committee examined the nominee on general and specific thematic areas which she responded as follows:

### ***On water purchase agreement under the PPP model***

269. The nominee refuted claims that water purchase agreements would result in additional cost to the Government and to the public. She informed the Committee of the President's plan to commit resources to a tune of Kshs. 500 billion between now and the year 2030 to address water shortage. To achieve this, she noted that there was need for collaboration with other stakeholders and for public participation. The nominee stated that she planned to work with the Attorney-General to develop the necessary framework for the working of the model that will reduce the cost element.

### ***On temperament***

270. In response to the issue that were raised in the affidavits filed by Mr. David Malombe and Ms. Sheila Masinde that the nominee was captured on video assaulting an IEBC official on 27<sup>th</sup> October, 2017, the nominee responded as follows—



- (1) That she has never been charged with the alleged assault incident involving her and an IEBC official that happened on 27<sup>th</sup> October, 2017 in any court of law;
- (2) That she did not assault the IEBC official and it was just a tussle that arose following her request to the IEBC official that the correct results be indicated in the IEBC forms; and
- (3) That the incident was regrettable and the nominee further submitted that she was not temperamental.

***On alleged misappropriation of client's monies***

271. On the allegations of misappropriation of Kshs. 282 million in Succession Cause 527 of 1981 In Real Estate of Mbiyu Koinange, the nominee stated that the allegations were politically instigated against her and she has never been charged over the matter. She further stated that as is required in succession cases, she rendered account of the estate to the Court showing how the estate was administered and the DPP had absolved her of any criminal liability.

272. The nominee informed the Committee that she was still a practicing advocate and that if the allegations were true, she could have been subjected to a disciplinary process by the Advocates Disciplinary Committee and if found culpable, struck off from the Roll of Advocates.

***On plans to promote waste recycling and promote sanitation***

273. On her plan to increase sanitation through waste collection and recycling, she noted that the Ministry's budget of approximately Kshs. 31 billion was inadequate for the purpose. She further indicated that there are policies and strategies in place on waste management that have not been implemented.

***On understanding the water needs of the entire country***

274. On the question of whether she had a proper geographical grasp of the entire country to understand the water needs, she stated that the Ministry would develop a master plan to ensure that all counties have access to water and that she would work with the relevant agencies in the counties.

***On issues arising from Deputy Chief Justice P. Mwilu's vetting in 2016***

275. The nominee stated that Justice Mwilu is currently serving as the Deputy Chief Justice of the Supreme Court and Parliament is not allowed to discuss matters relating to a sitting judicial officers except through a substantive motion as provided for in Standing Order 87(1).

***On irrigation plans***

276. On plans to irrigate and provide water across the country, the nominee assured the Committee that the Government has elaborate plans to address water security. She stated that the plan is to irrigate over 3.5 million acres across the country and by 2010, the Government plans to have irrigated more than 1.1 million acres through completion of dams.

***On working with Parliament***

277. The nominee assured the Committee she would collaborate with Parliament to enhance service delivery to the people. She undertook to regularly consult Parliament, if appointed.



### ***On drought and famine crisis***

278. The nominee acknowledged the effect of climate change on climate patterns in the country. She stated that there was need to invest in water harvesting mechanisms such as dams to hold water for use during the dry season. She elaborated on the Government's plans to raise 1.8 trillion shillings by 2030 to help in dealing with water and sanitation issues, which would necessitate collaboration with private agencies through the PPP model.

### ***On short term responses to drought***

279. The nominee outlined short term plans under the rapid response program to combat drought which would include creating small dams, harvesting and storing rain water, digging boreholes and investing in water storage tanks.

### ***On stalled water projects***

280. On her plans for water projects, the nominee stated that projects would be evaluated on a case-to-case basis and dams that had stalled would be revived. She informed the Committee that water is a devolved function and as such, it is the role of the County Governments to provide water while National Government develops water infrastructure.

### ***Irrigating along rivers especially in Meru***

281. The nominee submitted that irrigation activities along rivers contributed to water shortage and there was need for the Ministry of Environment to play a greater role in regulating such activities and by creating public awareness on the importance of water conservation.

### ***Sanitation in areas that use pit latrines***

282. The nominee agreed with the sentiments of the Committee that emptying pit latrines into aquifers was a huge sanitation menace. She noted that there was need for scientific intervention to determine how deep pit latrines should go so as to prevent contamination of underground water.

## **3.5.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

283. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, her curriculum vitae and having heard her oral submission during the approval hearing, made the following observations on her suitability for appointment as Cabinet Secretary in the Ministry of Water, Sanitation and Irrigation –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since she is a Kenyan citizen born on 28<sup>th</sup> April 1959 in Murang'a County and does not hold dual citizenship.
- (2) **THAT**, the nominee was currently serving as the Member of the National Assembly for Kandara Constituency where she has served for two terms from the year 2013; has been an advocate with the law firm of A.M Wahome & Co. Advocates from 1989 to 2013, previously practiced law at the firm of Makecha and Co. Advocates as Managing Partner from 1987 to 1989 and as a State Counsel from 1985 to 1987.

- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, although the nominee is a member of United Democratic Alliance Party, she does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Water, Sanitation and Irrigation and has the requisite abilities, qualifications and experience to serve as Cabinet Secretary for Water, Sanitation and Irrigation.

### **3.6 HON. (PROF) ABRAHAM KITHURE KINDIKI, EGH, MP, – NOMINEE FOR THE POSITION OF CABINET SECRETARY, INTERIOR AND NATIONAL ADMINISTRATION**

284. Hon. (Prof.) Kithure Kindiki, EGH, MP appeared before the Committee on Tuesday, 18<sup>th</sup> October, 2022 at 9.00 a.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary approvals) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:

#### ***Citizenship, Date and Place of Birth***

285. The nominee is a male Kenyan born on 16<sup>th</sup> July, 1972 in Tharaka-Nithi County. The nominee confirmed that he is a citizen of Kenya by birth and does not hold any dual citizenship.

#### ***Academic and Professional Qualifications***

286. The nominee holds a Doctor of Philosophy (PhD) degree in International Law and a Masters degree in Law from the University of Pretoria; and a Bachelor's degree in Law from Moi University.

#### ***Employment Record***

287. The nominee was a Senator for Tharaka Nithi County between 2013 and 2022 and served as a Deputy Speaker and Majority Leader in the Senate. He is the Managing Partner at Kithure Kindiki & Associates; was an Associate Dean at the University of Nairobi between 2007 and 2010; was a Secretary for National Cohesion for 3 months; and was a Lecturer at Moi University between 2004 and 2005. He was a Director at Integrity Group between 2014 and

2022, has also served as *ad hoc* Counsel for many institutions and as a Consultant for many United Nations agencies and various Non-Governmental Organizations.

#### ***Honors and Awards***

288. The nominee was awarded the Elder of the Golden Heart of Kenya (EGH) in 2013 by the National Honours and Award Committee, was awarded a PhD Scholarship by the University of Pretoria in 2000 and was a DAAD Scholar at the University of Pretoria between 1999 and 2000.

#### ***Sources of Income and Net-worth***

289. The nominee estimated his net worth to be Kshs. 544,000,000 with sources of income including proceeds from legal practice, businesses, and local and international consultancies.

#### ***Professional Association and Memberships***

290. The nominee is a member of Academic Council on the United Nations System; the International Association for Study on Forced Migration; the International Commission of Jurists (ICJ); and of Law Society of Kenya (LSK).

#### ***Published Writings***

291. The nominee has published academic and non-academic writings in various journals and reports.

#### ***Potential Conflicts of Interest***

292. The nominee declared that he is currently not associated with any persons or matter that would present a potential conflict of interest should he assume the position of Cabinet Secretary Interior and National Administration. Should a conflict of interest arise, the nominee stated that he would declare the interest in writing to the appointing authority in accordance with the law.

#### ***Pro-bono/Charity Work***

293. The nominee has not engaged in any Pro-bono works.

#### ***Integrity***

294. The nominee has also neither been charged in a court of law nor mentioned in any investigatory report of Parliamentary or any Commission of Inquiry in the last three (3) years. He has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

### **3.6.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO HON. (PROF.) KITHURE KINDIKI, EGH, MP**

295. In order to assess the nominee's overall suitability on the position, the Committee posed several questions to the nominee on his suitability for appointment as follows—

#### ***On Mental health issues amongst Police Officers***



296. The nominee informed the Committee that he would propose psychometric test should be carried out before employment of officers. He however stated that he does not think the mental health issues arise from work related stress. If approved, he undertook to equip and expand the wellness and counselling unit in the National Police Service which he proposed to link with Kenya Police Hospital that is almost complete.
297. The nominee further stated that the homicide incidences are caused by the low morale and poor remuneration of officers when viewed against the risks they face on day-to-day basis as they carry out their duties. He also stated that he would champion for better working conditions for the officers.

#### ***On arrogance of former the former Cabinet Secretary and Extra judicial killings***

298. The nominee informed the Committee that, unlike his predecessor, he will not be arrogant if appointed to the docket. He stated that he will be humble but firm and will remain a servant leader. He committed to obey summons by Parliament and maintain a symbiotic relationship with all arms of government.

#### ***On Kenya Kwanza Manifesto and remuneration of officers***

299. The nominee informed the Committee that the government is committed to review the remuneration and terms and services of all police officers. He undertook to champion for better working condition for the officers under his Ministry, if approved.

#### ***On Ethical and moral standards***

300. The nominee informed the Committee that Chapter 6 revolves around the moral imperative that the Constitution requires that persons accused of crime are entitled to due process and should be granted the right to a fair trial.

#### ***On PAC Inquiry and proceeds from NYS to Kindiki's Law Firm***

301. The nominee informed the Committee that he has practiced law for 22 years and has not been involved in any misconduct. He stated that the payment of Kshs. 500,0000 was made by a friend, the Hon. Onesimus Kipchumba Murkomen as repayment for debt and that he was never directly paid by the NYS.

#### ***On decision to reconsider appointment to public office***

302. The nominee informed the Committee that he had reconsidered the decision he had made not to be available for appointment to public service after being overlooked for the position of the Deputy President in the Kenya Kwanza Coalition. He confirmed that he is ready to work under the Kenya Kwanza Government and submit himself to the President and the Deputy President.

#### ***His vision for the position***

303. The nominee informed the Committee that he will seek to improve trust between the police and the public and stated that his mission will transformation of the Ministry, sensitization of the public, and ensuring police officers are agents of citizen empowerment.

#### ***Recruitment of police officers***

304. The nominee undertook to eliminate corruption in the police recruitment exercise. He further undertook to work towards achieving the globally recommended police-citizen ratio.

#### ***Vetting of applicants for ID and Passports***

305. On delayed issuance of Identification and travel documents for persons from border communities, the nominee undertook to review the process and make it human-rights friendly. He stated that while the vetting of applicants is important for security reasons, there is need for be streamlined to take into account the views of the border communities and their leaders.

#### ***Cattle Rustling in the Northern Part of the Country***

306. The nominee informed the Committee that 67% of the northern part of the country was facing serious insecurity challenges and that cattle rustling was a perennial concern. He stated, if appointed, he has firm instructions from the President to deal with insecurity at the Northern region of the country once and for all. He further stated that he will employ a multi-agency approach and undertook to work tirelessly to eliminate in addressing the menace.

307. The nominee also stated the need to facilitate officers both in land and air mobility and procurement of modern equipment and vehicles for use during operations in the Northern region to avoid loss of officers.

#### ***Community Policing***

308. The nominee stated that initiatives such as *Wazee wa Vijiji* and *Nyumba Kumi* are key components of the national security structure and undertook to prioritize their remuneration.

#### ***Addiction and alcohol abuse***

309. The nominee informed the Committee that he intends to use the curriculum review to inculcate positive values in the youth. He stated that addiction and alcohol abuse is a national problem and noted the need to sensitize the public on the issue.

#### ***Integrity of the Kenyan Passport***

310. The nominee informed the Committee that the ePassport introduced in 2017 contains improved safety features. He however, stated that the uptake of the ePassport is very low at the moment. On account of a Passport being a basic identity document, he undertook to establish passport submission centres in every county in the next five years and maintain the centralized printing of passports for security purposes.

#### ***Road blocks***

311. The nominee acknowledged that the erection of too many roadblocks on Kenyan roads is an archaic practice that negatively affects business. He undertook to explore usage of intelligent systems to prevent and combat criminal activity instead.

#### ***On Militia Gangs***

312. The nominee informed the Committee that militia and gangs do indeed exist in certain areas of the country and undertook to address the matter, if approved by the House.

#### ***On issuance of Identity Cards***



313. The nominee informed the Committee that issuance of identity cards is one of the ongoing reform measures. He stated that the reform measures would be used to address the concerns raised by the public, including the issue of spouses married in Kenya to Kenyans that are yet to obtain identity documents.

***On Provincial Administration***

314. On irregular use of the police for political expediency, the nominee undertook to refrain from interfering with operational independence of the Police Service. He informed the Committee that the President had already pronounced himself on the roles of the provincial administration and stated that they will only be used to propagate government agenda and will not engage in politics.

***On Narcotic trade and small arms***

315. With regard to drug barons and trafficking cartels, the nominee assured the Committee that, if appointed, he will provide policy direction to the police and ensure that no person associated with the drug trade is accorded any protection by the police.

316. On small arms, he undertook to streamline the procedures governing the licensing of firearms and ensure the mopping up of firearms in the wrong hands.

***On Boundary Issues***

317. The nominee informed the Committee that the Constitution of Kenya 2010 froze the review of boundaries, county boundaries can however be reviewed from time to time.

***On Refugees***

318. The nominee informed the Committee that he will consider genuine refugees in assimilation to national opportunities.

***On level of preparedness in times of disaster***

319. The nominee informed the Committee that the country has a humanitarian disaster preparedness law which requires the country to be prepared for emergencies and disasters. He undertook to ensure that the country is always prepared for disasters.

***On the Corruption Index***

320. The nominee informed the Committee that he will ensure that there will be a reward system for those not engaged in bribery and corruption.

***On review of terms of service***

321. The nominee informed the Committee that he will be looking into the salaries of the officers in conjunction with Salaries and Remuneration Commission.

### **3.6.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

322. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having



heard his oral submission during the approval hearing, made the following observations on his suitability for appointment as Cabinet Secretary in the Ministry of Interior and National Administration–

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 16<sup>th</sup> July 1972 in Tharaka Nithi County and does not hold dual citizenship.
- (2) **THAT**, the nominee-
  - (i) is the immediate former Senator for Tharaka Nithi County in the 12<sup>th</sup> Parliament where he served as the Majority Leader from 2013-2017 and Deputy Speaker from 2017-2020;
  - (ii) is currently serving as Managing Partner of Kithure Kindiki & Associates from 2001 to date; as well as the Director of Integrity Group from 2014 to date; he is also a member of Academic Council on the United Nations System (2002-2022); Internal Association for Study on Forced Migration (IASFM) (2002-2022);
  - (iii) worked in the University of Nairobi as an Associate Dean 2007-2010, Head of Public Law Department 2005-2007, and as a lecturer in Moi University; and was awarded a PhD scholarship by the University of Pretoria (2000-2002), and a DAAD scholarship to University of Pretoria (1999-2000).
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three (3) years.
- (5) **THAT**, although the nominee is a member of United Democratic Alliance Party, he does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Interior and National Administration has the requisite abilities, qualifications and experience to serve as Cabinet Secretary for Interior and National Administration.

### **3.7 PROF. NJUGUNA NDUNG’U, CBS – NOMINEE FOR THE POSITION OF CABINET SECRETARY, NATIONAL TREASURY AND PLANNING**

323. Prof. Njuguna Ndung’u, CBS appeared before the Committee on Tuesday, 18<sup>th</sup> October, 2022 at 10.30 a.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary approvals) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:

#### ***Citizenship, Date and Place of Birth***

324. The nominee is a male Kenyan born on 7<sup>th</sup> July, 1959 in Murang’a County. The nominee confirmed that he is a citizen of Kenya by birth and does not hold any dual citizenship.

#### ***Academic and Professional Qualifications***

325. The nominee attained a Doctor of Philosophy in Economics from the University of Gothenburg Sweden between in 1993. He also holds a Master of Arts in Economics from the University of Nairobi attained in 1986. He also attended the University of Nairobi for a Bachelor of Arts in Economics between 1980 and 1984.

#### ***Employment Record***

326. The nominee is currently the Executive Director of the African Economic Research Consortium (AERC). He was the Governor of the Central Bank of Kenya, Chair of the Monetary Policy Committee and Chair of the Deposit Protection Fund Board between March 2007 and March 2015. Further, he was the Director of Training at AERC from 2003 to 2007.

327. The nominee further stated that he was also the Regional Program Specialist for the International Development Research Center (IDRC) Eastern and Southern Africa Regional Office (ESARO) from August 2001 to August 2003. Additionally, he also indicated that he was a Principal Analyst and Head of the Macroeconomic and Economic Modeling Division in the Kenya Institute of Public Policy Research and Analysis (KIPPRA) between 1999 and 2001. He also stated that he was a Tutorial fellow, Lecturer and Associate Professor at the University of Nairobi, Economics Department between 1987 and 2002.

#### ***Honours and Awards***

328. The nominee was awarded the Central Bank Governor of the Year 2015 in the African Banker Awards 2015. He was also awarded the Central Bank Governor of the Year 2014 for Sub-Saharan Africa: Emerging Markets. Further he was awarded a Certificate of Recognition and Policy Leadership 2015 from the Alliance for Financial Inclusion (AFI) 2015. The nominee also received an Honorary Award in Recognition of Leadership as Chair of Alliance for Financial Inclusion (AFI) Steering Committee 2009-2012. The nominee also submitted that he was awarded the First-Class Chief of the Order of the Burning Spear (CBS) 2009 by H.E President Mwai Kibaki.

#### ***Professional Association and memberships***

329. The nominee is a Distinguished Fellow with the African Growth Initiative at the Brookings Institution of Economic Activity. He is also a Member of the Alliance for Financial Inclusion (AFI) and was a Member of the Committee of Ten during the Global Financial Crisis.

### ***Published writings***

330. The nominee listed twenty articles that he has published including Fintech in Subharan Africa; growing with debt in African Economics: Options Challenges and Pitfalls and Digital Financial Services Revolution in Kenya: The M-Pesa Case study 2021.

### ***Public Office, Political Activities and Affiliations***

331. The nominee was the Chairman of the BPR Bank of Rwanda between 2017 and 2022.

### ***Potential Conflicts of Interest***

332. The nominee declared that he does not have any person or matter that would present a potential conflict of interest should he assume the position as Cabinet Secretary National Treasury and Financial Planning. Further, if any conflict arises, the nominee undertook to declare conflict and ensure compliance with the provisions of the Public Officer Ethics Act, 2003, the Leadership and Integrity Act, 2012 and Public Finance Management Act, 2012.

### ***Income and Net Worth, Current and anticipated sources of income***

333. The nominee estimated that his net worth was approximately Kshs. 950 million, with his current source of income being salary which totals to USD 240,000 Per Annum.

### ***Pro-bono/Charity Work***

334. The nominee has been involved in charity work through development of classrooms at Gatharage Primary School and Gatharage Vocational Training Centre. He has also provided funds for electrification of Gacharage Dispensary.

### ***Integrity***

335. The nominee has neither been charged in a court of law nor mentioned in any investigatory reports of Parliament or any Commission of Inquiry in the last three (3) years. He has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

## **3.7.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

336. The Committee posed several questions to the nominee on his knowledge of the National Treasury and Public Service. The nominee responded as follows:

### ***On Fiscal interventions to address cost of living***

337. The nominee acknowledged the high cost of living and stated that there have been supply-side shocks globally that have affected the economies all over the world. The nominee noted that Africa has particularly experienced new dimensions that have affected the economy such as severe drought. He stated that there was need to create buffers in the economy to mitigate effects of supply side shocks. In dealing with the supply side shocks, he emphasised on the need to tighten the monetary policy to create a fiscal space that will address any unforeseen shocks.

### ***On the Debt Crisis***

338. The nominee informed the Committee that previously the current was dealing with the issue of the foreign debt. However, the nominee noted that the country was presently dealing with both



the foreign and domestic debt. The nominee also submitted that the increasing debt value and failure on the part of the Government to service its debts continued to paralyze the economic state of the country and affected the credit rating of the country. Further, he stated that he intended to use concessional financing to deal with debt. Further, he emphasized the need to off load domestic debt by creating adequate fiscal space.

***On allegations arising from his tenure as CBK Governor raised in the Affidavits***

339. In response to the allegations, that the nominee was facing abuse of office charges involving irregular award of a Kshs 1.2 Billion security tender while serving as Central Bank of Kenya Governor in 2014 that were raised in the Affidavits by the public, the nominee submitted a replying affidavit stating as follows—

- (1) That he was the Central Bank of Kenya Governor from March 2007 to March 2015 for a period of two terms of office, of four years each and thereafter the nominee proceeded to private work.
- (2) That on the recommendation of the Ethics and Anti-Corruption Commission, the Director of Public Prosecution intended to institute the following two charges against the nominee under the Anti-corruption and Economic Crimes Act (ACECA) namely:
  - (a) Willful failure to comply with the law in relation to procurement contrary to section 45 (2) and (5) as read with section 48 of ACECA; and
  - (b) Attempt to commit an offence involving corruption contrary to section 47 (1) of ACECA.
- (3) That the nominee filed a petition in the High Court of Kenya to challenge the intended prosecution for the above offences.
- (4) That on 17<sup>th</sup> November 2014, the Petition was dismissed.
- (5) That thereafter the nominee filed an Appeal at the Court of Appeal to challenge the aforementioned decision of the High Court in *Nairobi Civil Appeal No. 333 of 2014*.
- (6) That the Appeal was based on the grounds that the High Court erred in law by allowing his prosecution on grounds that lacked legal and factual substratum; for non-existent crimes; and in a manner that criminalized lawful procurement process.
- (7) That the Court of Appeal was satisfied that the intended charges against the nominee had no legal or factual foundation and any realistic prospect of conviction.
- (8) That the Court of Appeal further found that the intended prosecution of the nominee was oppressive and violated the constitutional rights of the nominee particularly the right to a fair administrative decision that is lawful, reasonable and procedurally fair.
- (9) That as such the nominee's Appeal was allowed and the intended charges against were quashed.

340. On the issue that the nominee was adversely mentioned to have been involved in the irregular sale of the Grand Regency Hotel in 2008 according to the Report of the Commission of Inquiry into the sale of the Grand Regency Hotel, the nominee responded as follows—

- (1) That he participated in the sale of the Grand Regency Hotel in his capacity as Central Bank of Kenya Governor at the time. He was therefore an agent of the government given the transaction was government to government transaction between the Government of Kenya and the Government of Libya;

- (2) That the genesis of the sale was that the subject hotel had been repossessed by the then Anti-Corruption Agency in the year 2009 and was thereafter handed over to the Central Bank of Kenya as the funds used for its purchase had been obtained fraudulently from the Central Bank of Kenya;
  - (3) That the Government of Kenya and the Government of Libya entered into an arrangement for the sale and purchase of the hotel;
  - (4) That the nominee was therefore negotiated and receive payment through the Central Bank of Kenya on behalf of the Government of Kenya;
  - (5) That the Central Bank of Kenya sold the hotel to the Libyan Government at a cost of approximately 45 million USD which at the time translated to Kshs. 2.8 billion. These funds were then taken back to the Central Bank of Kenya and held by the Bank;
  - (6) That prior to the sale of the hotel, the Central Bank of Kenya had been receiving the proceeds from the running of the hotel after its confiscation and this amounted to Kshs. 310 million as at the time of the sale;
  - (7) That at the time, the government policy was that any money recovered as proceeds of corruption was to be used for development projects on behalf of the people of Kenya and that would provide perpetual benefit to Kenyans;
  - (8) That the total funds from the sale of the hotel and the proceeds from the running of the hotel being Kshs. 3.114 billion were then channeled towards the dredging of the Lamu Port;
  - (9) That the nominee was thus requested in his capacity as the Governor of the Central Bank of Kenya to channel the funds from the sale of the said hotel to the National project that is the Lamu Port;
  - (10) That the Commission of Inquiry sought to look into the issue as to whether the hotel was sold at an undervalue. This allegation was disproved as the hotel was sold at a profit given the Commission had valued the hotel at Kshs. 1.8 Billion and the Central Bank of Kenya had itself valued the hotel at Kshs. 2.8 Billion. The hotel was sold at Kshs. 2.8 billion;
  - (11) The report on the Commission of Inquiry was never released by virtue of the fact that the allegations contained therein were not factual and thus the matter rested;
  - (12) That therefore, the nominee was never adversely mentioned in the Report of the Commission of Inquiry into the sale of the Grand Regency Hotel as alleged in the affidavit of Ms. Sheila Masinde; and
  - (13) That it is therefore not true as alleged in the two affidavits that the nominee does not meet the constitutional threshold as relates to the National Values and Principles of Governance, rule of law, integrity, transparency, accountability and sustainable development as enshrined under Chapter Six of the Constitution of Kenya.
341. On the allegation of involvement in corruption, abuse of office and flouting procurement laws, particularly in relation to indictment by the Parliamentary Investment Committee on account of irregular procurement of printing contract to *Delarue*, he stated that he had been victimized by the justice system and wrongly accused. He informed that as the CBK Governor, his mandate was not to undertake procurement but to appoint a Procurement committee, whose decision on tenders was final. He added that CBK contracted *Delarue* after his departure exonerating him of wrongdoing.



342. On the allegation that he colluded with commercial banks to weaken the Kenyan shilling, he explained to the Committee that he was not in any position to determine currency value, which is pegged on the dollar supply. He stated that appreciation of currency happens because of scarcity in supply of the dollar.

343. With regard to his involvement in the collapse of Imperial Bank, he denied any involvement in occasioning the liquidation of the bank. He informed the Committee that the Bank collapsed in 2017 after his departure.

#### ***On Vision for the National Treasury***

344. The nominee briefed the Committee on four areas he intended to work on to revamp the economy. First, he stated that he would protect private investments through fixing issues in health, education and the food sector. Secondly, he submitted that he would also develop, regulate and protect markets to promote cash flow in the economy. Thirdly, he stated that he would promote domestic resource mobilization through optimizing tax instruments to improve the revenue base and promote digital evolution.

#### ***On Parliament involvement in the budget making process***

345. The nominee acknowledged the importance of Article 221 of the Constitution and the key role that the National Assembly played in the budget making process. He assured the Committee that he would be accountable to Parliament, if appointed.

#### ***On opinion on National Treasury's reluctance to disburse money to the CDF kitty***

346. On whether he will disburse funds to the NGCDF once approved, he undertook to be guided by the NGCDF Act, 2015. He further stated that he would consult with other Government agencies to ensure that they abide by the provisions of the NGCDF Act.

#### ***On revenue collection***

347. The nominee informed the Committee disputed the notion that high tax rates generate high revenue. He stated that to increase tax revenue, there was need to optimize tax resources and to define legal frameworks and reward systems to encourage prudent behavior in revenue collection and prevent tax evasion and default.

#### ***On opinion on enhancement of the NSSF contributions***

348. The nominee lauded the plan to increase NSSF contributions, stating that it was a move towards encouraging Kenyans to save for retirement and noted that there was need to increase public awareness.

#### ***On issue of increased personal dollar accounts in the country***

349. The nominee stated that dollar accounts are personal accounts and as such do not reflect the financial position of the country. He further stated that the country's economy is in fiscal distress and there was need to resolve the issue through interventions that would allow increase in the dollar supply. Additionally, he reiterated the need to protect domestic markets from external shocks.

#### ***On unemployment in the country***



350. On the Kenya Kwanza Government's plan to secure one million jobs for the youths, he stated that he would establish, regulate and protect domestic markets in line with the Bottom-up economic model. Further, he noted that Government interventions like the Hustler Fund would create job opportunities for the youth.

***On philosophy on wealth creation and sharing***

351. On the allegation that he does not participate in charity work, he stated that he participated in bono services by investing in charitable projects.

***On reducing recurrent expenditure and wastage of funds***

352. On his plans to reduce Government expenditure, he noted the need to determine priorities for expenditure, put in place stringent measures for implementation of prioritized expenditure and create review mechanisms for financial policies in place. He further stated that there was need to focus on the sustainability of monetary policies.

***On Hustler Fund and other Funds***

353. The nominee stated that the Hustler Fund was an intervention targeting small and medium enterprises and guidelines would be put in place to operationalize the Fund.

***Closing statement***

354. In his final remarks, the nominee assured the Committee that if appointed, he intended to incorporate best practices and contribute to the development agenda.

**3.7.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

355. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following Observations on his suitability for appointment as Cabinet Secretary in the Ministry of National Treasury and Economic Planning –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 7<sup>th</sup> July 1959 in Murang'a County and does not hold dual citizenship.
- (2) **THAT**, the nominee—
  - (i) From 2018 to date is serving as the Executive Director, African Economic Research Consortium (AERC), from 2003 to 2007 served as Governor Central Bank of Kenya.
  - (ii) From 2003 to 2007 served as Director Training at African Economic Research Consortium (AERC), International Development Research Centre (IDRC) from the year 2001 to 2003 and Head of the Macroeconomic and Economic modelling division at the Kenya Institute of Public Policy Research and Analysis (KIPPRA). The nominee also worked as Lecturer and Associate Professor, University of Nairobi Economics Department from the year 1987 to 2002.

- (iii) The nominee is a distinguished fellow at the Africa Growth Initiative at the Brookings Institution of Economic Activity, served on the Advisory committee of the Alliance for Financial Inclusion from 2009 to 2012, Chairperson of the African Mobile Phone Financial Services Policy Initiative (AMPI) and is a member of the Committee of Ten (C10); Global Advisory Council of the World Economic Forum
- (iv) From 1989 to 1993 he attended University of Gothenburg, Sweden where he obtained a Doctor of Philosophy degree (PhD) in Economics, attended the University of Nairobi from 1984 to 1986 and obtained a Master of Arts in Economics and also attended the University of Nairobi from 1980 to 1984 where he obtained a Bachelor of Arts in Economics.
- (3) **THAT**, the nominee obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, the nominee does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of National Treasury and Economic Planning and has the requisite abilities, qualifications and experience to serve as Cabinet Secretary for the National Treasury and Economic Planning.

### **3.8 HON. AISHA JUMWA KARISA KATANA – NOMINEE FOR THE POSITION OF CABINET SECRETARY, PUBLIC SERVICE, GENDER & AFFIRMATIVE ACTION**

356. The nominee, Hon. Aisha Jumwa Karisa Katana appeared before the Committee on Tuesday, 18<sup>th</sup> October, 2022 at 2.20 p.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following-

#### ***Citizenship, Date and Place of Birth***

357. The nominee is a female Kenyan born on 28<sup>th</sup> March, 1975 in, Takaungu Village, Kilifi North Constituency, Kilifi County. The nominee confirmed that she is a citizen of Kenya by birth and does not hold any dual citizenship.

#### ***Academic and Professional Qualifications***

358. The nominee is currently pursuing a Bachelor of Laws degree at the Africa Nazarene University. She attended the International Leadership University (ILU) for a Bachelors in Leadership and Management between 2016-2020, and holds an Executive Master's Degree in Leadership and Management from the Jomo Kenyatta University of Agriculture and Technology (JKUAT) attained in 2015. The nominee has a Certificate in County Governance from the Jomo Kenyatta University of Agriculture and Technology (JKUAT) obtained in 2012, sat for the Kenya Certificate of Secondary Education (KCSE) as a Private Candidate in 2011 after being admitted to Ganze Secondary School. She had completed her Kenya Certificate of Primary Education (KCPE), from Takaungu Primary School in 1991.

#### ***Employment Record***

359. The nominee served as Commissioner, Parliamentary Service Commission from 2017 to 2022 and was a Member of Parliament for Malindi Constituency from 2017 to 2022. She also served as County Member of National Assembly, Kilifi County between 2013 and 2017, served as a Councilor/Chairperson, Kilifi Town Council from 1997 to 2007 and was the Chairperson, Kilifi Town Council from 2004 to 2007.

#### ***Income and Net Worth***

360. The nominee estimated her net worth to be Kshs. 100 million, with her sources of income being from salary.

#### ***Professional Association and Memberships and Published Writings***

361. The nominee is not affiliated to any professional association nor has she published any material.

#### ***Public Office, Political Activities and Affiliations***

362. The nominee is a Member of the United Democratic Alliance Party but does not hold any office in the political party.

#### ***Potential Conflicts of Interest***

363. The nominee declared that she currently does not have any matter that would present a potential conflict of interest should she assume the position of Cabinet Secretary.

#### ***Pro-bono/Charity Work***

364. She is the founder of the Aisha Jumwa Foundation which is self-funded.

#### ***Integrity***

365. The nominee has also neither been charged in a court of law nor mentioned in any investigatory report of Parliamentary or any Commission of Inquiry in the last three (3) years. She has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

### **3.8.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

366. The Committee posed several questions to the nominee on her knowledge of the Public Service. The nominee responded as follows:



***On gun ownership and alleged involvement in a shooting/murder incident***

367. The nominee informed the Committee that she has never owned or used a gun. The nominee further informed the Committee that most of the cases facing her were politically motivated.

***Response in relation to Executive Master's Degree in Leadership and Management from the Jomo Kenyatta University (JKUAT)***

368. The nominee briefed the Committee that the degree was non-academic and it was on the strength of the award that she was allowed to pursue a bachelor's degree.

***Response to name variance in School Certificates***

369. On variance in names in her primary school certificate from "Aisha Abdalla" to Aisha Jumwa Karisa Katana in her subsequent certificates, the nominee clarified that the change was occasioned by her conversion from Islam to Christianity.

***On Academic Grades and Certificates***

370. On the question relating to her academic progression, the nominee stated that her academic journey was difficult noting that she dropped out of school and later re-joined school as a private candidate. The nominee informed the Committee that she considers herself a role model to many underprivileged children in Kenya.

***On Female Genital Mutilation, Gender-based Violence, and Lack of Sanitary Pads***

371. The nominee informed the Committee that she understood the challenges of Gender Based Violence based on her life experience as a victim of early marriage which is one of the Gender Based Violence.

372. On the issue of provision of sanitary towel to adolescent girls, she noted that there was a Charter that affirmed the commitment of the government to provide sanitary towels to all school going girls.

***On Vision for all Genders, including the Rights of the Male Child***

373. The nominee informed the Committee that the law guaranteed every person, regardless of gender, equal protection and equal benefit of the law.

***On Murder Charges against the nominee***

374. In response to the issues raised in the affidavits by Mr. Davis Malombe, Ms. Sheila Masinde and Mr. Eliud Karanja Matindi that the nominee is facing graft and murder charges and hence not fit to hold public office, the nominee submitted a replying affidavit stating as follows—

- (1) That the affidavit by Mr. Davis Malombe was not executed by a Commissioner for Oaths;
- (2) That the two affidavits by Mr. David Malombe and Ms. Sheila Masinde were identical revealing coordination between the two individuals;
- (3) That the affidavit by Mr. Eliud Karanja Matindi was accompanied by a bundle of documents that were not commissioned and not notarized;
- (4) That Mr. Davis Malombe claimed that he was the Executive Director of the Kenya Human Rights Commission without providing any proof;

- (5) That Ms. Sheila Masinde claimed that she was the Executive Director of the Kenya Human Rights Commission without providing any proof;
- (6) That the charges preferred against the nominee in the Anti-Corruption Case No. 6 of 2020 were withdrawn by the Director of Public Prosecutions on 12<sup>th</sup> October, 2022;
- (7) That the graft charges against the nominee were politically motivated;
- (8) That the murder charges against the nominee would be withdrawn in future or the nominee acquitted;
- (9) That the criminal prosecution against the nominee would not pose any legal hurdle as Article 50(2) of the Constitution guarantees the nominee the right to be presumed innocent until the contrary is proved;
- (10) That the High Court in *International Centre for Policy Conflict and 5 others versus the Attorney-General and 5 others* (2013) in relation to the question that arose in respect to the candidacy of the retired President Uhuru Kenyatta and William Ruto following the confirmation of the charges by the ICC, observed as follows in paragraph 155 and 156:

*155. We are alive to the serious nature of the charges the 3<sup>rd</sup> and 4<sup>th</sup> Respondent (read Uhuru Kenyatta and William Ruto) are facing at the ICC. However, we can only say that much. This is because under Article 50 of the Constitution, the 3<sup>rd</sup> and 4<sup>th</sup> Respondents are presumed to be innocent until the contrary is proved. The entrenchment of this Article is meant to ensure a fair trial in respect of every person before a court, tribunal or body. This right falls under the category of fundamental rights and freedoms that may not be limited as provided in Article 25 of the Constitution.*

*156. We have already placed on record the rights of the citizens of this country to make political choices, and indeed the rights of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents to seek public office. Article 1 of the Constitution of Kenya places all sovereign power on the people of Kenya which shall be exercised only in accordance with the Constitution. It shall not be, and can never be the role of this court to exercise that power on behalf of the people of Kenya. That right must remain their best possession in a democratic society and is inalienable.*

- (11) That it would be discriminatory and against fairness and constitutionalism for the criminal charges to be used against the nominee yet she was not the only public or state officer currently facing prosecution before the courts of law;
- (12) That a number of the Members of the National Assembly who are also state officers were facing various criminal charges, including the Hon. Babu Owino. The nominee further averred that the former Governor for Migori County continued to hold office despite the criminal proceedings that were instituted against him.
- (13) That there is no legal justification why the accusations against the nominee should be used to deny the nominee the opportunity of serving the country yet the law guarantees the nominee the right to be presumed innocent and a fair trial.

- (14) That the three affidavits are frivolous, ill-advised and motivated by malice and bad faith as the law protects all accused persons and accords them the benefit of being presumed innocent until the contrary is established.

***On allegations of grabbing land - Civil Lawsuit***

375. In response to the issues raised in the affidavit by Mr. Devshi Narran Kanbi that the nominee fraudulently transferred land belonging to the deponent and that further the nominee had failed to pay a balance of Kshs 4, 500,000 as consideration of the land, the nominee responded as follows-

- (1) That the deponent voluntarily submitted his documents and signed the document for transfer and hence it is untrue that the transfer of the land to the nominee was done without the seller's consent;
- (2) That the nominee had continually paid for the plot and her current balance was Kshs 3, 300, 000;
- (3) That although the completion date was ninety (90) days after execution of the agreement, the parties agreed to extend the completion date to enable the nominee to complete the payments;
- (4) That the matter is before the Malindi Magistrate's Court ELC No. 57 of 2020 and when the matter came for pre-trial, the deponent did not participate and consequently the nominee is awaiting for another date for pre-trial. That the matter is hence *sub-judice*;
- (5) That Mr. Devshi Naran Kanbi presented a case in court demanding the debt from the nominee which the nominee was willing to pay;
- (6) That the issue of the debt was not an integrity issue and hence the petition was brought in bad faith to undermine the integrity of the nominee;
- (7) That the nominee is restrained financially and has had a difficult time campaigning for the position of governor Kilifi County; and
- (8) That once appointed, the nominee would offset the debt using her salary and allowances.

***On Public Officer Ethics Act and Chapter 6 of the Constitution on Ethics and Integrity***

376. On public utterances that the nominee had made which put into question her conduct as a State Officer, the nominee stated that she would endeavour to conduct her public and private affairs in accordance with Chapter Six of the Constitution, if appointed.

***On the nominee's vision for the Public Service if approved***

377. The nominee informed the Committee that she considers herself flexible, open-minded and experienced enough to take on any role that the government expects her to deliver. The nominee further stated that she was a law-abiding citizen and moving forward, her approach to leadership would be guided by the law.

***On distribution of employment opportunities in the Public Sector***



378. On her views on disproportionate distribution of employment opportunities, the nominee informed the Committee that she was aware of the imbalance of representation of certain communities in Public Service. The nominee stated that she would ensure that the Public Service reflected regional balance and representation of all ethnic communities.

#### ***On Addressing Deaths of Kenyans in the Gulf***

379. On the reported cases of death and abuse of Kenyans migrant workers in Gulf countries, the nominee stated that there were various approaches to addressing the challenges of the migrant workers which included creating adequate employment opportunities in Kenya.

#### ***On unsustainable Wage Bill in Kenyan Public Sector***

380. Responding to a question on the ballooning wage bill in the Public Service, the nominee stated there was need for harmonization of remuneration across the public service.

#### ***On Huduma Centers***

381. The nominee stated that there were fifty (50) Huduma Centers across the country which was inadequate to provide various government services to the public. If appointed, the nominee stated that she would collaborate with Members of Parliament to explore possibilities of establishing Huduma Centres in all the constituencies through the NGCDF.

#### ***Net Worth of the nominee***

382. Responding to a question on the tabulation of her net worth of Ksh. 100 million, the nominee stated that her two houses in Nairobi and Malindi have a combined worth of Ksh. 85 million. She further stated that the remainder of her net worth of Ksh. 15 million was on account of various income-generating ventures.

383. The nominee stated that she would work with Parliament in formulation of laws that would improve efficiency in public service delivery.

### **3.8.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

384. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, her curriculum vitae and having heard her oral submission during the approval hearing, made the following observations on her suitability for appointment as Cabinet Secretary in the Gender, Public service and Affirmative Action –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since she is a Kenyan citizen born on 28<sup>th</sup> March 1975 in Kilifi County and does not hold dual citizenship.
- (2) **THAT**, the nominee served as Commissioner of the Parliamentary Service Commission from 2017 to 2022 and as a Member of Parliament for Malindi Constituency from 2017

to 2022. She also served as County Member of National Assembly for Kilifi County from 2013 to 2017, served as a Councilor/Chairperson, Kilifi Town Council from 1997 to 2007 and Chairperson, Kilifi Town Council from 2004 to 2007.

- (3) **THAT**, the nominee obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB). In respect to the Police Clearance Certificate from the Directorate of Criminal Investigations, the nominee's certificate had positive results for the offences of murder and conspiracy to commit corruption.
- (4) **THAT**, the nominee has been charged in a court of law in the past three years of various offences but has not been convicted in any of them.
- (5) **THAT**, although the nominee is a member of the United Democratic Alliance Party, she does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Gender, Public Service and Affirmative Action and has the requisite abilities, qualifications and experience to serve as Cabinet Secretary for Gender, Public Service and Affirmative Action.

### **3.9 MR. DAVIS KIMUTAI CHIRCHIR – NOMINEE FOR THE POSITION OF CABINET SECRETARY, ENERGY AND PETROLEUM**

385. The nominee, Mr. Davis Kimutai Chirchir appeared before the Committee on Tuesday, 18<sup>th</sup> October, 2022 at 4.00 p.m. and was vetted on oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:

#### ***Citizenship, Date and Place of Birth***

386. The nominee is a male Kenyan born on 30<sup>th</sup> September, 1960 in Kericho County. The nominee confirmed that he is a Kenyan citizen by birth and does not hold dual citizenship.

#### ***Academic and Professional Qualifications***

387. The nominee holds a Masters of Business Administration from the Royal Holloway School of Management, University of London (2009); a Post Graduate Diploma in Telegraphic Engineering from the KPTC Central Training School, Mbagathi Nairobi (1987) and a Bachelor of Science Degree from the University of Nairobi (1985).

### ***Employment Record***

388. The nominee is the immediate former Chief of Staff at the Office of the Deputy President from 2<sup>nd</sup> March, 2022. He also served as Cabinet Secretary, State Department of Energy and Petroleum from 2013 – 2015. The nominee worked as the Secretary General for the United Republican Party (URP) from 2012 – 2013; served as Director for Chebango EPZ Tea Company from 2012-2013; Served as Commissioner for the defunct Interim Independent Electoral Commission (IIEC) from 2009-2011; served as Managing Director for Bon Voyage Ltd from 1999 – 2008; and was the General Manager for Telkom Kenya from 1998 to 2003. The nominee also worked as Manager- Systems Analyst, Kenya Posts and Telecommunication Corporation (KPTC) in 1986-1987; and served as Director, Bon Santé Consulting from 2003 to 2009.

### ***Honours and Awards***

389. The nominee was awarded Certificate of Appreciation by the President and Commander-in-Chief of the Armed Forces of the Republic of Kenya on January 5, 1998; and received Commendation for participating in drafting the Kenya Communication Act (1998) and Postal Corporation of Kenya Act (1998), awarded by the Ministry of Transport and Communication on March 15<sup>th</sup> 1999.

### ***Published writings***

390. While serving as the Minister for Energy, the nominee participated in drafting of energy sector policy documents and bills. He also participated in the preparation of the Interim Independent Electoral Commission (2011) *Exit Report 2009-2011*; and Chirchir, DK (2009) *Effectiveness of Telecommunications Sector Policy in Addressing Cellular Service Delivery in Kenya*.

### ***Public Office, Political Activities and Affiliations***

391. He worked as Chief of Staff at the Office of the Deputy President from 2<sup>nd</sup> March, 2022. He had served on appointment as Cabinet Secretary, State Department of Energy and Petroleum from 2013 – 2015; served as Commissioner for the defunct Interim Independent Electoral Commission (IIEC) from 2009-2011; and has worked as a Member of the High-Level Committee on the Prisons Crisis in 2008.

### ***Potential Conflicts of Interest***

392. The nominee declared that he is not associated with any person or matter that would present a potential conflict of interest should he assume the position of Cabinet Secretary, State Department of Energy and Petroleum.

### ***Income and Net Worth***

393. The nominee stated that his estimated net worth was Kshs. 482, 000,000.

### ***Current and anticipated sources of income***



394. The nominee stated that his current sources of income include monies he makes from salary, farming and rental income.

#### ***Pro-bono/Charity Work***

395. The nominee is involved in charity work through donations to his local churches and public primary schools in his locality.

#### ***Integrity***

396. The nominee stated that he has neither been charged in a court of law nor mentioned in any investigatory report of Parliamentary or any Commission of Inquiry in the last three (3) years. He has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

### **3.9.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

In order to assess the nominee's overall suitability on the position, the Committee examined the nominee on general and specific thematic areas which the nominee responded to as follows:

#### ***On high cost of electricity***

397. The nominee acknowledged the challenge and attributed it to the power generation matrix. He gave the Committee a breakdown of electricity sources in the country including Geothermal, solar, wind and heavy fuel generators, which together form the power grid. He further attributed the cost of electricity to the use of heavy diesel fuel engines as a primary source of electricity which is not sustainable and affects cost of fuel. He also indicated that having diesel engines as a permanent fixture in power supply is not sustainable, is expensive and devastating to the environment. He concluded that there is need to generate more electricity from geothermal and other sources to prevent reliance on fuel engines.

#### ***On alleged investigations in the chicken-gate scandal***

398. In response to the issues raised in the affidavit by the Executive Director of Transparency International, Ms. Sheila Masinde which adversely mentioned the nominee in the "Chickengate" scandal where officials of the Interim Independent Electoral Commission allegedly received bribes from a UK-based printing company, the nominee submitted a replying affidavit stating as follows:

- (1) That he was a former Commissioner with the defunct Interim Independent Electoral Commission (IIEC) and he was subject to investigations by the Ethics and Anti-Corruption Commission with regard to the contract by Smith and Ouzman Limited, a company incorporated in the United Kingdom, and the IIEC;
- (2) That he fully cooperated with the EACC and recorded a statement with them and no adverse recommendation was made against him;
- (3) That upon conclusion of the investigations, the persons deemed culpable were charged before a court of law and the proceedings are still pending in court;

- (4) That since his appearance before the EACC investigations team neither him or his advocates have been informed of any need for a further appearance before the EACC as a suspect or a witness to the criminal proceedings;
- (5) That he instructed his advocates to write to the EACC and request for the status of his file and the investigations; and
- (6) That his advocates are in receipt of a response from the EACC dated 17<sup>th</sup> October, 2022 which confirms that the file and investigations into Smith and Ouzman Limited were concluded and he was not found culpable of any wrong doing.

### ***Issues raised on the working of the Kenya Power and Lighting Company***

399. On the issue of KPLC monopoly that is affecting delivery of services, the nominee stated that the monopoly issue had been adequately addressed in the Energy Act 2019. He assured the Committee that if appointed, he would engage stakeholders and come up with implementation mechanisms.

400. The nominee recommended that there is need to look into the cost structure of KPLC and other energy parastatals to reduce the cost of power. He acknowledged that there is a lag in the working of KPLC that affects power supply and customer service.

401. On the issue of constant power outages, the nominee stated that KPLC uses very weak power networks that go off intermittently. He stated that there is need to invest in proper networks to curtail the challenges.

402. On fraudulent electricity bills causing people to pay for what they have not consumed, the nominee stated that there was an urgent need to re-engineer the working of the Company and promote methods that reduce fraud such as smart meters and developing regional phases for KPLC as is the case in Safaricom.

### ***On decoupling services between energy parastatals***

403. The nominee acknowledged that there is an overlap of function among the energy sector parastatals including KPLC, REREC, KENGEN and KETRACO.

### ***On disparity in power allocation in counties***

404. The nominee informed the Committee of his plans to increase electricity coverage from 30% to 70% if appointed. He stated that counties such as Garissa, Marsabit and West Pokot where power stations are located should not suffer from lack of electricity.

### ***On effect of electricity costs to water cost***

405. The nominee informed the Committee that water production companies use between 1 to 100 kilowatts per month, and considering the high cost of electricity the charges fall back on the consumer in terms of high-water tariffs. He proposed that other utility providers should use alternative sources of energy such as solar energy to reduce the burden on consumers.



### ***On declared source of income***

406. On a question pertaining discrepancies in his income earned from January 2022 to September 2022, he provided a breakdown of his income by indicating that he earned Kshs. 3 million from his previous employment, a salary of about Kshs. 700,000 per month and a car grant totalling to 10 million shillings that adequately accounts for the total amount.

### ***On closure of the Changamwe Oil refinery in Mombasa***

407. In explaining why the oil refinery closed down during his term as the CS in the same docket, he stated that the yield shift on importation of crude oil affected oil production. He stated that the refinery was too old to manage the shift and it could not produce clean oil, causing a loss to the Government hence necessitating its closure.

### ***On Status of oil exploration in Turkana***

408. The nominee stated that the process was still in the field development phase. He further stated that the Consortium mandated to lead the process had submitted a report to EPRA for consideration and submission to Parliament. He requested Parliament to expedite consideration and approval of the said report once it is tabled so that the exploration process can commence.

### ***On fuel prices***

409. The nominee stated that the Ukraine and Russia crisis has created a supply demand challenge because of the embargos placed on fuel purchase. He stated that there is need to mitigate such crisis and come up with methods to ensure self-reliance. He reiterated his comments on expediting the exploration process to make the country less reliant on petroleum from other economies. He further stated that there was need to have electricity and fuel reserves to help the country in times of crisis and prevent the sky-rocketing of prices.

### ***On clean power voltage for western Kenya***

410. The nominee informed the Committee of his plan to prevent use of unclean power by prioritizing the completion of the Olkaria-Lessos voltage line to serve the western part of the country.

### ***On the financial state of KPLC***

411. In addressing the financial state of KPLC, the nominee attributed the company's financial problems to its complacent nature. He stated that there is need for balance sheets restructuring and business re-engineering.



### 3.9.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE

412. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following Observations on his suitability for appointment as Cabinet Secretary in the Ministry of Energy and Petroleum –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 30<sup>th</sup> September 1960 in Kericho County and does not hold dual citizenship.
- (2) **THAT**, the nominee—
  - (i) is the immediate former Chief of Staff in the office of the Deputy President having served since January 2022; he is a former Cabinet Secretary for Energy and Petroleum where he served during the period 2013 to 2015 and also served as the Secretary General of United Republican Party during the period 2012 to 2013. The nominee also served as a Director at Chebango EPZ tea company (2012 to 2013); Commissioner at the Interim Independent Electoral Commission (IIEC) between 2009 and 2011; Director at Bon Sante consulting between 2003 and 2009 then managing director between 1999 and 2008. He also served as a General manager at Telkom Kenya (between 1998 and 2003) and manager, system analyst at Kenya Posts and telecommunications corporation (KP&TC) between 1986 and 1997;
  - (ii) the nominee holds a Masters of Business Administration from the Royal Holloway School of Management, University of London (2009); a Post Graduate Diploma in Telegraphic Engineering from the KPTC Central Training School, Mbagathi Nairobi (1987) and a Bachelor of Science Degree from the University of Nairobi (1985).
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loan Board (HELB).
- (4) **THAT**, although the nominee is a member of the United Democratic Alliance Party, he does not hold office in any political party.
- (5) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (6) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Energy and Petroleum and has the requisite abilities, qualifications and experience to serve as Cabinet Secretary for Energy and Petroleum.

### **3.10 HON. MOSES KURIA – NOMINEE FOR THE POSITION OF CABINET SECRETARY, TRADE, INVESTMENT & INDUSTRY**

413. The nominee, Hon. Moses Kuria appeared before the Committee on Tuesday, 18<sup>th</sup> October, 2022 at 6.00 p.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following -

#### ***Citizenship, Date and Place of Birth***

414. The nominee is a male Kenyan born in 1971 in Kiambu, Kiambu County. The nominee confirmed that he is a Kenyan citizen by birth and does not hold dual citizenship.

#### ***Income and Net Worth***

415. The nominee estimated his net worth to be Kshs. 750,000,000, with sources of income including rental income, manufacturing shares in listed companies, Fintech and the energy sector.

#### ***Academic and Professional Qualifications***

416. He holds a Bachelor's Degree in Business Administration from the University of Nairobi (1994).

#### ***Employment Record***

417. The nominee was a Member of the National Assembly for Gatundu South Constituency between 2014 and 2022. He served as the Head of Economic Recovery Team for the Kenya Kwanza Alliance in 2022.

418. The nominee is the founder and Director of West Port Nguo Yetu (an apparel manufacturing company employing 300 staff and licensed by Export Processing Zone Authority). He also a founder and Director of Africa Diaspora Asset Managers (a fund management company licensed by the capital Management Authority).

419. The nominee is a founder and Director of West Port Industrial City date. This is a manufacturing and logistics incubation hub; a Founder and Director of Fanaka Mobile between April 2017 to date. This is a fintech licensed by the Communication Authority of Kenya; a Founder and Director of Eqwipetrol Limited between April 2017 to date. This is a petroleum trading company licensed by the Communication Authority of Kenya.

420. He served as a consultant in government in 2007, a technical advisor in trade matters and in Treasury (2015); and a Chief Operations Officer at Wamad Information and Technology & Consulting Group Saudi Arabia between April 2003 to 2007.

421. The nominee served as a Process Improvement Manager at Al Rajhi Bank, Saudi Arabia between April 1999 to 2003. He has also served as an Accountant Total Oil Kenya between April 1993 to 1994 and as an Analyst in Dyer & Blair Bank between April 1991 to 1993.

#### ***Honours and Awards***

422. The nominee was awarded the Head of State Commendation (HSC).

#### ***Published Writings***

423. The nominee has published numerous articles in newspapers.

#### ***Potential Conflicts of Interest***

424. The nominee declared that he is not associated with any persons or matter that would present a potential conflict of interest should he assume the position of Cabinet Secretary Trade and Industry. Should a conflict of interest arise, the nominee stated that he would declare the interest in writing to the appointing authority in accordance with the law.

#### ***Pro-bono/Charity Work***

425. The nominee stated that he is involved in charity work through supporting the musician's fund. He further stated that he carried out numerous visits and support to vulnerable members of Gatundu South Constituency.

#### ***Integrity***

426. The nominee stated that he has not been dismissed or otherwise removed from office for contravening the provisions of Article 75 of the Constitution. He has also not been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties.

427. Further, the nominee submitted that he has been charged but not convicted by a court of law in the last three years and he has not been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years.

### **3.10.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO HON. MOSES KURIA**

428. The Committee posed several questions to the nominee on his knowledge of the Ministry of Trade and Industrialization as well as the Public Service. The nominee responded as follows:

#### ***On Cross border trade***

429. The nominee informed the Committee that with the coming in of the African Intercontinental Free Trade Area agreement, Kenya had huge opportunity to access the African Continent market especially Ethiopia that has an estimated population of 121 million people and the



Democratic Republic of Congo. The nominee undertook to leverage on bilateral relations in the region to establish markets for Kenyan products and investments opportunities.

***On smooth movement of goods***

430. The nominee informed the Committee that, if appointed, he would implement business friendly policies transcending politics.

***On dealing with counterfeit goods***

431. The nominee informed the Committee that, if approved, he will ensure pre-shipment inspection of goods is done and only genuine goods are allowed into the country. He further stated that manufacturers of counterfeit goods will be banned from doing business in Kenya.

***On status of African Growth and Opportunity Act***

432. The nominee stated that negotiations were underway on extension of AGOA export framework with the USA. He further stated that Kenya would have a bilateral engagement with the USA on trade opportunities if the African framework on AGOA fails.

***On investigation for embezzlement of NGCDF funds and bribery claims***

433. On the issue raised in the affidavit by Ms. Sheila Masinde that the Hon. Moses Kuria was under investigation for embezzlement of NGCDF funds in Gatundu South Constituency and for making a public confession of having received a bribe of KES 100,000 in 2020 to vote for the Hon. Amos Kimunya as the Leader of the Majority Party, the nominee responded as follows-

- (i) That the nominee served as a Member of Parliament for Gatundu South Constituency where his roles were limited to legislation, representation and oversight.
- (ii) That the nominee's role as prescribed by the National Government Constituency Development Fund Act, 2015 is to act as a Patron which is purely ceremonial and does not sit in the Committee or influence any decision of the Committee.
- (iii) That the NGCDF Committee has its own fund manager and the nominee has no appointing powers.
- (iv) That the nominee had a first meeting as the patron of the Committee on 24th November, 2014 in which period the NGCDF Board was already in office and it was overseeing short and long term projects that had been initiated by the late Hon. Joseph Ngugi.
- (v) That on 23rd November, 2020, the nominee was summoned to the EACC and he recorded a statement where he informed the EACC of the provisions of the law and his functions as a legislator and that he had never issued, awarded or influenced any tender.
- (vi) That the nominee never solicited and or received a bribe with the intention to influence or as a reward from any person during the nominee's tenure as a Member of Parliament.
- (vii) That the nominee never made a public confession of having received money from the Hon. Amos Kimunya and that the same narration was taken out of context.

- (viii) That the then Speaker of the National Assembly called upon the nominee to explain the allegations on the floor of the House.
- (ix) That the application is frivolous, baseless and has no legs to stand on and should be dismissed in the first instance.
- (x) That the affidavits are an abuse of the process, without merit, frivolous and the same ought to be disregarded in entirety.

***On job creation by the government and issues of land***

434. The nominee informed the Committee that there was enough land for development. He further stated that, if approve, he would fast-track development in every idle land. He further stated that *Dongo-Kundu's SEZ* would be completed soon. In addition, the nominee intimated that he would ensue expansion of the EPZ and special economic zones.

***On Policies to promote diversification, guaranteed minimum returns to support unemployed youths and job creation***

435. The nominee stated that though there are many business ideas by Kenyans, financing them has remained a key challenge. The nominee drew parallels with Sri Lanka which produces the highest quality of cotton at a very small cost. He further stated that Kenya should be able to self-sufficient in the next ten years if it adopted the Sri Lankan model.

***On trade in the rural areas***

436. The nominee informed the Committee that the Government plans to have an aggregation center in every county. He further stated that he would collaborate with County Governments to ensure that informal traders are not subjected to harassment and over taxed by the County Governments.

437. The nominee proposed creation of warehouses across the country to store produce meant for trade.

***On manufacturers exiting Kenya***

438. The nominee blamed unfavourable taxation regime on exit of manufacturers from the country such as Sensodyne and Panadol thereby declaring over one hundred employees redundant. He further stated that Kenya should adopt a taxation regime that ensures growth of business as it collects tax.

439. Further, he stated that Kenya was bound by the EAC and COMESA protocols. He noted that it was true that some international companies like Sensodyne and Panadol had stopped manufacturing in Kenya and declared over one hundred employees redundant.

440. If appointed as the Cabinet Secretary, the nominee undertook to ensure that the cost of production in Kenya is lowered by lowering electricity tariffs in conjunction with the Energy Ministry and put in place incentives to attract more investors.

***On high cost of production***

441. The nominee stated that high cost of production, mismanagement and obsolete technology was responsible for collapse of sugar factories. He further stated that Kenya had around 4 sugar companies as compared to Uganda which had 17 thus making it cheaper to import sugar from



Uganda. The nominee underscored the need to embrace technology such as GMO to enhance efficiency.

***On African Continental Free Trade Area / Trading Blocks***

442. The stated that the President William Ruto had recently held bilateral discussions in Uganda, Tanzania, and Ethiopia. He called for the formulation and development of a free trade area policy in the East Africa to enhance trade between countries in East African region as a matter of priority.

***On lessons from Brexit***

443. The nominee stated that considering that Intra-African trade was 18%, there was need to improve these paltry numbers.

***On focusing more on Skin, Hide, Shanga***

444. The nominee stated that Kenya Kwanza manifesto would prioritize trading in skin and hides. Further and if appointed, the nominee would set up a leather firm to create job opportunities and market.

***On investment***

445. The nominee stated that contrary to the previous administrations that was not keen on investment, Executive Order No. 1 of 2022 has placed investment at the core of its development agenda. The nominee, if appointed, would spearhead investment opportunities in the country.

***On Competitiveness***

446. The nominee stated that Kenya's business environment was not conducive. He further stated that there was need to improve ease of doing business in Kenya, free movement of goods and services. He also stated that local investors ought to be supported through reduction in cost of production initiatives such as tax reduction.

**3.10.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

447. The Committee, having considered the nominee's filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following Observations on his suitability for appointment as Cabinet Secretary in the Ministry of Trade Investment and Industry.

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born in 1971 in Kiambu, Kiambu County and does not hold dual citizenship.
- (2) **THAT** the nominee holds a Bachelor of Commerce in Business Administration from the University of Nairobi.
- (3) **THAT**, the nominee has worked for the following institutions in the stated positions—
  - (i) A Member of Parliament of Gatundu South Constituency (2014 to 2022).



- (ii) A founder and director of Westport Nguo Limited an organization licensed by the Export Processing Zone Authority
  - (iii) Chief Operations Officer for Wamad Information the Technology and Consulting Group Saudi Arabia, from the year 1999 to 2003
  - (iv) Process Improvement Manager for Al Rajhi Bank, Saudi Arabia, from he March 199 to September 1999
  - (v) Process Improvement Manager for Standard Chartered Bank Africa, from August 1993 to December 1994
  - (vi) accountant for Total Oil Kenya and from 1991 to 1993 he worked as an analyst for Dyer and Blair Bank.
- (4) **THAT**, the nominee obtained clearance from the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Educations Loan Board (HELB).
  - (5) **THAT** the EACC indicated that there are pending investigations relating to the allegations of procurement irregularities, conflict of interest and receipt of benefits by trading with the Gatundu South Constituency CDF. However, the nominee has never been charged in a court of law in respect of these allegations.
  - (6) **THAT**, the nominee has been charged in a court of law in the last three years but has not been convicted.
  - (7) **THAT**, the nominee does not hold office in any political party.
  - (8) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
  - (9) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Trade, Investment and Industry and has the requisite abilities, qualifications and experience to serve as Cabinet Secretary for Trade, Investment and Industry.

### **3.11 HON. ONESIMUS KIPCHUMBA MURKOMEN, EGH, MP – NOMINEE FOR THE POSITION OF CABINET SECRETARY, ROADS, TRANSPORT & PUBLIC WORKS**

448. The nominee, Hon. Onesimus Kipchumba Murkomen, EGH, MP appeared before the Committee on Wednesday, 19<sup>th</sup> October, 2022 at 9.00 a.m. and was vetted on oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following -

#### ***Citizenship, Date and Place of Birth***

449. The nominee is a male Kenyan born on 12<sup>th</sup> March, 1979 in Elgeyo Marakwet County. The nominee confirmed that he is a citizen of Kenya by birth and does not hold any dual citizenship.

#### ***Academic and Professional Qualifications***

450. The nominee holds a Master of Laws in International Legal Studies (LLM) from American University Washington College of Law, Washington DC, USA attained in 2017. He also holds a Masters of Laws in Trade and Investment Law (LLM) from the University of Pretoria, South Africa attained in 2006. Further, he attended Kenya School of Law for his Postgraduate Diploma in Law in 2006 and holds a Bachelor in Laws Degree from the University of Nairobi which he attended between 2000 and 2004.

#### ***Employment Record***

451. The nominee has been the Senator for Elgeyo Marakwet County from 2013 to date. He is the founding partner of Sing'oei, Murkomen & Sigei Advocates (SMS Advocates LLP) from 2013 to date. Further He was an Assistant Lecturer at Moi University School of Law from 2009 to 2012; a Member of the Task Force on Devolved Government in the Ministry of Local Government between 2010 and 2011; an Assistant Lecture at the Catholic University of Eastern Africa, Faculty of Law between 2007 and 2009; an Adjunct Lecturer at the University of Nairobi School of Law between 2009 and 2012; and a Consultant with ActionAid Kenya between 2007 and 2008.

#### ***Honours and Awards***

452. The nominee was awarded the Elder of the Order of the Golden Heart (EGH) in 2018. He was also awarded an International Research Scholarship by the American University's Washington College of Law as an honour for exemplary contribution on research in International Law. The nominee was also awarded the World Bank Academic Scholarship to study International Trade and Investment Law at the University of Pretoria South Africa. The nominee was also awarded the Ford Foundation Scholarship for a Training on African Leadership and Globalization.

#### ***Professional Association and Memberships***

453. The nominee is a member of the Law Society of Kenya and a member of the East Africa Law Society.

#### ***Published writings***

454. The nominee has published numerous academic and non-academic writings, books, and reports which includes articles on the Role of the Judiciary in the growth of Jurisprudence in India and Kenya, Nairobi Law Journal, 2008 and the Legislature: Bicameralism under the new Constitution, SID Constitutional Working Paper No. 8 of 2011

#### ***Public Office, Political Activities and Affiliations***

455. The nominee has held public office as the Senator of Elgeyo Marakwet from 2013 to date; a member of the United Democratic Alliance Party 2022; has been a legal advisor of the United Democratic Alliance Party; a Member of the Jubilee Party from 2017 to 2022; and was a Member of the United Republican Party (URP) from 2013 to 2017.

#### ***Potential Conflicts of Interest***

456. The nominee declared that he does not have any matter that would present a potential conflict of interest should he assume the position of Cabinet Secretary Ministry of Roads, Transport and Public Works.

#### ***Income and Net Worth***

457. The nominee estimated his net worth to be Kshs. 550,000,000, with his current sources of income including income from services provided by SMS Advocates LLP amounting to over Kshs. 100 Million, salary from Parliament and proceeds of farming.

#### ***Pro-bono/Charity Work***

458. The nominee is involved in charity work through payment of school fees for over 50 needy students in various high schools and colleges all over the country. He also supports infrastructure development in schools and religious institutions.

#### ***Integrity***

459. The nominee has neither been charged in a court of law nor mentioned in any investigatory reports of Parliament or any Commission of Inquiry in the last three (3) years. He has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

### **3.11.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

460. The Committee posed several questions to the nominee on his knowledge of the Ministry of Roads, Transport and Public Works as well as the Public Service. The nominee responded as follows:

#### ***On Congestion of the Northern Corridor***

461. In addressing the challenges of transporting goods through the Mombasa to Malaba highway, he informed the Committee that the challenges were as a result of the technology used at the border. He stated that KRA uses outdated technology to collect revenue at the border which caused delay in clearance of goods hence congestion. He stated that there was need to update the technology used to clear the goods at the border as system failures and lack of internet largely affected the functioning of the station. He also stated that he planned to fully operationalize the One Stop Border Posts to ease movement on the highway.



### ***On Proposals on road development***

462. The nominee stated that there was need to strengthen the framework for Public Private Partnerships to entice the private sector to invest on road projects. He also stated that if appointed, he intended to promote securitization of the Road Maintenance Levy Fund (RMLF) to aid in raising revenue for development of roads.

### ***On The tolling system***

463. On the toll levied for use of the express way, the nominee noted that tolling on the roads was not a charge, but saves the motorists time and money spent on fuel. He stated that there was need to identify high density roads, develop them and put in place a tolling system that is commensurate to the savings made on using the road. Further, tolling will help the country to earn revenue to develop infrastructure and will prevent abuse for good roads.

### ***On Road annuity project in Kenya***

464. The nominee voiced his concerns for the annuity project, stating that it is very unfortunate that the country has to pay Kshs.28 billion to construct 91Kms of road. He stated that if approved, he will scrap off the annuity and re-negotiate for a more sustainable and concessional way to fund the projects.

### ***On Allegations on involvement in the NYS scandal***

465. On the allegations that a payment from Out of the Box Solutions Limited which was linked to the NYS scandal back in 2015 was made through a law firm associated with the nominee, Sing'oei Murkomen and Sigei Associates, the nominee responded that the payment that was made to his law firm was made by the client, Out of the Box Company to facilitate a property transaction that the firm was handling on behalf of the client.

466. On the issue that the recommendations of the Public Accounts Committee of the National Assembly in its Report had adversely mentioned Sing'oei Murkomen and Sigei Associates, the nominee submitted the judgement of the High Court in Constitutional Petition No. 275 of 2017, **Hillary Sigei & Sing'oei, Murkomen and Sigei Associates versus the Speaker of the National Assembly, Ethics and Anti-Corruption Commission, Director of Public Prosecutions & the Attorney-General** which issued the following orders:

- (a) A declaration that recommendations 12 and 13 of the Report of the Public Accounts Committee inquiring into the happenings of the National Youth Service violate the Petitioner's right guaranteed under Article 47 of the Constitution; and
- (b) An order of certiorari to quash the recommendations 12 and 13 of the Report of the Public Accounts Committee;

467. That in light of the judgement of the High Court, the nominee stated that the ensuing issues had been settled and there was need for further debate on the matter.

### ***On State of the Port in Mombasa***

468. The nominee stated that state capture had paralyzed the operations of the port in Mombasa, causing dire consequences for the community and the country. He stated that the port is currently working well but there is a threat of competition from expanding ports such as the Djibouti port. He said that if appointed, he will prevent meddling in the management of the port that affect efficiency in operations. He stated that he intends to streamline the management by creating a functioning structure.

469. On the directive of the President to relocate port operations from Naivasha Inland Container Depot to Mombasa, the nominee stated that the Government's plan was to reopen the port of Mombasa and still ensure the one in Naivasha is functional. Further, the plan is to increase the freedom on transportation of cargo within the ports, allowing for both rail and road.

### ***On Issues on the Expressway functioning***

470. On the ineffectiveness in the landings placed on the express way, the nominee informed the Committee that there have been plans to provide a landing at GPO to ease movement via the express way. However, placing a station at GPO would affect the Uhuru Park and there was need to ensure proper engineering to ensure the park is not affected.

471. The nominee acknowledged the place of the taxpayer in the Express way. He stated that the road was built on public assets and the road below it left in a dilapidated state. He stated that if appointed, he will work with KENHA to ensure that the road is repaired.

### ***On Completion of the LAPSSET Corridor Program***

472. The nominee stated that the improper working of the LAPSSET Authority has caused a lag on the completion of the program. He said that there was need to establish the Authority as a state parastatal with a budget to facilitate the project. He stated that once he assumes office, he will look at the state of the program and work with Parliament to facilitate its completion.

### ***On Affirmative action to promote local investments in road development***

473. The nominee informed the Committee of his intention to focus on getting local investors like pension funds, SACCOs and investment companies for road projects. He stated that he intends to implement the law that all projects below 1 billion shillings should be awarded to local contractors and that he will ensure there is a local investment concept in projects above 1 billion shillings. He further stated that he intends to ensure that Kenyan investors and contractors get the first priority in debt settlement to promote local investments

### ***On Kenya Airways financial crisis***

474. On the proposal to nationalise Kenya Airways, the nominee informed the Committee that nationalization of the Company would increase government's equity to 49%. To address the financial issues, he stated that there was need to create more budget airlines like JamboJet, increase cargo shipment by the airline, allow KQ to offer chartered services and make KQ



provide other services on the side such as drone surveillance service to increase its revenue base.

### ***On Road safety***

475. The nominee informed the Committee that per day one camera located in the Nairobi CBD records more than 300 traffic offences, which if fined would raise more than 1.2 Billion in revenue which can in turn be used for road development. He stated that, if appointed, he would deploy an integrated transport management system in collaboration with the Ministry of Interior to aid in implementing the system. He noted that there was need to embrace the use of smart technology rather than the traffic police to maintain order on the roads.

### ***On mobility for vulnerable road users (Non-Motorized Transport)***

476. The nominee acknowledged the plight of non-motorized road users and the need to make it a priority. He stated that if approved he will ensure road plans cater for cycling and walking paths and put in place policies to guide on the use of the paths.

### ***On State of the Standard Gauge Railway***

477. The nominee assured the Committee that if appointed he would facilitate public access of the SGR agreement and make it a public document for Kenyans to understand their financial obligations in that regard.

478. He stated that he intends to engage in re-negotiations for the loan repayment periods for the SGR project and the concessional period for the Express Way project. This will be to increase repayment period so as to ease the tax burden.

### ***On Serviceable airstrips across the country***

479. The nominee informed the Committee that currently there are only thirteen (13) functional airstrips across the country. He stated that he intends to oversee the construction of an airstrip in every county.

### ***On equitable distribution of roads***

480. The nominee assured the Committee that he would apply the principles of equity to ensure equal infrastructural development. He assured the Committee that he was well aware of the provisions under Sessional Paper No. 10 of 1965 that considered some parts of the country had low potential areas and overlooked them in road development. He stated that he intended to open up such regions in terms of infrastructure development.

### ***On management of road carnages***

481. The nominee assured the Committee of his plans to reduce road carnages by enrolling the issuance of smart driving licenses all over the country. He further stated that he will ensure the NTSA works to privatize car inspections to manage the inspection of the over 4 million vehicles in the country.



### *Closing statement*

482. In his closing statement, the nominee informed the Committee that he was ready and able to work in the docket. He stated that if approved, he would devolve the functioning of the Ministry and observe the principles of equity to ensure development in all parts of the country.

#### **3.11.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

483. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following Observations on his suitability for appointment as Cabinet Secretary in the Ministry of Roads, Transport and Public Works.

(1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born in 1979 Elgeyo Marakwet County and does not hold dual citizenship.

(2) **THAT**, the nominee—

- (i) From the year 2013 to date, he has been at the Parliament of Kenya as the Senator for Elgeyo Marakwet County; from 2013 to date Founding Partner of Sing'oei, Murkomen & Sigei Associates Advocates now SMS Advocates LLP; at Moi University, School of Law as an assistant Lecturer between 2009 and 2012; at the Ministry of the Local Government as Member of the Task Force on Devolved Government between 2010 and 2011; at Catholic University of East Africa, Faculty of Law as an assistant lecturer between 2007 and 2009; at the University of Nairobi, School of Law as an Adjunct Lecturer between 2009 and 2012; and at ActionAid Kenya as a Consultant between 2007 and 2008.
- (ii) He has several awards that include: The Presidential Commendation Award, Elder of the Order of the Golden Heart of Kenya (EGH) in 2018; Awarded International Research Scholarship, American University's Washington College of Law in 2006, an honor for exemplary contribution to research on International Law; Awarded World Bank Academic Scholarship, 2005 to study International Trade and Investment Law at the University of Pretoria South Africa; and been awarded Ford Foundation Scholarship 2002, for a Training on African Leadership and Globalization.
- (iii) Has a Master of Laws (LLM) (Master of Laws in International Legal Studies) from the American University's Washington College of Law, Washington DC, USA – 2017; Master of Laws (LLM) Master of Laws in Trade and Investment Law from the University of Pretoria, Pretoria South Africa (2006); Diploma in Law from the Kenya School of Law (2006); and Bachelor of Laws (LL. B) from the University of Nairobi, Faculty of Law (2004).

- (iv) On professional Associations and Memberships, the nominee is a Member of the Law Society of Kenya and the East Africa Law Society.
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, although the nominee is a Member of the United Democratic Alliance Party, the nominee does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Roads, Transport and Public Works and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Roads, Transport and Public Works.

### **3.12 HON. ROSELINDA SOIPAN TUYA, CBS, MP– NOMINEE FOR THE POSITION OF CABINET SECRETARY, ENVIRONMENT & FORESTRY**

484. The nominee, Hon. Roselinda Soipan Tuya, MP CBS, appeared before the Committee on Wednesday, 19<sup>th</sup> October, 2022 at 11.30 a.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following -

#### ***Citizenship, Date and Place of Birth***

485. The nominee is a Kenyan female born in 1978 in Narok County. The nominee confirmed that she is a citizen of Kenya by birth and does not hold any dual citizenship.

#### ***Income and Net Worth***

486. The nominee estimated her net worth to be Kshs. 156,000,000 with the source of income being salary and allowances; immovable property, motor vehicles, shares in SACCOs and dairy farming.

#### ***Academic and Professional Qualifications***

487. The nominee holds a Masters Law Degree in Sustainable International Development from University of Washington, Seattle; a Postgraduate Diploma in Law from the Kenya School of Law and a Bachelor's Degree in Law from the University of Nairobi. She attended the Kenya High School and sat for the Kenya Certificate for Secondary School 1998. She attended Ole Ntutu Arid Zone Primary School for her Kenya Certificate for Primary Education in 1993 where she emerged as the top girl in the school that year.

### ***Employment Record***

488. The nominee is a nominated Senator from September 9, 2022 to date. She previously served as a Member of the National Assembly as the Woman Representative for Narok County between April 2013 and August 2022. She served as the First Chairperson in the Speaker's Panel in the 12<sup>th</sup> Parliament. Further, she also served as a Land Law and Gender Specialist/ Consultant with the USAID Justice Pilot Project between January 2011 to July 2012; as a Land Law and Gender Specialist/ Consultant USAID, Kenya with the Pro-Mara Project between November 2010 to July 2012; as acting Executive Director/ Legal Aid and Education Coordinator, at the Center for Legal Empowerment/ Kituo Cha Sheria between 2008-2009; as Human Rights Officer/ UN Volunteer Specialist in the Ministry of Justice and Constitutional Affairs in 2008; and as a Land Rights/ Legal Officer with the Mainyoto Pastoralist Integrated Development Organization between June 2004 and August 2008.

### ***Honors and Awards***

489. She was awarded the presidential award Chief of the Order of the Burning Spear (CBS). She was also awarded a scholarship by the University of Washington, Seattle for a Masters of Law Degree in Sustainable International Development (LL.M).

### ***Professional Association and memberships***

490. The nominee is a Member of the Law Society of Kenya (LSK).

### ***Potential Conflicts of Interest***

491. The nominee declared that she currently does not have any persons or matter that would present a potential conflict of interest should she assume the position of Cabinet Secretary for Environment and Forestry. Should a conflict of interest arise, the nominee stated that he would declare the interest in writing to the appointing authority in accordance with the law.

### ***Pro-bono/Charity Work***

492. The Nominee has undertaken litigation, legal aid and civic education on behalf of pastoralist community groups in Narok, Kajiado, Laikipia, Baringo for five (5) years. The nominee has also mentored and facilitated motivational talks for women and girls and children for fifteen



(15) years. The nominee has further been a volunteer Menstrual Health Champion for Girls International for five (5) years.

### ***Integrity***

493. The nominee has also neither been charged in a court of law nor mentioned in any investigatory report of Parliamentary or any Commission of Inquiry in the last three (3) years. She has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

### **3.12.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

494. In order to assess the nominee's overall suitability on the position, the Committee posed several questions to the nominee on his suitability for appointment as follows—

#### ***The Paris Agreement and commitments under the Kyoto Protocol***

495. The nominee informed the Committee that Kenya is party to the Paris Agreement on Climate Change and the Kyoto Protocol on Carbon emissions. She stated that the country has committed to reduce its carbon emissions by 32% by the year 2030. She stated that the country's execution of the commitment is commendable having already enforced a plastic ban and scaled back on exploitation of fossil fuel resource. She further stated that the President has encouraged tree-planting to increase Kenya's forest cover and that she would encourage the adoption of renewable energy sources as a contribution towards meeting the country's commitment.

#### ***Waste Management***

496. The nominee informed the Committee that the country is on the right path with regard to the issue of waste management, having recently passed a Sustainable Waste Management Act that is in its early stages of implementation.

497. She undertook to tackle the issue of waste management by encouraging in line with the underlying principle of reuse, recycle, and reduce outlined in the Act by encouraging segregation of waste at source in collaboration with the county governments manufacturers, and waste management professionals.

498. The nominee stated that she would also encourage the adoption of efficient recycling methods and ensure that manufacturers fulfil their responsibilities with regard to waste management.

499. She further stated that waste may be exploited as a source of employment and, in the case of organic waste, as a source of manure.

#### ***Pollution of rivers***

500. The nominee informed the Committee that she will be hands on the clean-up of rivers which are polluted. A good example is Nairobi River which is a catchment for sewerage and industrial effluent.

### ***On Conservation of Forests and Encroachment into Forest Lands***

501. The nominee stated that she has been on record as a parliamentarian on the issue and that she has championed the conservation of the Mau Forest. She informed the Committee that fencing of the forest and other forests has already begun and that this will settle the question of encroachment.

### ***On Cultivation within Forests/Shamba System***

502. The nominee informed the Committee under the Forest Management Act there is a process for collaboration between Kenya Forest Service and communities adjacent to the forests referred to as the Plantation, Establishment and Livelihood Support (PELIS) to allow locals plant maize or other crops while managing the forests. The process ensures collaboration between the communities and the Kenya Forest Service in the management of plantation forests which form approximately 4% of the country's forests.

### ***On Climate change***

503. The nominee informed the Committee that Climate Change crisis is real. She stated that Environmental conservation is key in mitigating the effects of climate change and that she intends to ensure reduction of greenhouse gas emissions. She undertook to ensure complete domestication of the protocols entered into and ensure that Kenya gains from the same.

504. The nominee further informed the Committee that Kenya is experiencing the effects of climate change in the form of recurrent drought and floods. She undertook to spearhead a tree planting project to help mitigate the effects of climate change.

### ***On Conservation of Forests***

505. The nominee informed the Committee that good collaboration between local communities and the Kenya Forest Service will go a long way in ensuring forest conservation. She stated that there were plans to move from tree planting to tree growing.

### ***On COP 26***

506. The nominee informed the Committee that last year Kenya signed the Declaration on Deforestation and Land Use at the United Nations Climate Change Conference (COP 26). She informed the Committee that establishment and adoption of proper land use plans will require an inter-ministerial approach. Environmental impact assessment must be carried out before embarking in any land use.

### ***United Nations Environment Programme (UNEP) and UN Habitat***

507. The nominee informed the Committee that Kenya hosts the headquarters of both the United Nations Environment Programme (UNEP) and UN Habitat. She stated that hosting the headquarters of the two international bodies presents a huge opportunity, and that she intends to ensure that the country is at the forefront of protecting existing forests, expansion of



afforestation and promotion of sustainable and clean environment to meet agreement towards the country's commitments under the Paris Agreement.

#### ***On Rapid Pollution Growth and Diseases***

508. The nominee informed the Committee that the country is confronted with effects of industrial growth and environmental assessment. She stated that she will treat the matter as a key area of concern, if appointed.

#### ***On Sand harvesting***

509. The nominee informed the Committee that while sand harvesting is a source of income for many Kenyans, it is a key contributor to the drying up of rivers are drying up. She undertook to further interrogate how to sustainably address the issue once in office.

#### ***On Mangrove forests and Baobab trees***

510. The nominee informed the Committee that mangrove forests have become *threatened vegetation*. She stated that there is need to reclaim our Mangrove Forests as they protect coastal communities from harsh weather conditions and are efficient natural carbon sinks that lock and store carbon dioxide at up to five times the rate of tropical rainforests. She further stated that mangrove forests are an important habitat for fish and wildlife and undertook to address the issues on illegal uprooting of Baobab trees in the Coast for export, if appointed.

#### ***On Environmental Assessment/ Skin Disease from Mining Titanium***

511. The nominee informed the Committee that Environmental Impact Assessment (EIA) is a powerful tool for ensuring that environmental issues are given due consideration during project design, allowing the benefits of the project to be maximized, while reducing the environmental and social costs of development.

#### ***On Kenya Forest Service (KFS) Officers lacking medical cover or risk allowance***

512. The nominee informed the Committee that the Kenya Forest Service docket is very wide and performs very crucial functions. She promised to review the current terms of engagement of the KFS officers once in office.

#### ***On noise pollution***

513. The nominee informed the Committee that she will work closely with county government to tackle the menace of noise pollution.

### **3.12.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

514. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, her curriculum vitae and having heard her oral submission during the approval hearing, made the following Observations on



her suitability for appointment as Cabinet Secretary in the Ministry of Environment and Forestry –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since she is a Kenyan citizen born on 24<sup>th</sup> July 1978 in Narok County and does not hold dual citizenship.
- (2) **THAT**, the nominee—
  - (i) is a Nominated Senator in the 13<sup>th</sup> Parliament; and served as the Woman Member of Parliament for Narok County in the 11<sup>th</sup> and 12<sup>th</sup> Parliament (2013 to 2022). Further She served as a Land Law and Gender Specialist/Consultant USAID justice pilot project from January 2011 to July 2012; Land Law and Gender Specialist, USAID Kenya, in the Pro-Mara programme
  - (ii) holds an LLM Degree from the University of Washington (2010); a Diploma in law from the Kenya school of law (2003); Bachelor of law degree with honours from University of Nairobi (2002); a KCSE from Kenya High School (1998). and is also a member of the Law Society of Kenya.
  - (iii) received the award of the Chief of Burning Spear (CBS).
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, although the nominee is a member of United Democratic Alliance, she does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Environment and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Environment & Forestry.

### **3.13 HON. PENINAH MALONZA, OGW – NOMINEE FOR THE POSITION OF CABINET SECRETARY, TOURISM, WILDLIFE & HERITAGE**

515. The nominee, Hon. Peninah Malonza, OGW, appeared before the Committee on Wednesday, 19<sup>th</sup> October, 2022 at 2.30 p.m. and was vetted under oath pursuant to Article 152(2) of the

Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following -

### ***Citizenship, Date and Place of Birth***

516. The nominee is a female Kenyan born on 7<sup>th</sup> March, 1974 in Kitui County. The nominee confirmed that she is a citizen of Kenya by birth and does not hold any dual citizenship.

### ***Academic and Professional Qualifications***

517. The nominee is currently pursuing a Master's Degree in Public Health at the University of Nairobi. In 2015, she holds a Masters Degree in Project Planning and Management, 2008 from the University of Nairobi, she also holds a Bachelor of Arts Degree in Anthropology at the University of Nairobi (1998). She also undertook a course in Economic Recovery Models at Kyungwoon University, Saemaul Academy (2015) and Community Leadership MAS level 2 at the Global University, USA (2010). The nominee is a Member of Kenya Association of Professional Counsellors having obtained a Diploma in Psychological Counselling (2006).

### ***Employment Record***

518. The nominee was Deputy Governor for Kitui County between 2013 and 2017. In 2012/2013, she served as Partner Training and Support Senior Director with Compassion International-Kenya; Between 2010-2012, she was the Senior Program Supervisor at Compassion International- Kenya; between 2009 to 2010, she was the Program Supervisor at Compassion International-Kenya; between 2006 and 2009, worked as Program Facilitator at Compassion International Kenya; and she was the Project Director at Changamwe Baptist Church in the year 2002 to 2006. She also served as Project Coordinator at AMREF- Kenya.

### ***Honors and Awards***

519. The nominee was awarded Pioneer Starter Women SACCOS, Kitui County in 2013-2017; and awarded the Order of Grand Warrior (OGW) in 2015. Further, she was recognized as the Top Team Performer by Compassion International Performance Appraisal (GALLUP); and Long Life Learning by Gull University, California Masters Pathway Level 2.

### ***Income and Net Worth***

520. The nominee estimated her net worth to be Kenya Shillings Three Hundred Million, with sources of income including donations from family and friends.

### ***Professional Association and memberships***

521. The nominee was a member of the Kenya Association of Women Governors (KENWOG) where she served as secretary between the years 2015 and 2017. She was also a member of the Kenya Association of Deputy Governors where she served as the interim treasurer in the year 2013.

### ***Published Writings***

522. The nominee has no published works.

### ***Potential Conflicts of Interest***

523. The nominee declared that she currently does not have any persons or matter that would present a potential conflict of interest should she assume the position of Cabinet Secretary for Ministry of Tourism, Wildlife and Heritage. She committed to adhere to the tenets of the Constitution of Kenya 2010, and the relevant Legislations and that she would declare her finances, recuse herself from discussions, proceedings, or debates that she could have interest in as well as sign the Public Officers' Service Code of Conduct and Ethics.

### ***Pro-bono/Charity Work***

524. The nominee is involved in various works of charity which include: donating computers and printers worth Kshs100,000 to Mariamu Women Sacco; donation of a greenhouse worth Kshs. 650,000 to City of God Children rescue Centre; donation of 10 sewing machines to JCC Mwenga Orphans Centre and the nominee offered a Sponsorship amounting to Kshs700,000 to Youth and Community Leaders Conference.

### ***Integrity***

525. The nominee has also neither been charged in a court of law nor mentioned in any investigatory report of Parliamentary or any Commission of Inquiry in the last three (3) years. She has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

## **3.13.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

526. The Committee posed several questions to the nominee on her knowledge of the Public Service. The nominee responded as follows:

### ***On Restoring Kenya reputation as one of the best tourism destinations in the world***

527. She informed the Committee that she purposed to promote domestic tourism through marketing of the country as a possible tourist destination.

528. She further stated that she would work towards ensuring automation of revenue collection avenues as well as build capacity by ensuring collaboration between the two levels of Government.

### ***Clarification on deferred income:***

529. On Sale of land valued at Kshs. 50, 000,000 in 2026: The nominee informed the Committee that she had a vast knowledge on matters land from previous engagements and that's why she was able to project the likely value of the land in 2026 to approximately Kshs. 50,000,000



530. On Deputy Governor House Allowance of Kshs. 4.8 million, she informed the Committee that the Kshs. 4.8 million, was money owed to her by the County Government of Kitui.

531. On Sources of income (*Donation from friends and family estimated at Kshs 10,000,000*) as indicated in her questionnaire, the nominee informed the Committee that this was donated to her to finance her political campaigns.

#### ***On the fall out with her Governor of Kitui County***

532. On her fall out with her governor of Kitui County where she had made unpalatable remarks while addressing the public in Kitui County, the nominee indicated that her remarks were taken out of context.

#### ***On Promotion of domestic/regional Tourism***

533. The nominee informed the Committee that she would endeavour to market Kenya locally and globally, open up Kenyan borders to regional tourists, and increase Kenya's digital and media presence as a tourist destination. She would also ensure attractive and subsidized park entry fees to attract local tourists.

534. On diversification of tourism including encouraging domestic tourism and people from the regional, the nominee indicated that the current administration was keen on advancing a policy proposition of removing travel restriction in line with the EAC treaty. She further indicated that she will spearhead e-marketing of Kenya as a tourist destination. She undertook to market KICC as a meeting, incentive, conference and exhibition centre.

#### ***On Implementation of tourism policies especially the open sky policy to ensure Kenya hits the 10 million mark***

535. The nominee informed the Committee that she will commit herself to ensure implementation of policies that will encourage international tourism to Kenya. The nominee further stated that she would collaborate with the Ministry of Foreign Affairs to market Kenya in foreign missions as a world class tourist destination. She undertook to engage the Ministry of transport to bring back chartered planes.

#### ***On Mitigation measures against Human wildlife conflict and Delayed Compensation of Human-wild life conflict victims***

536. The nominee informed the Committee the she will work with the relevant House Committee to explore possibility of an increase in budget allocations as well as devise long term strategies geared towards ensuring sustainability of the Fund through the use of insurance, utilisation of carbon credit and compensation of victims of human wildlife conflict from the compensation Fund.

#### ***On Conservancies***

537. The nominee informed the Committee that she will devote to look at existing reports on the same to ascertain the current status of conservancies in the country.

***On Corridor in Meru National Park to allow trade between neighboring communities***

538. The nominee informed the Committee that she will engage stakeholders and assess the possibility of facilitating trade between neighbouring communities on the Meru National Park corridor.

***On How to deal with factors that are negatively impacting on Tourism in Kenya***

539. The nominee informed the Committee that she would reach out to existing traditional markets as well as emerging markets such as China and leverage on other tourist attractions such as cultural and other adventure activities to optimise our Country's potential.

***On Strategies to address the poaching menace and shortage of staff especially the game wardens***

540. The nominee informed the Committee that she will consider engaging community scouts to assist in surveillance and bridge the gap of staff shortage. Further she proposed to leverage on drone technology to manage wildlife and also improve border patrols.

***On devolving national parks to County Governments***

541. The nominee informed the Committee that this is an issue that requires legislation as the existing laws do not permit the management of national parks under county governments as regards the delineation of functions between national and county governments.

***On Delisting of Snakes, Baboons and wild pigs from the compensation list***

542. The nominee undertook to revisit the issue of delisting snake bites and attacks by wild pigs with a view to ensure that claims of snake bites and attacks by wild pigs were payable.

**3.13.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

543. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, her curriculum vitae and having heard her oral submission during the approval hearing, made the following Observations on her suitability for appointment as Cabinet Secretary in the Ministry of Tourism, Wildlife and Heritage –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since she is a Kenyan citizen born on 7<sup>th</sup> March 1974 in Kitui county and does not hold dual citizenship.
- (2) **THAT**, the nominee—
  - (i) is the former Deputy Governor for Kitui County having served since 2013 until 2017; former partner training and support Director for Compassion International



Kenya office during the period 2012 to 2013 and also served as a programme supervisor of Compassion International during the period 2010 to 2012; Senior programme facilitator during the period 2009 to 2010 and programme facilitator during the period 2006 to 2009 for Compassion International. The nominee also served as project director for Changamwe Baptist Church between 2002 and 2006. She also served as a project coordinator for AMREF-Kenya at Kibera based health community care programme in 1999.

- (ii) Holds a Masters in Project Planning and Management (2008); Higher Diploma in Psychological Counselling Management (2007); and a Bachelor of Arts in Anthropology from University of Nairobi (1998). She also has done several short courses.
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, although the nominee is a member of United Democratic Alliance Party, she does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee did not demonstrate knowledge of topical, administrative and technical issues touching on the Ministry of Tourism, Wildlife and Heritage. Consequently, the nominee lacks requisite abilities and experience to serve as the Cabinet Secretary for Tourism, Wildlife and Heritage.

### **3.14 MR. ZACHARIA MWANGI NJERU – NOMINEE FOR THE POSITION OF CABINET SECRETARY, LANDS, HOUSING & URBAN DEVELOPMENT.**

544. The nominee, Mr. Zacharia Mwangi Njeru, appeared before the Committee on Wednesday, 19<sup>th</sup> October, 2022 at 4.11 p.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:

#### ***Citizenship, Date and Place of Birth***

545. The nominee is a male Kenya born on 7<sup>th</sup> March 1974 in Nakuru County. The nominee submitted that he was a Kenyan citizen and did not hold any other citizenship.



### ***Academic and professional qualifications***

546. The nominee is currently undertaking a Master of Arts in Public Administration and Management in Mount Kenya University from 2015 to date. The nominee holds a Bachelor of Science in Information Science from Moi University. The nominee attended Bondeni Primary school in Nakuru, Nakuru Day Secondary School and Nyandarua High School. The nominee specialized in records and archives management.

### ***Work and professional experience***

547. The nominee worked in the Insurance industry with Madison Insurance Company and Blueshield Insurance Company (1998 to 2007). He rose through the ranks to become Regional Manager, Rift Valley Region at BlueShield Insurance Company. The nominee was a nominated Councilor in the defunct Municipal Council of Nakuru (2008 to 2013). Currently, the nominee is a Sub -County Administrator, County Government of Nakuru.

### ***Sources of income and net-worth***

548. The nominee submitted that he was worth eighty (80) million Kenyan shillings ranging from residential home, investments groups and Sacco's, with the source of income, being active employment salary and dividends.

### ***Integrity***

549. The nominee has also neither been charged in a court of law nor mentioned in any investigatory report of Parliamentary or any Commission of Inquiry in the last three (3) years. She has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

#### **3.14.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

550. The Committee posed several questions to the nominee on his knowledge of and plans for the lands and Housing portfolio. The nominee responded as follows:

#### ***On Undertaking of a Master's program from 2015 to date***

551. The nominee informed the Committee that he was done with the course work but was unable to complete the writing of thesis due to some unavoidable circumstances that included work engagements. He undertook to prioritize completing the program.

#### ***On Land fragmentation and sub-division***

552. The nominee submitted that he will collaborate with county governments to ensure their plans conform to the National Spatial Plan of the Ministry. The nominee noted that areas designated as large-scale farming should be left for farming and not sub-divided.

***On Civil Cause No. 09 of 2012 – Mr. Joseph Wachira Kanoga v/s Mr. Zacharia Mwangi Njeru – respondent.***

553. On the Civil Cause No. 9 of 2012, the nominee confirmed that he was indeed involved in an accident which he reported to the police upon which the matter took a legal process under the principle of subrogation.

#### ***On Public land grabbing***

554. The nominee submitted that he would look at the processes and procedures under which title deeds of parcels of land allegedly grabbed have been obtained. He also stated that he would follow the laid down procedures to cancel such titles through the courts should it be established that such titles had been fraudulently obtained.

#### ***On Reports by previous Commissions on the land sector***

555. The nominee committed that the Ministry will take appropriate action on the recommendations made by previous commissions set up to reform the land sector.

#### ***On Digitization of land records***

556. The nominee submitted that the Ministry will continue with the digitization of land records commenced by the previous administration.

#### ***On Informal settlements***

557. The nominee informed the Committee that the Ministry will embark on upgrading of slum projects in its quest to expand affordable housing.

#### ***On affordable housing for rural residents***

558. The nominee informed the Committee that there exists a fund known as Rural Housing Loan Fund under the National Housing Corporation (NHC) set aside to advance loans to the rural population for construction of houses.

#### ***On Incentives put in places to make housing affordable***

559. The nominee submitted that the Ministry will provide infrastructure such as sewer, water, electricity connection and where possible, land for construction of affordable houses by the private sector.

#### ***On Conflict between the National Land Commission (NLC) and the Ministry***

560. The nominee appreciated that both the Commission and the Ministry were in place to deliver services to Kenyans and undertook that the Ministry will work cordially with the Commission for the interest of Kenyans.

561. On how to resolve the perennial tension between the NLC and the Ministry of Lands and whether he understood the specific mandates of each, the nominee acknowledged knowing the

mandates of the National Land Commission and the Ministry and undertook to work on resolving the challenges.

### ***On Land and dispute boundaries***

562. The nominee submitted that the Ministry will resolve boundary conflict by undertaking demarcation while involving the locals in dispute.

### ***On Involvement of KDF and NYS officers in digitization of land records***

563. The nominee informed the Committee that he was aware of the presence of KDF officers in Ardhi House. He committed to the Committee that upon assumption of office, all the functions of the Ministry will be undertaken by the civilian professionals in the Ministry.

564. The Committee indicated to the nominee that he should consider the following priority areas should he be approved by the House: dealing with unregulated land fragmentation; secure integrity and sanctity of the land title and provide policy direction to address corruption in the titling department.

565. The nominee assured the Committee that if approved he will reform the land sector and deliver services to Kenyans in accordance with the Constitution and all other enabling legislations.

### **3.14.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

566. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following observations on his suitability for appointment as Cabinet Secretary in the Ministry of Lands, Housing and Urban Development: –

(1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 7<sup>th</sup> March 1974 in Nakuru County and does not hold dual citizenship.

(2) **THAT**, the nominee—

(i) is a Sub County Administrator Nakuru County, he served as Chairman Finance and General Purpose Committee and Public Health and AIDS Committee in the defunct Municipal Council of Nakuru: he has also previously served as the Regional Manager, Blueshield Insurance, Rift Valley (2001-2002), Business Development Manager, Madison Insurance in Eldoret and as a Sales Administration-DT Dobie Kenya.

(ii) holds a Master of Arts in Public Administration and Management from Mount Kenya University (2015); Bachelor of Science in Information Science from Moi University Eldoret (1993). He also attended Nyandarua High School (1988) and Nakuru Secondary School (1984). He also has undertaken short courses



certification in Strategic Leadership Development Programme(2017) and Senior Management Course (2016) from the Kenya School of Government

- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Lands, Housing and Urban Development and has requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Lands, Housing and Urban Development.

### **3.15 MS. SUSAN NAKHUMICHA WAFULA – NOMINEE FOR THE POSITION OF CABINET SECRETARY, HEALTH.**

567. The nominee, Ms. Susan Nakhumicha Wafula, appeared before the Committee on Wednesday, 19<sup>th</sup> October, 2022 at 6.00 p.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following

#### ***Citizenship, Date and Place of Birth***

568. The nominee is a female Kenyan born on 5<sup>th</sup> January, 1979 in Kericho County. The nominee submitted that she was a Kenyan citizen and does not hold any other citizenship.

#### ***Academic and Professional Qualifications***

569. In 2015, she graduated with a Master of Science Degree in Procurement and Logistics from Jomo Kenyatta University of Agriculture & Technology. In 2012, she attained a Bachelor of Science degree in Purchasing and Supplies Management from Jomo Kenyatta University of Agriculture and Technology. Further she graduated with a Diploma in Healthcare Management in 2006 from Kenya Institute of Supplies and Management. In 2000, the nominee attended Kenya Medical Training College and trained as a pharmaceutical specialist.

#### ***Employment Record***

570. The nominee has worked in various institutions including 54 Gene Research and Discovery Ltd as a Consultant; the Ministry of Health as a Consultant; Global Programs for Research and Training from 2017 to date as head of Supply Chain; The Kitale National Polytechnic as a Council Member; The Nairobi Women Hospital, where she was in charge of procurement for end-to-end supply; AAR Healthcare Ltd in Kisumu County; Acacia Hospital; Westlands Medical Centre; Lemuma Pharmacy. She has also served as Director at Geosan Solutions Ltd.

#### ***Income and Net Worth***

571. The nominee estimated her net worth to be Kshs. 101, 725,563. She stated her sources of income include her salary, consultancy fees and Sacco Dividends.

#### ***Professional Association and memberships***

572. The nominee is a member of Kenya Institute of Supplies Management; Catholic Women Association; Syokimau Residents Association; and the Kitale Club. She was a member of Kenya Pharmaceutical Technologists Association up to 2007.

#### ***Published Writings***

573. The nominee has authored a publication titled '*Agile Vendor Relationship Management and Procurement Performance of Non- Governmental Organizations in Kenya*'.

#### ***Potential Conflicts of Interest***

574. The nominee declared that she currently is not associated with any persons or matter that would present a potential conflict of interest should she assume the position of Cabinet Secretary for Ministry Health.

#### ***Pro-bono/Charity Work***

575. The Nominee has participated in various works of Charity including building 10 houses for widows in Trans Nzoia County worth Kshs. 500,000; Donating foodstuff to vulnerable families in Kitale during the COVID Pandemic worth Kshs. 1,000,000; Donating Personal Protective Equipment worth Kshs. 600,000; Fundraising for various church projects estimated at Kshs. 3,000,000; Payment of fees for needy children estimated at Kshs. 800,000; and, sponsoring football tournaments estimated at Kshs. 2,500,000.

#### ***Integrity***

576. The nominee has also neither been charged in a court of law nor mentioned in any investigatory report of Parliamentary or any Commission of Inquiry in the last three (3) years. She has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.



### **3.15.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

577. In order to assess the nominee's overall suitability on the position, the Committee posed several questions to the nominee on his suitability for appointment as follows—

#### ***On Fragmented overlapping schemes in the health sector***

578. The nominee acknowledged that fragmentation of schemes within the National Hospital Insurance Fund undermines the effectiveness of the Fund. Schemes such as Linda Mama, Afya and the Civil Servant Scheme undermine the risk pooling benefit that health insurance is required to provide. She stated that her plan to prevent the fragmentation is to consolidate the schemes and require the payment to be per household and not per person.

#### ***On Clarification on if she is a doctor***

579. When asked to clarify if she is a doctor, the nominee stated that she had obtained her Degree in Pharmacy from a university in Turkey, but she was not registered under the Kenya Pharmacy and Poisons Board. For her to be registered, she needed to undertake more training which she had not managed to do.

#### ***On Schedule of what constitutes her net worth***

580. The nominee clarified to the Committee that the shares and dividends in her net worth schedule relate to savings in two different SACCOs that makes up the Kshs. 1.5 million.

#### ***On Procurement issues at KEMSA***

581. On her opinion about the ineffectiveness of procurement in KEMSA, the nominee stated that the major issue with KEMSA is quantification. She further stated that KEMSA uses a push system for procurement which affects quantification leading to the procurement unjustified inventory that goes to waste when not used. She informed the Committee of her plan to use a different procurement model to avoid the quantification issues, if approved.

#### ***On Cost of drugs***

582. The nominee attributed the high cost of drugs to poor quantification at KEMSA resulting in the purchase of wrong quantities of drugs at wrong prices. She proposed the promotion of local manufacturing of drugs such as Paracetamol as a means of reducing the cost of drugs.

#### ***On The plight of community health workers***

583. The nominee stated that the rest of the country needs to learn from counties such as Kisumu County which has experienced tremendous success with community health volunteers. The county provides stipends for volunteers, something which the Government can match to promote success in other counties. She further stated that she intends to work with County governments to ensure the workers recruited in 2021 are absorbed, if appointed.



### ***On dealing with corruption at the Ministry***

584. The nominee assured the Committee that she is able to dismantle cartels in the sector, if approved. She stated that she understands how cartels work and will employ the P<sup>2</sup>R<sup>2</sup> (Procedure and process/ Rules and regulations) plan to effectively combat them. Additionally, she stated that collaborate with Parliament to ensure the amendment of procurement laws and passage of regulations to assist in dealing with procurement issues in the sector.

### ***On Health Sector issues at the county level***

585. The nominee informed the Committee that although health is devolved, there are interventions that ensure the Ministry is conversant with challenges at the counties. She stated that the Intergovernmental Health Forum brings together all Health CECs and the Ministry to discuss any challenges and inform the Council of Governors for development of formidable solutions. She also outlined her plans to involve health care professionals in decision making to address the issues arising at the county level.

### ***On Interventions for proper working of NHIF***

586. The nominee informed the Committee that out of the 19 million people in the country's workforce, only 1million are in public sector and 2 million in private sector. Most of the population is in informal sector and very few from the sector are insured. She stated that the Government targets to enroll more people in the informal sector into NHIF. Further, she stated that the Government intends to focus more on promotive and preventive health care to ease the burden on curative health care.

### ***On leasing of medical equipment***

587. The nominee informed the Committee that she saved costs on equipment while working at the Nairobi Women Hospital where she sourced for equipment from manufacturers at zero costs by agreeing on a revenue sharing mechanism. She stated that business outsourcing allows hospitals to focus on their core mandate by providing equipment through proper revenue sharing agreements.

### ***On tussle between Kenyatta University and Kenyatta University Teaching, Referral and Research Hospital***

588. On the issue of management of the Kenyatta University Teaching, Referral and Research Hospital by the Kenyatta University, the nominee stated that the matter was before the court and she cannot comment on it.

### ***On the Health Service Commission***

589. The nominee acknowledged the need for a Commission for health care professionals to handle the welfare and human resource issues of health care professionals. She stated that the Government through Executive Order No. 001 of 2022 has created a State Department for

Health Standards and Health Professional Management that will develop a policy on establishing the Commission.

***On concerns about consumption of GMO food***

590. Following the lifting on the ban on GMO crops and food, the nominee stated that there was need to enhance the mandate of the Kenya Pharmacy and Poisons Board to include regulation of food and determine its fitness for consumption in the same manner that the Food and Drugs Authority in the USA does.

***On plans for Mental Health***

591. The nominee informed the Committee that currently only 14 counties have Mental health departments within their facilities. She stated that if appointed, she will be plans to integrate mental health into primary health care and intends to eliminate the stigma associated with mental health.

***On counterfeit drugs***

592. On her plans for dealing with counterfeit drugs, the nominee stated that she will enhance public private partnerships to ensure drugs listed in the Kenya Essential Drugs List are tested to ensure that the molecules are fit for consumption.

***On public health interventions***

593. She informed the Committee that public health policy is a National Government role while implementation is a county government role. She undertook to study all laws and regulations affecting the sector and to promote their implementation.

***On disparity in NHIF Disbursements***

594. The nominee acknowledged that NHIF disburses more funds to private hospitals and stated the need for a root cause analysis to determine why patients prefer private hospitals over public hospitals. She underscored the need to ensure public hospitals are well equipped and staffed.

***On Sexual and reproductive health***

595. The nominee stated that there is need to enhance sex education in schools to prevent the prevalence of teenage pregnancies. She also acknowledged that the National prevalence level for HIV/AIDs is coming down and she intends to build on current efforts to combat the virus and its effects.

***On tussle GMO regulation***

596. The nominee stated that the functions of the National Quality Control Laboratory and the Kenya Pharmacies and Poisons Board as regards to GMO registration and testing are not clear. She proposed transformation of the Board into a testing Authority to help address the matter.

### *Roadmap for delivering Universal Health Coverage*

597. The nominee stated that the Kenya Kwanza plan on implementing Universal Health Coverage shall involve the roll-out of a Rapid Response Initiative to promote enrolment of people working in the informal sector to NHIF to deal with the cost of health care. According to the nominee, mandatory enlisting into NHIF will help prevent occurrences such as retention of patients and bodies in health care facilities due to unpaid bills.

598. The nominee further stated that healthcare professionals are regulated under KPMDU and that she intended to regulate the cost of drugs to prevent overpricing.

### *Pilferage of medical resources and diversion to private sectors*

599. The nominee undertook to scale up the quality of medical services and ensure that doctors are paid for actual work done. She stated that the Health Service Commission will handle human resource matters to ensure that doctors provide the services they have been hired for.

#### **3.15.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

600. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, her curriculum vitae and having heard her oral submission during the approval hearing, made the following Observations on her suitability for appointment as Cabinet Secretary in the Ministry of Health: –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since she is a Kenyan citizen born on 5<sup>th</sup> January, 1979 in Kericho County and does not hold dual citizenship.
- (2) **THAT**, the nominee—
  - (i) Has since August 2017 to date been Head of Supply Chain/Global Programs, Affiliate University of California, San Francisco; from January 2014 to May 2016 the Procurement and Logistics Manager Nairobi Women Hospital; from August 2013 to November 2013 the Supply Chain Intern, Kenya Medical Supplies Agency (KEMSA); from January 2012 to February 2013 been the Purchasing Manager at Mission for Essential Drugs and Supplies (MEDS); and from May 2009–December 2011 been the Procurement Officer–Mission for Essential Drugs and Supply (MEDS).
  - (ii) From 2019 to date has undertaken a PhD in Business Management; Operations Management and Logistics and Supply Chain Research; holds a Master's of Science in Procurement and Logistics from Jomo Kenyatta University Eastern Africa; Bachelor of Purchasing and Supplies Management (1st Class Honours) from Jomo Kenyatta University of Agriculture and Technology; Diploma in Healthcare Management–Kenya Institute of Management; Bachelor of Science, Pharmacy–EGE University, Republic of Turkey; and a Diploma in Pharmacy.



- (3) **THAT**, the nominee meets the requirement of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, although the nominee is a member of Ford-Kenya Party, she does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Health and has requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Health.

### **3.16 HON. FRANKLIN MITHIKA LINTURI – NOMINEE FOR THE POSITION OF CABINET SECRETARY, AGRICULTURE & LIVESTOCK DEVELOPMENT.**

601. The nominee, Hon. Franklin Mithika Linturi, appeared before the Committee on Friday, 21<sup>st</sup> October, 2022 at 9.00 a.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee took note of the following -

#### ***Citizenship, Date and Place of Birth***

602. The nominee is a male Kenyan born in 1969 in Igembe South Constituency of Meru County. The nominee confirmed that he was a Kenyan citizen by birth and didn't hold any other citizenship.

#### ***Academic and Professional Qualifications***

603. The nominee holds Bachelors of Law Degree from the University of Nairobi and is also a Certified Public Accountant.

#### ***Employment Record***

604. The nominee is the immediate former Senator for Meru County having served from 2017 to 2022, and was also a Member of the National Assembly, Igembe South Constituency from 2007 to 2017. The nominee was the Director of the following companies; Atticon Limited, Arkchoice Limited, Gem – CM Construction Limited, Max Health Pharmacy Limited and Ushindi Credit Limited.

### ***Honors and Awards***

605. The nominee was not a recipient of any Honors or Awards.

### ***Income and Net Worth***

606. The nominee submitted that he was worth Ksh. 1.2 billion ranging from shares in Investments companies, shares in Saccos, properties and vehicles, with sources of income including rental income and dairy farming business. The nominee's expected income includes court awards, and damages from EACC for wrongful prosecution.

### ***Professional Association and memberships***

607. The nominee was not a member of any professional association.

### ***Published Writings***

608. The nominee has no published works.

### ***Potential Conflicts of Interest***

609. The nominee had no potential conflict of interest.

### ***Pro-bono/Charity Work***

610. The Nominee was involved in charity work as follows: Paying of school fees for 39 needy students to the tune of Ksh. 1.2 million per term; Weekly distribution of food and water to poor households in Meru County; Participation in Church and School harambees in Meru County; and creating of cancer awareness in Meru County through Mulika Cancer Mashinani Foundation.

### ***Integrity***

611. The nominee has been charged in a court of law but has never been convicted in the last three (3) years. The nominee has not been mentioned in any investigatory report of Parliamentary or any Commission of Inquiry in the last three (3) years. She has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

## **3.16.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

612. The Committee posed several questions to the nominee on his knowledge of and plans for the Agriculture and Livestock portfolio. The nominee responded as follows: -

### ***On plans to ensure farming is profitable with predictable income***



613. The nominee informed the Committee that he will implore on educating farmers on which crops grow best in which part of the country for maximum yield productivity. Further, he undertakes to educate the youth on the importance of farming and implore on the whole community to embrace farming and not see it as a form of punishment or hard labor. The nominee also averred collaborating with country governments on mechanisms to increase agricultural yields as agriculture was devolved. He also noted that subsidizing farm inputs such as seeds and fertilizer to increase production and embracing the Warehouse Receipts System, which allows farmers to store their farm produce in licensed warehouses and thereafter be issued with corresponding receipts would go a long way in making farming profitable. The receipts will allow farmers to trade with their commodities.

#### ***On plans to dismantle the monopolistic milk cartels in the dairy sector***

614. The nominee informed the Committee that he would advocate for value addition by investing in milk processing factories to guarantee farmers good returns, thereby eliminating middlemen who hold milk farmers at ransom with their raw milk. He would also adopt a technology for farm produce prices. This will enable farmers to access markets that fetch the highest returns for their produce. Finally, he would create a data base and e-platform for farmers. The platform registers farmers and the type of produce they are farming. The platform directly links customers to producers and eliminates middle men and brokers.

#### ***On academic certificates***

615. On the request by the Committee that the nominee does submit his Bachelor's Degree from Marathwada University in India, the nominee responded as follows—

- (1) That there exists a Court Order barring and restraining the nominee from accessing his residence. In this regard, the nominee did not submit the Bachelor's Degree as he stated that he could not access his academic documents in particular the Bachelor's Degree from Marathwada which was at his residence.
- (2) The nominee submitted the Order of the Court to the Committee. The Order was made by the Chief's Magistrate Court at Milimani in Misc. Application No. 1044 of 2018 *Marianne Jebet Kitany versus Franklin Mithika Linturi* on 1<sup>st</sup> February, 2019; and
- (3) The Orders of the Court granted the applicant exclusive use of the resident at Mae Ridge Country Villas and excluded the nominee from the said residence.

616. On the allegations that the nominee had allegedly forged the Bachelor's Degree from Marathwada University in India, the nominee responded as follows—

- (1) That the issue of the authenticity of the academic documents of the nominee in particular the Bachelor's Degree from Marathwada University was subject of active civil proceedings in the High Court of Kenya in Constitution Petition No. E122 OF 2022 *Michael Makarena versus the DCI, DPP, EACC and the Honourable Attorney-General and other interested Parties*.
- (2) According to the pleadings submitted by the nominee, the Petitioner, a resident in Meru County had filed the constitutional petition seeking orders that the



Respondents had neglected to undertake their respective constitutional mandate. The Petitioner also sought a judicial review order of Mandamus compelling the DCI and EACC to carry out sufficient investigations on, among other things, the authenticity of the academic documents obtained by the nominee from Marathwada University; and

- (3) That the civil proceedings are active in court and the case is set for hearing on 4<sup>th</sup> November, 2022 and hence the matters was *sub judice*.

617. On the question of whether the Bachelor of Laws Degree from the University of Nairobi was under investigations by the University of Nairobi, the nominee stated that the Bachelor's Degree was not subject to any investigation by the University of Nairobi.

### ***On forgery allegations***

618. On the allegations that the nominee through forgery and fraud obtained loan facilities from a financial institution, the nominee submitted two judgements exonerating him of any wrong doing with regards to forgery of signatures of shareholders relating to securing of loans without the consent of shareholders in his companies.

619. In particular, the nominee submitted the ruling of the High Court in Civil Case No. E138 of 2018 **Barons Estate Limited versus Atticon Limited, Franklin Mithika Linturi and four others**. The ruling was based on among other grounds that the nominee in collaboration with others colluded to utilize the securities to secure an unauthorized credit facility amounting to Kshs. 335,000,000/- by way of overdrafts, bank guarantees, enhanced trade facility and temporary excess funding without any input from the Plaintiff on the strength of unscrupulous board resolutions.

620. To this end, the Court held that the Plaintiff did not establish that the guarantee was limited to Kshs. 50 Million and although the applicant had claimed that the respondents colluded and engaged in fraudulent transactions to its detriment, no material was placed before the court to show that any such illegal dealings took place.

621. The nominee also submitted the judgement of the High Court in Constitutional Petition No. E068 of 2021 **Hon. Franklin Mithika Linturi, Emily Nkirote Buntai & Atticon Limited versus the Director of Public Prosecutions, Director of Criminal Investigations, the Attorney-General & MJK**. The judgement was based on a case involving a complaint by the Petitioners lodged with the DCI which was that the Petitioners in October, 2018 had discovered fraudulent changes relating to the fraudulent change of directorship of Atticon Limited, the 3<sup>rd</sup> Petitioner in the case and subsequently notified the Registrar of Companies and the DCI.

622. The High Court held that the DCI did not investigate the Petitioners' complaint lodged with them and directed the DCI to act on the complaint and forward its findings to the DPP within 90 days during which the DPP and DCI would not charge or arrest the Petitioners.

### ***On attempted rape***

623. On the issue raised in the affidavit by Ms. Sheila Masinde that the nominee had been accused and charged with the offence of attempted rape on 30<sup>th</sup> January 2021, the nominee responded as follows—

- (1) That the Chief Magistrate's Court in ***Criminal Case No. E007 of 2021, Republic versus Franklin Mithika Linturi***, discontinued the proceedings against the nominee for the charges of attempted rape and indecent act with an adult pursuant to section 204 of the Criminal Procedure Code as read with section 40 of the Sexual Offences Act No. 3 of 2006;
- (2) That the complainant in the criminal case, Ms. Berly Akoth Owondo had also sworn an affidavit in support of the withdrawal and termination of the proceedings;
- (3) That the complainant had reflected on the facts and circumstances of the case had voluntarily decided to unconditionally withdraw the complaint against the nominee;
- (4) That the criminal proceedings against the nominee were discontinued following the withdrawal of the complaint by the complainant and the application by the Prosecution and his advocate; and
- (5) That the nominee does not have any criminal case against him. However, he observed that he has thirty-five cases in court, all of which were civil in nature.

### ***On plans to revive the sugar companies in the country***

624. The nominee submitted that he will open discussions with the relevant stakeholders in the industry with a view of coming up with policies of revitalizing the sugar sector and achieving maximum profit for the cane farmers. A case in point could be privatization of the sugar companies for profit maximization.

### ***On separation of the Irrigation docket from the Ministry of Agriculture***

625. With regards to the irrigation docket being domiciled in another docket, the nominee submitted that Cabinet works collectively and irrespective of the Ministry in charge, the government will utilize irrigation to boost agricultural production as the country could no longer rely on rain-fed agriculture due to vagaries of weather and climate change resulting to prolonged and unpredictable drought. Further he noted that the government was planning to construct 100 dams that will be used for irrigation.

### ***On withdrawal of the motion on the impeachment of the Cabinet Secretary for Devolution and Planning during the 11<sup>th</sup> Parliament***

626. Regarding his failure to move the motion on the impeachment of the then Cabinet Secretary for Devolution and Planning in 2014, the nominee submitted that he was under duress and coerced to sign the letter to withdraw the motion.

### ***On leveraging on the Warehouse Receipt System***

627. The nominee submitted that for the country to increase its Gross Domestic Product (GDP) using agriculture; the Ministry plans to leverage on the use of Warehouse Receipt Systems

(WRS) and roll it out countrywide. Licensed warehouses were supposed to mop up agricultural produce, store it and issue corresponding receipts to farmers. Farmers could then trade on the receipts and even exchange commodities.

#### ***On food sustainability***

628. The nominee indicated that the Ministry will collaborate with county governments to initiate county food reserves across the counties. A framework will be put in place to realize this initiative.

#### ***On repealing the AFFA Act, 2013***

629. As regards to whether Agriculture, Fisheries and Food Authority (AFFA), Act, 2013 was meeting its intended objectives or otherwise, the nominee indicated that the Ministry would engage stakeholders to look in to what was ailing the Act and if it would become apparent that the Act may require amendments to achieve its intended objectives, then the Ministry will engage Parliament for necessary legislative measures.

#### ***On livestock and fish farming***

630. The nominee informed the Committee that the Ministry will play a pivotal role in making livestock and fish farming as an economic mainstay of the country. The Ministry will come up with livestock masterplan and introduce saline agriculture to grow pasture in arid and semi-arid counties. The Ministry will also collaborate with counties to construct abattoirs and leverage on livestock insurance. The government will introduce off-take programs during drought so that livestock farmers can sell their animals to the government.

631. The government will also explore production and supply of fingerlings to help the fish farmers in the country.

#### ***Cushioning of Kenyans and farmers from ravaging drought***

632. The nominee submitted that the government was planning on distribution of relief food to the vulnerable as an immediate measure and embracing irrigation as a long-term plan. The government also intended to train and transfer knowledge to the youth to embrace agriculture and employ Agricultural Extension Officers in collaboration with the county governments. Further, the nominee indicated that the government also planned to reintroduce the 4K clubs in primary schools to inculcate the importance of agriculture to the young. Finally, the government also planned to embrace coconut, cashew-nut, pyrethrum and other cash crop farming and extend assistance to farmers.

#### ***On use of GMO products:***

633. As regards to the use of GMO products, the nominee informed the Committee that the research that was done in France that found use of GMO products to be harmful has since been rescinded and use of GMO has been found to be un harmful. The government intends to



use GMO products to boost farm produce in order to meet the ever-growing needs of the population. Further, the nominee noted that organic farming will not be out-lawed and Kenyans will have a choice to partake of what they need be it of organic food or genetically modified food.

***On plans to distribute subsidized fertilizer to the entire country***

634. The government planned to use Agrovets to be holding stores for fertilizers prior to its distribution to the members of the public. Fertilizer will also be distributed at the right time and the right type that corresponds to the season.

***On pyrethrum farming***

635. The nominee submitted that the government will empower pyrethrum farmers in consultation with county governments.

**3.16.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

636. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following Observations on his suitability for appointment as Cabinet Secretary in the Ministry of Agriculture and Livestock Development –

(1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 30<sup>th</sup> August 1969 in Meru County and does not hold dual citizenship.

(2) **THAT**, the nominee—

(i) is the former senator for Meru county having served since 2017 until 2022; he is a former member for Igembe South Constituency in the 11<sup>th</sup> Parliament where he served as a member of the Energy, Communication and Information Committee during the period 2013 to 2017 and also served as a member of the House Business Committee and Public Investment Committee during the period 2013 to 2017. The nominee also served as the Member of Parliament for Igembe South Constituency in the 10<sup>th</sup> Parliament (2007 to 2012) where he served as the Chairman of the Public Investment Committee between 2007 and 2012 and was a member of Liaisons Committee until the year 2012. He also served as a Managing Director at Ark Choice Insurance Brokers (between 2001 and 2009).

(ii) Holds a Bachelor of Laws (L.L.B) from the University of Nairobi; Certified Public Accountant from Meru Technical College; Kenya Certificate of Secondary Education from Igembe Boys Secondary School; and Kenya Certificate of Primary Education from Amwamba Primary School.

- (3) **THAT**, the nominee obtained clearance from the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT** the EACC indicated that there are pending investigations relating to the allegations of forgery that he was in possession of a forged KCSE certificate and Bachelor Commerce Degree from Marathwada University in India which he used to register for Bachelors of Laws Degree in the University of Nairobi. However, the nominee has never been charged in a court of law in respect of these allegations.
- (5) **THAT**, the nominee has been charged in a court of law but has never been convicted.
- (6) **THAT**, although the nominee is a member of United Democratic Alliance Party, he does not hold office in any political party.
- (7) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (8) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Agriculture and Livestock Development and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Agriculture and Livestock Development.

### **3.17 MR. ELIUD OKECH OWALO – NOMINEE FOR THE POSITION OF CABINET SECRETARY, INFORMATION COMMUNICATIONS AND THE DIGITAL ECONOMY.**

637. The nominee, Mr. Eliud Okech Owalo, appeared before the Committee on Friday, 21<sup>st</sup> October, 2022 at 11.30 a.m. and was heard under oath pursuant to the provisions of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee took note of the following -

#### ***Citizenship, Date and Place of Birth***

638. The nominee is a male Kenyan born on 27<sup>th</sup> February 1967 in Asembo, Siaya County. The nominee confirmed that he was a Kenyan citizen by birth and didn't hold any other citizenship.

#### ***Academic and Professional Qualifications***

639. The nominee is currently pursuing his Doctor of Philosophy (PhD) in Strategic Management from the University of Nairobi, Faculty of Business Management Science. However, the nominee attained an MBA in Human Resource Management from the University of Nairobi in



2020. He holds a Bachelor of Arts in Economics and Business Studies from Kenyatta University awarded in 1996.

### ***Employment Record***

640. The nominee is the Managing Consultant at Eliud and Associates Management Consultants since 2001 to date. He has been the Lead Consultant for major consultancy assignments including: Design of Strategic Plans; Balanced Score Card Performance Management; Job Evaluation, Workload Analysis and Work Re-design; Organizational design and development; Recruitment, Selection and Placement; Skills, Audit/Training Needs Assessment; Development of Change Management Strategy/Culture Change Management; Market Research/Surveys; and Development of Business Plans.

### ***Honours and Awards***

641. He was admitted as a Fellow of the Institute of Human Resource Management in 2021.

### ***Professional Association and memberships***

642. He is a Member of the Institute of Human Resource Management (IHRM) since 2010.

### ***Published writings***

643. The nominee has published numerous academic and non-academic writings in newspapers, reports and other materials.

### ***Public Office, Political Activities and Affiliations***

644. The nominee was a Director and Council Member for the Kenya School of Government between August 2012 and August 2015. Further he was the Deputy Secretary General of the UDA Party responsible for Policy and Strategy. Other positions held include: He was a Member of H.E President William Ruto's 2022 Presidential Campaigns Steering Committee; and a Member of the Kenya Kwanza Economic Advisory Team. The nominee vied for the Kibra by-elections in 2019 and was the Head of the Raila Odinga Presidential Campaign Secretariat and Chief Campaign Manager in 2013 including CORD Presidential Campaign Manager. Lastly he acted as a Campaign strategic manager for the Alliance National Congress.

### ***Potential Conflicts of Interest***

645. The nominee declared that he does not have any person or matter that would present a potential conflict of interest should he assume the position of Cabinet Secretary for Information and Communication Technology and the Digital Economy.

### ***Income and Net Worth***

646. The nominee estimated his net worth to be Kshs. 645,000,000.



### ***Current and anticipated sources of income***

647. The nominee submitted that his primary source of income is Management Consultancy and Training Assignments through the Eliud & Associates Management Consultants. He also expects about Kshs. 17 million from the Kenyatta National Hospital in respect to an ongoing consultancy assignment on Culture Change Management. Further, he expects about Kshs. 4 million from the Lake Victoria South Water Works Development Agency (LVSWWDA) in respect to an ongoing Strategic Planning consultancy assignment. Lastly, the nominee expects about Kshs. 2 million from the Ministry of Environment and Forestry in respect to a completed Strategic Planning Mid-term Review consultancy assignment.

### ***Pro-bono/Charity Work***

648. The nominee is involved in Pro-bono through supporting various sport teams for their activities and sponsoring unemployed youth in Kibra for driving classes.

### ***Integrity***

649. The nominee has neither been charged in a court of law nor mentioned in any investigatory reports of Parliament or any Commission of Inquiry in the last three (3) years. He has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

## **3.17.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

650. The Committee posed several questions to the nominee on his knowledge of and plans for the Information Communications and The Digital Economy portfolio. The nominee responded as follows: -

### ***On the role of ICT in job creation***

651. The nominee informed the Committee of his plans to leverage ICT to create jobs for the young population. He stated that he planned to add value to processes along the value chain in fields like agriculture through ICT to create more jobs. He also plans to create a mass of digital jobs to provide opportunities for the youth.

652. He intends to ensure that he encourages entrepreneurship through effective deployment of ICT with respect to the digital jobs and promoting ICT literacy. He promised to equip children and the teaching fraternity with appropriate ICT skills to promote entrepreneurship among the young people.

653. He stated that he will promote innovation and creativity to encourage production of cheap ICT devices that will create jobs in the manufacturing sector.

### ***On the state of Konza Technopolis***

654. The nominee stated that he will leverage on the potential of Konza Technopolis to promote development of ICT software which will create jobs among the manufacturing value chain. He stated that Konza is punching below its weight and he intends to put in place appropriate measures to revamp its status to ensure it operates at optimal capacity.

#### ***Analysis of his net worth***

655. On the value attached to his commercialized eucalyptus trees, he stated that he had received a valuation estimate that placed the value of his trees at Kshs. 18 million. The trees are planted on a 200-acre piece of land.

#### ***On plans for the Postal Corporation of Kenya underutilized properties***

656. On the issue of underutilization of properties owned by the Corporation, he stated that the Corporation could diversify their revenue stream by partnering with private developers to come with a way of using the properties.

#### ***On sale of the Telkom Spectrum***

657. The nominee stated that Telkom holds critical ICT infrastructure that offer critical services for the Government. He stated that privatization should not compromise national security and he intends to consult with the National Treasury to come to a feasible solution without negating the principle of privatization.

#### ***On his remarks in regard to alleged grabbing of land belonging to Langata Primary School***

658. On whether his ideology on grabbing land had changed, he stated that he is a strong believer in good governance. He stated that the issue on the Langata land is in court and he is not at liberty to discuss it. Further, he stated that there was need to promote independence of the judiciary without interference from other arms of Government.

#### ***On allegation on his intention to destabilize the Jubilee Government in 2013***

659. The nominee agreed that he had been summoned by the DCI on the allegations which had been received from an anonymous complainant. He stated that the DCI did not conduct investigations to ascertain the veracity of the complaints and he could not write a statement on unverified allegations. He stated that around the same time he was summoned, he applied for and was issued Certificate of Good Conduct showing no wrong-doing on his part.

#### ***On restructuring of the Media Council of Kenya***

660. On his plans for the Media Council of Kenya, he stated that he is a strong-believer and advocate for self-regulations. He plans to put in place a policy framework that creates an enabling environment for self-regulations. He stated that if approved, he will engage stakeholders in the sector to discern emerging issues in the council.

#### ***On Government advertising agencies curtailing freedom of the media***

661. He stated that the intention of creating the agencies to run advertisement of entities in the public sector was well-intentioned to ensure optimal use of budgetary provisions for advertising for public entities. He stated that the agencies were not put in place to limit the freedom under the Constitution.

#### ***On computer misuse and cyber-crime***

662. On the issue of prevalence of cyber bullying in the country, the nominee stated that there are sufficient legal, regulatory and policy interventions in place and what lacks is proper implementation. He further stated that he believed in self-discipline and regulation and that there is need to sensitize people on how to exercise the freedom of expression within the confines of the law.

#### ***On Ajira digital program***

663. He stated that he plans to continue with the program because it is a platform to create digital. He advised that the Government's plan to roll out 150,000 kilometers fiber optic cable will facilitate access to the program all over the country.

#### ***On conflict of interest***

664. Having worked with various Government agencies, the nominee acknowledged that continuing to work with the agencies might occasion a conflict of interest if he assumes office as a Cabinet Secretary. He informed the Committee that he subscribes to principles of good governance and does not intend to continue offering consultancy services to the Government. He said that his lawyer was assessing how quickly he can exit from Government consultancies if he is approved.

#### ***On enhancing internet connectivity***

665. The nominee stated that internet connectivity will be made possible through investing in ICT infrastructure all over the country. He stated that the digital superhighway will provide a means to ensure there is reliable and extensive ICT infrastructure all over the country. He stated that the plan to reduce the cost of internet is by lowering the cost of ICT infrastructure. The nominee stated that he intends to rely on the principles of equity, equitability and impartiality to enhance development of ICT infrastructure indiscriminately all over the country.

#### ***On interventions for the Kenya Broadcasting Corporation***

666. The nominee acknowledged that there is need to bring back the glory that the Corporation once held. This will be made possible by revitalizing the operations of KBC through rebranding. He also intends to use ICT interventions to revitalize infrastructure in the



corporation to ensure they meet the current market needs and global best practices. Further, he plans to utilize ICT to re-engineer the content of the corporation to make it have effective positioning in the market.

667. On the human resource matters of the Corporation causing employee turnover, he stated that he would advise the management to consult with the Salaries and Remuneration Commission to come up with better remuneration for the staff. He stated that this would be possible if KBC uses other streams to generate income to enable it meet its negotiated salary obligations.

#### ***On values and new ideas to permeate success of the Government***

668. The nominee stated that plans are often affected by the disconnect between the plans and results on implementation. He stated that there are three facets of strategies; - formulation, implementation and monitoring, evaluation and results. He stated that leadership often affects the implementation and results from strategic plans. He stated that a transformational leadership and an elaborate risk mitigation strategy helps promote results from plans.

#### ***On mainstreaming development of the creative economy***

669. The nominee stated that there is need to strengthen the legal and regulatory framework touching on the creative economy to ensure the Intellectual Property rights of young people are not taken advantage of by middlemen.

670. He stated that he intends to empower creative minds and innovators by ensuring there is adequate access to capital. He said that to actualize this, he intends to initiate the Kenya Film Bill that will provide for the establishment of the Kenya Film Fund to facilitate access to cheap credit at optimal interest rate to encourage and promote creativity and innovation.

671. He stated that there was need to prevent duplicity of roles between the Kenya Film Classification Board and the Kenya Film Corporation to promote effective functioning to safeguard talent and intellectual property rights. He said that his opinion was to combine the corporations for efficiency and to promote exploitation of talent.

#### ***On technology and job loss***

672. The nominee refuted claims that digitization leads to the cutting down of employment. He stated that there is need to move from the traditional thinking and use a more innovative thinking of creating a mass of opportunities through use of technology.

#### ***On monopoly threat in technology and the media***

673. The nominee stated that he believes the role of Government is to put in place enabling policy and framework to ensure there is a level playing field in the market. It is then the role of each

player in the industry to exercise agility and maneuverability to establish its positioning in the market to attain competitiveness in the market. He stated that monopoly does not necessarily create effectiveness and there is need to curtail monopoly and establish a competitive environment.

### ***Opinion on the split of MPESA and Safaricom***

674. He informed the Committee that the decision to split MPESA from Safaricom was informed by need to conform to economic principles. He stated that Safaricom has two facets; the Telco side that should be regulated under ICT and digital economy and the finance side that should be regulated by the National Treasury and Central Bank of Kenya.

### ***Construction of ICT Hubs***

675. The nominee stated that he intends to continue with the plan for establishing the hubs in line with the Bottom-Up economic plan.

### ***The management of Telkom Kenya***

676. On the question of whether the Government was moving to nationalize Telkom Kenya, he stated that the Company has a critical mass of strategic infrastructure and the issue should be looked at from the principle of collective responsibility within Government. This could be done by involving the National Treasury and Ministry of Interior.

### ***Closing statement***

677. In his closing statement, the nominee stated that he had a vision for an empowered and digitized country. He stated that if approved, he intends to work together with other players to Work together to facilitate economic development of the Country. He stated that he brings in transformational leadership that will promote effective implementation of change.

## **3.17.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

678. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following Observations on his suitability for appointment as Cabinet Secretary in the Ministry of Information Communications and the Digital economy –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 27<sup>th</sup> February 1967 in Siaya County and does not hold dual citizenship.
- (2) **THAT**, the nominee—
  - (i) From 2001 to date has served as Managing Consultant of Eliud Associates Management Consultants, and in the recent past has reviewed over Fifty (50)



strategic plans. The nominee is a Fellow of the Institute of Human Resource Management (FIHRM) with a current/valid Practising Certificate and was admitted into the Institute of Human Resource Management in 17<sup>th</sup> December 2021.

- (ii) is a PhD candidate in Strategic Management at the University of Nairobi, holds a Masters of Business Administration in Human Resource Management (2020) from the University of Nairobi; and holds a Bachelor of Arts in Economics and Business Studies degree from UON (1996).
- (3) **THAT**, the nominee was given clearance by the following statutory bodies; the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, the nominee is required not to participate in any other gainful employment during his tenure as a Cabinet Secretary in compliance with the requirements of Article 77(1) of the Constitution.
- (6) **THAT**, the nominee does not hold office in any political party.
- (7) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (8) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Information Communications and the Digital Economy and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Information Communications and the Digital Economy.

### **3.18 HON. EZEKIEL MACHOGU Ombaki, CBS – NOMINEE FOR THE POSITION OF CABINET SECRETARY, EDUCATION.**

679. The nominee, Hon. Ezekiel Machogu Ombaki, CBS, appeared before the Committee on Friday, 21<sup>st</sup> October, 2022 at 2.20 p.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee took note of the following -

#### ***Citizenship, Date and Place of Birth***

680. The nominee is a male Kenyan born on 22<sup>nd</sup> September 1956 in Kisii County. The nominee confirmed that he was a Kenyan citizen by birth and does not hold any other citizenship.

#### ***Academic and Professional Qualifications***



681. The nominee holds a Bachelor of Arts in Political Science (Government) and Sociology from the University of Nairobi (1979). Further, he undertook a Senior Management Course at Kenya Institute of Administration in 1993 and undertook a Paramilitary course at Embakasi. The nominee attended Nduru Boys for O levels and Agoro Sare for A levels.

### ***Employment Record***

682. He is a seasoned career civil servant with over 38 years of progressive work experience in the public sector as a Senior Deputy Secretary in ministries in Northern Kenya and other arid lands, Ministry of Trade in October 2016; he served as a Senior District Commissioner Wajir between 2001 – 2003; District Officer in Nyeri, Kirinyaga, Nyandarua, Kirinyaga, Kiambu, Nakuru, Nandi and Naivasha between 1979 – 1989; and District Commissioner in Nyandarua, Busia, Wajir and Mombasa. He served as Member of Parliament, Nyaribari Masaba Constituency between 2017 and 2022.

### ***Honors and Awards***

683. The nominee was awarded the Chief of the Burning Spear (CBS) in 2021. He was also awarded a Trophy for being the best District Commissioner in 1993; and overall performing Member of Parliament from Kisii County for two years in a row in 2020 and 2021.

### ***Income and Net Worth***

684. The nominee estimated his net worth to be Kshs. 590,000,000 with sources of income including rental income and private business enterprise.

### ***Potential Conflicts of Interest***

685. The nominee declared that he is not associated with any persons or matter that would present a potential conflict of interest should he assume the position of Cabinet Secretary Education. Should a conflict of interest arise, the nominee stated that he would declare the interest in writing to the appointing authority in accordance with the law.

### ***Integrity.***

686. The nominee stated that he has not been dismissed or otherwise removed from office for contravening the provisions of Article 75 of the Constitution. He has also not been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties.

687. Further, the nominee submitted that he has not been charged in any court of law in the last three years and neither has he been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years.

### **3.18.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

688. The Committee posed several questions to the nominee on his knowledge of and plans for the Education portfolio. The nominee responded as follows: -

#### ***On Competency Based Curriculum (CBC) Education/ Reforms***

689. The nominee informed the Committee that the new system of education CBC has elicited lots of attention. He noted that a taskforce had been formed by the president, once it has completed its recommendations, he should be able to advise on the roadmap regarding the formative and summative aspects to be reviewed. He also stated there is need to give teachers a more intensive induction for them to understand the subject based curriculum.

#### ***On university capitation***

690. The nominee informed the Committee the Universities (Amendment) Act 2016 allowed the Kenya Universities and Colleges Central Placement (KUCCPS) to place students in private universities and access Government funding to a tune of Kshs. 80,000 per year. He further stated that students in public universities are funded to a tune of Kshs. 153,000 per year. He finally stated that being a legislative matter, capitation can only be changed through an amendment to the Universities Act.

#### ***On teacher development programme***

691. The nominee stated that the Teacher Development Programme should be offered by public universities as opposed to private universities.

#### ***On misleading a Tender Board/Charged in Anti-corruption court***

692. On the allegations that the nominee was in 2003 charged with misleading a Tender Board to award a one hundred and sixty-six Million Shillings (Kshs 166, 000, 000) road contract, the nominee responded as follows—

- (1) That in 1998 when the nominee was a district commissioner, he chaired the Tender Board Committee;
- (2) That the Board had representatives from all departments and any request had to be processed thorough the district procurement officers;
- (3) That a request from the district public works office was submitted to the Committee for funds for a certain road to be gravelled;
- (4) That as the Chair of the Tender Committee, the nominee forwarded the request to the Ministry of Public Works and the contract was signed by the then Permanent Secretaries for Public Works and Finance;
- (5) That five years later when the nominee was a District Commissioner in Mombasa, he was arrested and accused of making the request for funds despite the PS earlier waiving the road repair contract; and also for allegedly convening the meeting of the Committee wrongfully;

- (6) That the case was heard by a court in Nairobi and was dropped after it was established that the nominee had been wrongly accused of the offence; and
- (7) That as a result, the court awarded him damages of Kshs 10 Million for malicious prosecution which, when paid, amounted to Kshs. 14 Million with interest.

#### ***On unemployed Teachers***

693. On the shortage of teachers, the nominee informed the Committee that the government will employ 30,000 teachers from next year. 2023. He further informed the Committee that the Ministry would run an internship program which will be cheaper and affordable.

#### ***On Egerton University being in a bad state***

694. The Nominee emphasized on the state of the Egerton University and pledged to investigate if approved. The nominee finally undertook to discuss with National Treasury and Parliament to get a way forward on this.

#### ***On secondary schools built by CDF but not registered by the Ministry***

695. On secondary schools built through CDF but not registered by the Ministry, the nominee promised to take up the issue once approved.

#### ***On Micromanaging Universities***

696. On micro-managing appointment of vice chancellors of universities by the Cabinet Secretary, the nominee reiterated that the body hiring should be the one firing and that the responsibility falls squarely on the Public Service Commission. He undertook to comply with the law and relating to appointing of Vice Chancellors.

#### ***On skewed distribution of resources in the Ministry of Education***

697. The nominee undertook, if appointed, to ensure assessment is done on need basis for example he will consider the areas with acute shortage of teachers. He further undertook to streamline award of scholarships to ensure transparency and fairness.

#### ***On Higher Education Loans Board***

698. The nominee informed the Committee that there has been an increase in number of students in universities. He further stated that defaulters on loan repayment has been increasing.

#### ***On Free primary education***

699. The nominee undertook to establish systems to cater for unnecessary levies and harassment imposed by schools. He further undertook committee that he will ensure that irregular levies are not imposed. The nominee promised to ensure government directives are adhered to.



### ***On exam certificates being held by school over unpaid school fees***

700. The nominee undertook, if appointed, to ensure circulars issued barring retention of student certificates on account of unpaid fees are implemented.

### ***On delocalization of teachers***

701. The nominee stated that the Kenya Kwanza Government will discontinue delocalization policy and implement a national policy to address the challenges that delocalization policy has posed to families.

### ***On education in the Northern Kenya***

702. The nominee noted that insecurities in Northern Kenya has been responsible for teacher shortage in the region. He stated that the long-term solution to teacher shortages would be to improve security in the region. In the short term, the nominee recruitment of more teachers from local communities.

### ***On debts in Universities***

703. The nominee informed Committee that if appointed, he would encourage universities to diversify incoming generating activities such as research, commercial agriculture and consultancies rather than depending exclusively on exchequer. He further proposed downsizing to cut on costs.

### ***On dilapidated schools/ run down schools***

704. The nominee stated that schools are as good as their managers/ principals. He undertook, if appointed, to ensure capacity building is carried out to empower the heads of schools to be great managers with a view of improving performance of schools.

### ***On school feeding program / water***

705. The nominee stated that, if appointed, he would ensure that the school feeding program is strengthened. He further stated that the government plans to increase the school feeding programme from 2000 to 4000.

### ***On sanitary towels***

706. The nominee undertook, if appointed to ensure that sanitary towels are distributed to schools as a matter of priority.

### ***On teachers' allowances***

707. The nominee reiterated that Teachers Service Commission is mandated to give teachers their dues without bias.

#### ***On Indiscipline in schools***

708. On indiscipline in schools, the nominee informed the Committee that there is need for a concerted effort from teachers, parents and even the government to deal with indiscipline. He further noted that counselling services will also help tackle this.

#### ***On replacing national certificates lost/ misplaced***

709. The nominee noted that he will take this up and ensure replacement of lost certificates is done as fast as possible.

#### ***On special schools***

710. On special schools, the nominee stated that he will ensure that special schools equitably spread across the country.

### **3.18.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

711. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following Observations on his suitability for appointment as Cabinet Secretary in the Ministry of Education –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 22<sup>nd</sup> September 1956 in Kisii County and does not hold dual citizenship.
- (2) **THAT**, the nominee—
  - (i) is the former Member of Parliament for Nyaribari Masaba Constituency having served since 2017 until 2022. He served as a chairperson of the Member Services and Facilities Committee, and a Member of the Committee on Regional Integration during the period 2017 to 2022. The nominee also served as Senior Deputy Secretary in the Ministry of Trade (2014-2016), Ministry of Commerce Tourism and East African Affairs (2013-2014) Ministry of Northern Kenya and Arid Lands (2007-2012). He also served at Public service commission (1999-2000), Deputy provincial commissioner coast (2000-2001), senior district commissioner (1989-1999) and District officer (1979-1989).
  - (ii) He holds a Senior Management course from the University of Birmingham; a Bachelor of Arts degree in Political Science and Sociology; a Paramilitary course of ATPC; a Public Administration Officer's Exam (1980); and KCSE from Agoro Sare Secondary School; & Nduu Boys.

- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, the nominee is required not to participate in any other gainful employment during his tenure as a Cabinet Secretary in compliance with the requirements of Article 77(1) of the Constitution.
- (6) **THAT**, though the nominee is a member of UDA Party, he does not hold office in any political party.
- (7) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (8) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Education and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Education

### **3.19 HON. ABABU NAMWAMBA, EGH – NOMINEE FOR THE POSITION OF CABINET SECRETARY, YOUTH AFFAIRS, SPORTS & THE ARTS.**

712. The nominee, Hon. Ababu Namwamba, EGH, appeared before the Committee on Friday, 21<sup>st</sup> October, 2022 at 2.30 p.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following -

#### **Citizenship, Date and Place of Birth**

713. The nominee is a male Kenya born on 23<sup>rd</sup> December, 1973 in Busia County. The nominee confirmed that he was a Kenyan citizen by birth and didn't hold any other citizenship.

#### **Academic and Professional Qualifications**

714. The nominee has a Master of law in International Legal Studies from The American University, Washington College of Law, 2006. In 1999, he attained a Postgraduate Diploma in Law from the Kenya School of Law having graduated from the University of Nairobi with Bachelor of Law Degree in 1997.

#### **Employment Record**



715. The nominee served as Chief Administrative Secretary (CAS) in the Ministry of Foreign Affairs, Republic of Kenya between 2018 and 2022. In 2012 to 2013, he served as Minister for Sports & Youth Affairs. Further, the Nominee was Member of Parliament (MP) for Budalang'i Constituency between 2007 and 2017. In 2002-2007, he served as Chief Counsel, The Chambers of Justice; and, in the year 2000, he became an Advocate of the High Court of Kenya.

### **Honors and Awards**

716. In 2012, the nominee was awarded Order of the Golden Heart (EGH) 1<sup>st</sup> class. He got the African Inspiration Leadership Award- the Voice Achievers, Netherlands in 2019; in 2015, he was accorded the Legislator of the Year Award-OLX; Distinguished Young Global Leaders Roll- World Economic Forum- 2009, and; in 2003, received the Global Social Justice Award- Jubilee Netherlands.

### **Income and Net Worth**

717. The nominee estimated his net worth to be Kshs.425, 000,000 million, with sources of income being from salary, gratuity and pension.

### **Professional Association and memberships**

718. The nominee is a member of the Law Society of Kenya since the year 2000; a member of Hubert Humphrey Fellowship, government of USA, and; a member of the Jomo Kenyatta Foundation Scholarship.

### **Published Writings**

719. The nominee has published various works that include: *Lift the yoke- Debt Relief Campaign Blue Print*, 2002, *The Chamber of Justice*, Nairobi; *Bridging the Gap: Analysis of Law & policy on CNSP*, 2001, NCNN/SNV Kenya, Nairobi; *After the Promise: Governance Series- 2003, 2004, 2005, 2006. The Chambers of Justice*, Nairobi; *Sunday Nation Columnist: 2003- 2005 & 2008-2012; Sunday Standard Columnist-2006-2007; and Ten Year Strategic Plan 2008, Budalangi Constituency*

720. Some reports, Memoranda or policy statements prepared by the nominee and contributed in their preparation are: *The Constitution of Kenya*, 2010; *Sports Act*, 2012; *Foreign Service Act*, 2021; *Report on Review of Diaspora Policy*, 2021; *Report on Review of Migrant Labour Policy*, 2021; and *Chairman's Report of the Ministry of Foreign Affairs Standing Committee on Emergency Response*, 2020

### **Potential Conflicts of Interest**

721. The nominee declared that he currently does not have any persons or matters that would present potential conflict of interest should he assume the position of Cabinet Secretary for the Ministry of Youth Affairs, Sports & The Arts. The nominee commits, in accordance with the

law, procedure and best practice, including taking reasonable steps, to avoid any conflict of interest through deliberate preventive measures.

### **Pro-bono/Charity Work**

722. The Nominee has institutionalized his philanthropic work through Ababu Namwamba Foundation (ANF) since the year 2003.

### **Integrity**

723. The nominee has never been charged in a court of law neither has he been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry.

## **3.19.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

724. The Committee posed several questions to the nominee on his knowledge of the Public Service. The nominee responded as follows: -

### ***On the road map towards freeing Kenyan athletes from rogue agents***

725. The nominee informed the Committee that, having served in this Ministry before, he had the requisite knowledge on how to deal with the issues of the KFF and FIFA.

### ***On Kasarani Sports academy***

726. The nominee informed the committee that he commits to elevate the sports academy to international standards and use it to identify and nurture existing sports talent in Kenya.

### ***On Proper utilization of Sports fund***

727. The nominee informed the committee that he will ensure that this fund is fully and properly utilized by engaging Treasury and other government agencies to ensure the same is achieved in order to serve its intended purpose.

### ***What the nominee would bring on board***

728. The nominee informed the committee that he will ensure implementation of existing framework and policies. He further stated that he is prepared to do things differently, listen to and engage with stakeholders as well as learn from excelling sports academies and sports institutions in other jurisdictions.

### ***On NYS image and its sustainability***

729. The nominee informed the meetings that he is willing to support and accelerate work already being done by the current administration in order to ensure that NYS operates at its possible best.

***On affidavit claiming bribery allegations as chair PAC***

730. On the issues raised by Mr. David Malombe and Ms. Sheila Masinde in their affidavits that the nominee was adversely mentioned in a bribery scandal involving the Parliamentary Accounts Committee in 2014, the nominee through his replying affidavit responded as follows—

- (1) That the two affidavits referred to a report from the “Departmental Committee on Powers and Privileges dated 31<sup>st</sup> March, 2015”;
- (2) That the inference was erroneous, mistaken and misleading as the Committee on Powers and Privileges of the 11<sup>th</sup> Parliament never investigated any supposed bribery allegations;
- (3) That the Second Report of the Committee on Powers and Privileges on alleged breach of privilege read as follows in paragraph 325, page 117—

*“THAT since the Committee of Privileges did not inquire into matters outside breach of Privilege and or code of conduct applicable to Members of Parliament, the House resolves to refer the claims of bribery on the membership of the Public Accounts Committee relating to the PAC’s examination of the Confidential Expenditure under the Office of the President (2012/2013), to investigative state agencies for investigations.”*

- (4) That both Ms. Sheila Masinde and Mr. Malombe selectively ignored the fact that the report of the Committee of Powers and Privileges was forwarded to the EACC;
- (5) That the EACC inquired into the matter and did not recommend any prosecution or further action as the allegations were unfounded;
- (6) That the Members responsible for the unfounded allegations withdrew the allegations as evidenced in the Report;
- (7) That the said withdrawal confirmed that the whole drama was political hot air accentuated by malice aforethought;
- (8) That the said Report vindicated him from all allegations that were withdrawn;
- (9) That the foundation of the matters of the said Report were as a result of political feuding arising from the 2014 heated leadership contest in ODM Party where the nominee had emerged as Secretary-General and after his efforts that led to the pushback of the controversial Security Laws (Amendment) Bill;
- (10) That the allegations against the nominee were withdrawn and the whole manufactured scandal disappeared;
- (11) That the allegations that the nominee had been bribed to protect the Office of the President on impropriety in confidential expenditure were made yet the accounting officer of the office of the President is on record that the Report’s recommendations were contrary to his wishes;
- (12) That if the nominee had engaged in any impropriety he would have been swiftly prosecuted and incarcerated given the prevailing political atmosphere then;



- (13) That the nominee is the victim rather than the villain and that the machinations had the regrettable effect of diluting and casting a shadow on his two-year leadership as Chairman of the PAC Committee where the Committee cleared all backlog and the House adopted reports of the audited accounts;
- (14) That the record of the nominee in public service speaks for itself as an MP for ten years during which the nominee was in the leadership of Parliamentary Select Committee on Constitution Review, the Committee on Justice and Legal Affairs, PAC, the Parliamentary Select Committee on Cost of Living, Minister for Youth and Affairs and Sports in 2012/2013 where the nominee led to the enactment of the Sports Act and most recently he served as the Chief Administrative Secretary for Foreign Affairs where he led the Ministry in the enactment of the Foreign Service Act;
- (15) That in his long and distinguished public service career, the nominee has never committed any transgression and has never been recommended for any adverse action by any authorised body; and
- (16) That the nominee's integrity is beyond reproach and meets the demands and expectations of Chapter Six of the Constitution.

#### ***On Creative industry royalties***

731. The nominee informed the committee that the Kenya Copyright Board and other agencies should do more to protect intellectual property and ensure creative artists benefit from their talents. He will pay attention to the existing mismanagement in some of these agencies and ensure that young people get returns from their talents. He committed to establish a directorate to enable allocation of resources to this sector.

#### ***On Sports as an economic activity to benefit both the sports people and the country***

732. The nominee informed the committee that he will ensure that this is done by ensuring an enabling space by industrializing sports and turning it into an economic undertaking.

#### ***On reviewing of the Sports Act***

733. The nominee informed the Committee that there was need to strengthen discipline in the sporting space and also exploit fully the potential of Kenyan sports.

#### ***On tapping of talent from the rural areas and at a young age***

734. The nominee informed the Committee that there was need to be deliberate on reviving of other sporting activities like hockey, boxing, tennis and among others and pay keen interest in ensuring they receive the support they deserve.

#### ***On allocating funds to ensure that tapping of talents is possible.***

735. The nominee informed the meeting that he will have zero tolerance to corruption and he will see to it that funds are used to tap talents at the grass root levels.

***On appreciation and motivation of sports people in Kenya***

736. The nominee informed the committee that he will deliberately ensure attractive remuneration of sports people and provide other incentives in order to retain its sporting talent.

***On Ministry not keen on community clubs and helping them advance to National leagues***

737. The nominee informed the meeting that he is committed to ensure that talent in the grassroots is tapped and utilized for the good of this country and local clubs will be supported in the realm of the existing laws and policies.

***On use of Kenyan sports people to market and present Kenya as a brand abroad/International sphere***

738. The nominee informed the committee that he will advance and ensure that sports people are deployed as ambassadors for Kenya and the Kenyan brand. The nominee committed to exploit and tap sports diplomacy to sell brand Kenya abroad.

***On existing Affirmative Action Funds and the Hustler fund***

739. The nominee informed the Committee that he will defer the question to be answered by nominee cabinet secretary for Cooperatives and Micro, Small, and Medium Enterprises (MSME) Development. He however, maintained that there are structures in place to avert any duplicity.

***On Sports Kenya commitments***

740. The nominee committed to review the existing commitments made by Sports Kenya and see to it that they are fulfilled as far as possible.

***On Business innovation and incubation hubs***

741. The nominee informed the Committee that these are very vital avenues to ensure empowerment of the youths and that he will see to it that a portal is availed where youths can market their products and meet potential buyers who should include the government itself.

***On corruption in the sports' federations and agencies and how he is going to turn them around into revenue generating avenues***

742. The nominee informed the committee that he will not tolerate corruption and he is ready to see to it that sports in this country is industrialized in a way that it can generate revenue.

***On fate of Football teams in Kenya***

743. The nominee informed the committee that he will ensure that the football teams are adequately funded and equipped.

***On high rate of Unemployment among the youths and their absorption of youths as interns and eventual retention***

744. The nominee informed the meeting that he is in agreement that the youth of this country should be given fresh hope. He committed to utilize the Ajira Kenya program as it is a great way of engaging the youth and utilizing their skills. The nominee stated that he is going to champion the absorption of youths and ensure that they earn a living in a dignified manner, and also ensure the young people are at the Centre and drivers of the programs tailored for them by the government.

***On Empowerment of youths to pursue sports as an economic venture***

745. The nominee informed the committee that he will see to it that sports and creative activities are elevated into mega employers of the youth.

***On Incomplete and stalled Stadia***

746. The nominee informed the committee that he is committing to fast track the completion of the incomplete ones and also encourage modernization of stadia structures into integrated spaces to accommodate more than just sports. He committed to turn the stadia into centers of excellence similar to those in the international arena where they are used as spaces to identify and nurture talent.

***On drug menace among the youths and lack of rehabilitation centers at the constituency level***

747. The nominee informed the committee that the drugs abuse has become a national menace that must be confronted head on through a multifaceted approach and adequate funding and he commits to be a champion against drug menace and push for a framework by the government to deal with the same.

***On Youth addiction to gambling***

748. The nominee informed the committee that gambling is a big global enterprise that needs a well-established frame work to manage and he commits to champion this and propose adequate policies and measures including legislation to curb the vice.

***On local youth clubs***

749. The nominee informed the Committee that he will guarantee use of the local clubs to convey talent to the national team and ensure adequate funding.

***On youth engagement to avert their engagement in crime***

750. The nominee informed the Committee that he is willing to devise mechanism to ensure that the youths of this country are positively and productively engaged.



***On Legal support programs to assist athletes draft contracts that protect their interests***

751. The nominee informed the Committee that there exists a pro-bono program that offers legal advice but will follow it up and see to it that athletes have easy access to legal services.

***Assistance to athletes manage their finances***

752. The nominee informed the Committee that he pledges to ensure financial guidance is offered to the athletes to avert the challenges that arise from mismanagement of proceeds emanating from sporting activities.

***Closing statement***

753. The nominee informed the Committee that he is appreciative of the opportunity accorded him to appear before the vetting committee and undertook to serve diligently, if approved to be the Minister for Youth Affairs, Sports and The Arts.

**3.19.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

754. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following Observations on his suitability for appointment as Cabinet Secretary in the Ministry of Youth Affairs, Sports and the Arts.

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 23<sup>rd</sup> December 1973, in Busia Kenya and does not hold dual citizenship.
- (2) **THAT**, the nominee—
  - (i) holds a Masters in Law in International Legal Studies from the American University Washington College of Law (1999), a Bachelor of Laws Degree from the University of Nairobi (1997) and a Post Graduate Diploma in Law from the Kenya School of Law (1999).
  - (ii) served as the Chief Administrative Secretary (CAS), Ministry of Foreign Affairs from 2018-2022; he served as Minister for Sports and Youth Affairs from 2012-2013, he served as Member of Parliament 2007-2017, from the year 2002 to 2007 he served as Chief Counsel, Chambers of Justice and he was admitted as an Advocate of the High Court of Kenya in the year 2000.
  - (iii) In the year 2012, he was awarded the Order of the Golden Heart (O.G.H), in the year 2019 and he was also awarded the African Inspirational Leadership Award by the Voice Achievers, Netherlands. In the year 2009, he was awarded the Legislator of the year by OLX, in 2009 and he was also awarded the distinguished Young

Global Leaders Roll by the World Economic Forum and he was awarded the Global Social Justice Award by Jubilee Netherlands.

- (iv) is a Member of the Law Society of Kenya and the Hubert Humphrey Fellowship, Government of USA.
- (v) in the year 2022, he served as the Head of International Relations in the William Samoei Ruto Presidential Campaign Council, from the year 2016 to 2018 he was the Party Leader of the Labour Party of Kenya, from the year 2014 to 2015 he was appointed the Secretary General of the Orange Democratic Movement (ODM) party and from the year 2008 to 2014 he was elected Parliamentary Secretary for the Orange Democratic Movement (ODM) party;
- (3) **THAT**, the nominee obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, the nominee does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Youth Affairs, Sports and the Arts and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Youth Affairs, Sports and Arts.

### **3.20 MS. REBECCA MIANO, MBS – NOMINEE FOR THE POSITION OF CABINET SECRETARY, EAST AFRICAN COMMUNITY, ARID & SEMI-ARID LANDS & REGIONAL DEVELOPMENT.**

755. The nominee, Ms. Rebecca Miano, MBS, appeared before the Committee on Friday, 21<sup>st</sup> October, 2022 at 3.30 p.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following -

#### ***Citizenship, Date and Place of Birth***

756. The nominee is a female Kenyan born on 15<sup>th</sup> May, 1996 in Nyandarua County. The nominee confirmed that she was a Kenyan citizen by birth and did not hold any other citizenship.

#### ***Academic and Professional Qualifications***

757. The nominee is currently undertaking her Masters in Law in International Commercial Law at the University of Salford, Manchester United Kingdom. She undertook a one-year Advanced Management Program in Strathmore Business School and Navara University in Spain in 2010. She attended the Kenya School of Law for her Post-Graduate Diploma in Law between 1990 and 1991. Lastly, the nominee attended the University of Nairobi for her Bachelor of Law (LLB) Degree between 1987 and 1990.

### ***Employment Record***

758. The nominee is currently the Managing Director & CEO of the Kenya Electricity Generating Company PLC (Kengen), a position she has held since 2017. She was the Company Secretary and Legal & Corporate Affairs Director at Kengen between 2008 and 2017; Company Secretary at KenGen PLC between 2006 and 2008; an Assistant Company Secretary at KenGen PLC between 2004 and 2006; a Principal Legal Officer at KenGen PLC between 2000 and 2004; and a Senior Legal Officer at KenGen PLC between 1998 and 2000.

759. The nominee also worked as a Part-time Legal Research Assistant at Slater & Gordon Queensland Australia in 1997; was a Legal Officer at the Kenya Power and Lightning Company (KPLC) between 1996 and 1992; and was an Associate Advocate at Musyoka Annan & Company Advocates between May 1991 and April 1992.

### ***Honours and Awards***

760. The nominee was awarded the Moran of the Order of the Burning Spear (MBS) in 2019 and awarded the Order of the Grand Warrior (OGW) in 2010. She also received the 2022 Diversity and Inclusion C-Suite Award in the National Diversity and Inclusion Award; and an Honorary Award by the Pioneer Women in Extractive for the Most Notable Contribution to the Energy Sector.

761. The nominee has featured among the Top 25 Women Setting the Business Agenda in 2022 by the Business Monthly East Africa; won the 2021 Women Chairperson of the Year Award by Women on Boards Network; and was named among top women CEOs leading in business in Africa by Africa.com and Harvard Faculty Research for the Definitive list of Women CEOs in Africa 2021. Further, she was named as one of the Top 25 Movers and Shakers in Africa in 2021 by the African Energy Chamber. She won the 2020 African Inspirational Business Leader Award by African Leadership Magazine and won the Company Secretary of the Year Award in 2010.

### ***Professional Associations***

762. The nominee is a Member of the Law Society of Kenya (LSK); a Member of the East Africa Law Society (EALS); a Member of the Institute of Certified Public Secretaries of Kenya (ICPSK); a Member of the Institute of Directors (IoD); and a Member of the International Commission of Jurists (ICJ).



## ***Memberships***

763. The nominee is the Vice-chair of the Board of Global Impact Network, Kenya; a Council member of the World Bank Group's Advisory Council on Gender and Development; a Member of the UN Global Compact Africa Business Leaders Coalition; and a Member of COP26 Business Leaders. She is also the Chair of the Finance and General Purposes Committee at the St. Paul's University Council; a Committee Member at the Council of Churches Kenya; a Member of FIDA Kenya; and a Member of the Women in Boards Network. Other memberships include membership of the Global Women Energy and Petroleum Club; She is a Member of the Muthaiga Country Club; and She is a Member of the Women Guild Movement.

## ***Published writings***

764. The nominee has published numerous academic and non-academic articles and reports. She has delivered speeches in various Presidential events, VIP engagements, Global engagements and Local engagements.

## ***Public Office, Political Activities and Affiliations***

765. The nominee has worked at KenGen PLC at various positions including Managing Director and CEO, Company Secretary/Legal and Corporate Affairs Director and Company Secretary. She was a Delegate and Chairperson at Stima DT SACCO.

## ***Potential Conflicts of Interest***

766. The nominee declared that she does not have any person or matter that would present a potential conflict of interest should she assume office.

## ***Income and Net Worth***

767. The nominee estimated her net worth at approximately Kshs. 397,100,000.00. Her current sources of income include income from Stima DT Sacco, KenGen PLC in gratuity and the KenGen Retirement Benefits Scheme. She anticipates income from Dividends from Stima Sacco shares due in March 2023, Dividends from KenGen Shares due in February 2023 and Dividends from Kenya Power Shares due in January 2023.

## ***Pro-bono/Charity Work***

768. The nominee has been involved in charity work drilling a borehole and constructing a waterpoint in Nyandarua County, supporting fundraisers at PCEA St. Andrews Church, responding to medical appeals and giving food donations.

## ***Integrity***

769. The nominee has neither been charged in a court of law nor mentioned in any investigatory reports of Parliament or any Commission of Inquiry in the last three (3) years. He has also

never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

### **3.20.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

770. The Committee posed several questions to the nominee on her knowledge of the Public Service. The nominee responded as follows: -

#### ***On clarification of her names***

771. On the question of whether “Rebecca Mwongeli Mwendwa”, as appears in her Degree Certificate is her name, she stated that she had a maiden name given by her parents and she changed her name to “Rebecca Miano” when she got married. She assured the Committee that all documents in her file refer to the same person.

#### ***On knowledge of the EAC Membership***

772. She stated that the EAC consists of Rwanda, Burundi, DR Congo, Kenya, Tanzania, South Sudan and Uganda with the latest entrants to the EAC being South Sudan and the very latest being the Democratic Republic of Congo.

#### ***On her legacy at KenGen***

773. The nominee stated that having worked as the Managing Director of KenGen she had gained immense wealth of experience on leadership and management. She stated that some of key projects she undertaken include implementing power projects on time and budget, being a steward and trustee on behalf of the Government on a critical function and giving Kenya its leading role in production of renewable energy.

774. She also pointed to initiatives such as putting in place forums and policies that support women in male-dominated industry through forming the PINK Energy Movement that promotes participation of women in the technical sector.

#### ***On mitigating the effects of the prolonged droughts in ASALs regions***

775. On her priority for the prolonged drought, she stated that she plans to work with the National Drought Authority to implement strategies for managing drought including managing effects of climate change, sorting out the conflict issues and sorting out the food issues. She said that if approved, she will look at the Authority’s strategy and give an input on sustainable drought management.

#### ***Plans to achieve integration in the East African Community***

776. The nominee informed the Committee that the disintegration of the 1996-1997 East Africa Community was a feeling that there was no proper sharing of resources and the differences in ideologies between the countries and leaders.

777. On what would be different with her reign as EAC Cabinet Secretary, she said that she had read and listened to the intent of leaders and their call to base the EAC on the people rather than ideologies and leaders. The shared vision among the leaders for the benefit of the Community will help lead to the success of the Community and of the African Union.

***On promotion of Gender parity***

778. On how she will ensure gender parity in the docket, she informed the Committee that she will look into the policies in place, determine how they have worked and based on her experience, strengthen the policies. She will benchmark with other jurisdiction on what has been done before and establish the best practices.

***On the effect of the shift from procuring spare parts from manufactures to using brokers at KenGen***

779. The nominee refuted claims that the shift caused inflation of prices and said that the decision was made in accordance with the Public Procurement and Disposal Act and regulations which require parastatals to support local companies. She stated that the decision was reached after confirming that it would be cheaper and faster to procure the parts through the local suppliers. She stated that the supplier took the burden of dealing with manufacturers from KenGen promoting efficiency.

***On losses occasioned from the Lake Turkana Wind Power Project (Deemed supply)***

780. The nominee stated that the project was an independent supplier and not under the mandate of KenGen thus could not comment on it.

***On plans to ensure disbursement of the Equalization Fund to the ASALS***

781. On her plans for the fund, she stated that ASALs are on a burning platform, facing a lot of issues ranging from drought to insecurity. She stated that if approved, she will approach her counterpart in the National Treasury with well researched data showing that the funds are a lifeline in the ASALs for them to be disbursed. She says that proper data and a good strategy will help in unlocking the funds.

***On what takes precedence between the Country and EAC***

782. On what takes priority between the Community and the Country, she said that the Community countries are tied to each other on the hip but there is need to respect the Country's sovereignty. She stated that treaties and protocols in place will help the country pursue its interest in the best way to promote integration. She stated that Kenya cannot survive without the Community and the Community cannot survive without Kenya.

***On plans for the Aror and Kimwarer Dams***



783.If approved, the nominee intends to study the report and feasibility study for the projects to come up with a roadmap for the functioning of the dams. She said that she intends to work with the Attorney General to segregate issues affecting the project and ensure the dams provide water to the people in the ASALs region while the Attorney General handles the legal issues.

***On the areas of Co-operation between the EAC member states***

784.The nominee stated the areas of co-operation to include areas in trade, agriculture, technology, health, monetary unity and a political federation. She stated that the members also share in their culture and social interactions and that promoting integration within the community is important for the success of the Community. She also stated that plans such as creating of an East African power pool will enable the countries share in power trade and promote the use of renewable energy.

***On viability of the regional development authorities***

785.On her knowledge and plans for the regional development authorities, the nominee stated that there were six authorities based on the water basins. She informed the Committee that the authorities were created in the 1970s with stand-alone Acts and their mandates were not reviewed to be aligned with the 2010 Constitution. She stated that there is overlap and conflict of mandates with how the authorities sit with the county governments. She said that there is a Bill in place that if passed will enable solve the issues associated with the authorities.

***On electricity pricing and competitiveness of the investment hub***

786.On the comment that the high cost of electricity drives investors away from Kenya to other countries within the EAC, the nominee stated that KenGen's mandate is to provide reliable, safe and affordable electricity. She stated that KenGen generates and sales power to distributors at an affordable tariff. She said that electricity pricing is done by the regulator in consideration of pricing formulas and the Energy Act. She stated that for Kenya to become a competitive hub, there was need to spur a demand for electricity to create economies of scale hence reduce the cost.

***On Plans to resolve regional conflicts harnessing from shared resources within the EAC***

787.In response to the challenges faced by fishermen in areas of shared borders such as the Migingo Island, the nominee stated that there is need to put in place a framework of resolving issues affecting the fisherfolk. If approved, the nominee intends to address the issue by championing a communication strategy and linking the issue with other Ministries to help resolve the issues and strengthen integration.

***On the deliverables for the docket to promote understanding of the Ministry***

788.Firstly, the nominee intends to set up a communication strategy for dissemination of information on what the EAC is where it is not known to set a foundation for implementing

the intent of the community. Secondly, she will look at the new entry, DRC, and identify available opportunities for the Kenyans and the Community. She intends to help strengthen the community to harness development and integration. Finally, she intends to champion the implementation of the remaining protocols under EAC that is the monetary unit, political federation and the will and vision of the Community.

#### ***On construction of the Grand High Force dam***

789. The nominee stated that the feasibility studies and plans for the dam were completed by TARDA but has never been implemented because of challenges. She said that the dam is a critical project and she will vouch for its implementation. She said that she will work with the technical team to come up with a framework to finance the project through innovative ways such as PPPs and EPCF.

#### ***On common strategies in EAC to tackle drought***

790. She informed the Committee that there was free movement of food within the Community and there was need to work towards eliminating barriers to ensure all members are food secure. She intends to work with the Ministry of Agriculture to come up with a food balance sheet for each state that will help support the region when there is food shortage.

#### ***On allegation on her integrity flaws during her reign at KenGen***

791. The nominee refuted allegations that she has been involved in improper practices such as nepotism, and tribalism during her time at KenGen. She stated that she has served with diligence and the allegations are false.

#### ***On promotion of free movement of people and goods within the EAC***

792. On the issue of mistreatment of Kenyan citizens trading with Uganda and Tanzania, the nominee stated that the EAC protocol prevents countries from creating barriers but there are still there. She opined that there is need to create a framework with consultations within the EAC to remove the barriers. Removal of barriers is a good will and conversational issue that the country must harness.

### **3.20.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

793. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, her curriculum vitae and having heard her oral submission during the approval hearing, made the following Observations on her suitability for appointment as Cabinet Secretary in the Ministry of East African Community, Arid & Semi-Arid Lands & Regional Development.

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since she is a Kenyan citizen born on 15<sup>th</sup> May, 1996 in Nyandarua County and does not hold dual citizenship.
- (2) **THAT**, the nominee—
  - (i) holds a Master’s degree in Comparative Law from the University of Queensland Australia (1997); A Post graduate diploma in Law from the Kenya school of law (1991); a Bachelor of Law degree (LLB) from the University of Nairobi (1990);
  - (ii) has from 2017 to date been the Managing Director and CEO KENGEN PLC; from 2014 to 2017 Company Secretary/Legal Affairs Director; from 2008 to 2014, the KENGEN Company Secretary/Legal and Corporate Affairs Director; from 2006 to 2008 KENGEN Company Secretary; from 2003-2006, Assistant Company Secretary; 1997- Slater and Gordon Queensland Australia Legal Research Assistant; 1996 Kenya Power and Lighting Company (KPLC); 1992 at Musyoka Annan and co. Advocates. The nominee holds advanced legal studies in law from Queensland university, is a Certified Public Secretary (K) and an Advocate of the high court of Kenya.
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Educations Loan Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, the nominee does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of East African Community, Arid & Semi-Arid Lands & Regional Development and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for East African Community, Arid & Semi-Arid Lands & Regional Development.



### **3.21 MR. SIMON KIPRONO CHELUGUI, EGH – NOMINEE FOR THE POSITION OF CABINET SECRETARY, CO-OPERATIVES & MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT.**

794. The nominee, Mr. Simon Kiprono Chelugui, EGH, appeared before the Committee on Saturday, 22<sup>nd</sup> October, 2022 at 9.00 a.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:

#### ***Citizenship, Date and Place of Birth***

795. The nominee is a male Kenyan citizen born on 19<sup>th</sup> April 1971 in Kisanana, Baringo County and does not hold dual citizenship.

#### ***Academic and Professional Qualifications***

796. The nominee holds Master's Degree in Finance, Investment & Strategic Management from the University of Nairobi (2019), Bachelor of Commerce Management Science from the University of Nairobi (1996). The nominee attended Moi High School, Kabarak and sat for Kenya Certificate of Secondary School (KCSE) (1990) and also attended Pombo Primary School and sat for his Kenya Certificate of Primary School (KCPE) (1986).

#### ***Employment Record***

797. The nominee has over 25 years work experience in corporate governance, policy formulation, monitoring and reviewing implementation and technical policies where he served in the following positions:

- (a) Cabinet Secretary, Ministry of Water, Sanitation, and Irrigation Constituency from 2018 – 2020;
- (b) Chairman, Nile Basin Council of Members (11-member countries);
- (c) Cabinet Secretary, Ministry of Labour and Social Protection between 2020 to 2022;
- (d) Chairman, Regional Ministerial Forum for Migrants consisting of 19 member countries (EAC & Horn of Africa – EHOE);
- (e) Deputy Chair, African Regional Labour Administration Center consisting of 19 countries (ALRAC);
- (f) Director, Betting Control and Licensing Board;
- (g) Director, National Government Constituency Development Fund Board;
- (h) Managing Director, Penelly Construction and Engineering Ltd;
- (i) Managing Director, Coffee Factory Services E.A Limited;
- (j) Commercial Management ASSISTANT, Kenya Farmers Association; and
- (k) Chairman Board of Management, Oldebes Secondary School.

#### ***Honors and Awards***

798. The nominee was awarded by the National Honours and Awards Committee the Elder of Order of (CBS) in 2021.

### ***Income and Net Worth***

799. The nominee estimated his net worth to be Kshs. 993 million and his sources of income included salaries and allowances from employment and rental income.

### ***Professional Association and memberships***

800. The nominee is a member of the Alumni Association of the University of Nairobi.

### ***Potential Conflicts of Interest***

801. The nominee declared that he currently does not have any persons or matter that would present a potential conflict of interest, if appointed.

### ***Pro-bono/Charity Work***

802. The nominee has sponsored several needy students through high school and University to a tune of Ksh 3 million among other charity works.

### ***Integrity***

803. The nominee has neither been charged in a court of law nor mentioned in any investigatory report of Parliamentary or any Commission of Inquiry in the last three (3) years. He has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

## **3.21.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

804. The Committee posed several questions to the nominee on his portfolio and specific to the office of the Cabinet Secretary for the Co-operatives & Micro, Small and Medium Enterprises Development. The nominee responded as follows:

### ***Affirmative Action Funds/ Uwezo Fund/ Hustler Fund how it will be accessed***

805. The nominee informed the Committee that impact of these funds have been felt all over the country, the absorption rate in the constituencies of Uwezo Fund stands at 104%, indicating very impressive uptake of the Fund, with over Kshs. 1.2B having been revolved. In addition, the Fund recorded a cumulative repayment of Kshs. 2.36 billion since its inception which translates to 39 % repayment rate.

806. He noted that the hustler fund will be a great intervention. The fund will not take over the other existing funds. It will offer loans to the hard-working people. The fund will be established through the Public Finance Management act. The loans will be advanced to groupings like *chamas* and investment groups. The Ministry will carry out training to empower the hustlers, and thereafter will ensure monitoring and evaluation is carried out. The nominee indicated that he would liaise with the ministry of trade to look for market for produces.

#### ***Declared net worth in 2019 and if he can account for the increased income***

807. The nominee informed the Committee that his net worth in 2019 was 796 million. He informed the Committee that his net worth had increased due to appreciation in value of properties since then, thus the increase to the current 993 million.

#### ***Stalled water projects***

808. On stalled water projects, the nominee informed the Committee that the water projects were necessary in order to improve water supply in various regions. He stated that the projects were important and he would support the nominee for Water, if approved to complete the stalled projects.

#### ***Increment of savings to National Social Security Fund***

809. The nominees informed the Committee that the Kenya Kwanza government would like to encourage more savings in the country. He reiterated that the Ministry would maximize on contributable social security.

#### ***People Leadership skills/ issues with PS Irungu***

810. On his relationship with Principal Secretary Irungu, the nominee informed that he maintained cordial relations to all and that no complaints were ever brought up in regard to his character.

#### ***Allegations relating to misappropriation of funds meant to construct the Itare Dam***

811. In 2020, the nominee was summoned at the DCI headquarters to answer to questions relating to the Itare Dam probe. The nominee was asked to apprise the Committee on what became of the investigations relating to the Itare Dam and what role if any, the nominee played in relation to the stalled Itare Dam. To this end, the nominee responded as follows—

- (1) The plans by the government to build the Itare dam began in 1968 and between 1993-1995, the government undertook a feasibility study of the dam.
- (2) That in 2015, the government awarded and signed a tender with an Italian firm CMC Di Ravenna which was mandated to build the dam;
- (3) That sometime in 2018, the nominee did a site visit to the dam and noted that there was little activity being undertaken at the site;



- (4) That as a result, the nominee summoned the Company for a meeting in his office and the Company made a commitment to continue with the project;
- (5) That one month after the meeting, the Company was put under receivership;
- (6) That in March, 2019, the nominee was summoned at the DCI headquarters and was questioned by the Serious Economic Crimes Unit in relation to the Itare Dam scandal;
- (7) That the nominee was given 125 questions to answer to and he did reply to the questions in four hours;
- (8) That the nominee in answering the questions was able to demonstrate how the project was conceptualised and managed;
- (9) That the nominee's role as a Cabinet Secretary was purely policy formulation, budget preparation and oversight;
- (10) That the nominee came into the project when the project had already collapsed;
- (11) That after recording his statement, the nominee was informed that he would be invited again to sign the statement; and
- (12) That to date, the nominee has never been invited to sign the statement and there has been no further action on the matter

#### ***Duplicity of existing funds***

812. On the **duplicity of existing funds**, the nominee noted the need to anchor the Uwezo fund well in law as it was created via an executive order. He further stated that the Hustler fund would allow both individual and group lending. He also indicated that the government will partner with banks, work with intermediaries to lend and recover the money.

#### ***Small and medium enterprises challenge***

813. On the grace period for SMEs, the nominee noted that there is an established criterion on the lending. Lending will be done depending on the credit score of the clients.

#### ***Hustler Funds to be domiciled at the constituencies***

814. The nominees informed that the Ministry would want to adopt different approaches on the implementation of the Hustler Fund. The nominee noted that the Fund is premised on the need to maximize on the digital networks and promote the co-operative movements. He noted that the Hustler Fund will be 50 billion per year and that it will be anchored in the PFM Act, 2012.

#### ***History of cooperatives and Saccos swindling funds***

815. The nominee reiterated that he would strengthen the Sacco Societies Regulatory Authority (SASRA) to oversight all cooperatives by amending the relevant laws.

#### ***Gender mainstreaming***

816. On this the nominee informed the committee that the Kenya Kwanza government would support women access to affordable credit facilities.

#### ***Islamic faith***

817. The nominee noted that he would develop sharia compliant products within the Hustlers Fund to cater for people of the Islamic faith.

#### ***Infrastructure to be put in place***

818. The nominee informed the Committee that would collaborate with the Ministries of Trade and the EAC to explore market opportunities for Kenyan products and establish infrastructure such as cold rooms, warehouse, logistics and export market.

#### ***Kenya Deposit Insurance Corporation (KDIC) to ensure people's money is save***

819. The nominee stated that he would create a deposit protection scheme akin to KDIC to cover the cooperatives sector.

#### ***Closing statement***

820. The nominee informed the Committee that he would serve diligently, with integrity and diligence, if appointed.

### **3.21.1 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

821. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following Observations on his suitability for appointment as Cabinet Secretary in the Ministry of Co-operatives and Micro and Small Medium Enterprises Development.

(1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born in 1971 in Kisanana, Baringo County and does not hold dual citizenship.

(2) **THAT**, the nominee—

- i. holds Master's Degree in Finance, Investment & Strategic Management from the University of Nairobi (2019), Bachelor of Commerce Management Science from the University of Nairobi (1996). The nominee attended Moi High School, Kabarak and sat for Kenya Certificate of Secondary School (KCSE) (1990) and also attended Pombo Primary School and sat for his Kenya Certificate of Primary School (KCPE) (1986).

- ii. has over 25 years work experience in corporate governance, policy formulation, monitoring and reviewing implementation and technical policies where he served in the several positions including: Cabinet Secretary, Ministry of Water, Sanitation, and Irrigation Constituency from 2018 – 2020; Chairman, Nile Basin Council of Members (11-member countries); Cabinet Secretary, Ministry of Labour and Social Protection between 2020 to 2022; Chairman, Regional Ministerial Forum for Migrants consisting of 19 member countries (EAC & Horn of Africa – EHOE); Deputy Chair, African Regional Labour Administration Center consisting of 19 countries (ALRAC); Director, Betting Control and Licensing Board; Director, National Government Constituency Development Fund Board; Managing Director, Penelly Construction and Engineering Ltd; Managing Director, Coffee Factory Services E.A Limited; Commercial Management ASSISTANT, Kenya Farmers Association; and Chairman Board of Management, Oldebes Secondary School.
  - iii. was awarded by the National Honours and Award Committee, the Elder of the Order of the Golden Heart (EGH) in 2020.
- (3) **THAT**, the nominee obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Educations Loan Board (HELB).
  - (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
  - (5) **THAT**, the nominee does not hold office in any political party.
  - (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
  - (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Co-operatives and Micro, Small and Medium Enterprises Development and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Co-operatives and Micro, Small and Medium Enterprises Development.

### **3.22 HON. SALIM MVURYA, EGH – NOMINEE FOR THE POSITION OF CABINET SECRETARY, MINING, BLUE ECONOMY & MARITIME AFFAIRS.**

822. The nominee, Hon. Salim Mvurya, EGH, appeared before the Committee on Saturday, 22<sup>nd</sup> October, 2022 at 10.30 a.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:



### ***Citizenship, Date and Place of Birth***

823. The nominee is a male Kenyan, born in 1970 Kwale County. The nominee confirmed that he is a citizen of Kenya by birth and does not hold any other citizenship.

### ***Academic and Professional Qualifications***

824. The nominee holds a Masters of Arts in Participation, Power and Social Change from the University of Sussex, Brighton in the United Kingdom awarded in 2011. He also holds a Bachelors in Agribusiness Management from Egerton University awarded in 1996. He sat for his Kenya Certificate of Secondary Education at Mpeketoni Secondary School in 1980 and his Kenya Certificate of Primary Education at Mavirivirini Primary School in 1986.

### ***Work and Professional Experience***

825. In terms of work and professional progression, the nominee is the immediate former Governor of Kwale County, having served for two terms from 2013 to 2022. He has also been a Program Unit Manager at Plan International from 2003 to 2012.

826. The nominee has served as a Program Officer at Plan International from 2000 to 2003. Additionally, he worked as a Field Officer for Aga Khan Foundation in the Kwale Rural Support Program from 1998 to 2000. From 1997 to 1998, he served as a Research Assistant at the Tegemeo Institute of Agricultural Policy and Development and as a Field Monitoring Officer of Rea Vipingo Plantations from 1995 to 1996.

### ***Honours and Awards***

827. He was awarded Elder of the Golden Heart, (EGH).

### ***Public Office, Political Activities and Affiliations***

828. The nominee informed the Committee that he has held various positions in public offices in addition to those highlighted under the section on work and professional experiences. He was elected as Governor of Kwale County and served two terms from 2013 to 2022.

829. Further, he stated that he has also been the Chair of Jumuia ya Kaunti za Pwani Regional Economic Block from 2015 to 2021. Moreover, he also informed the Committee that he was a Vice-Chairman of the Council of Governors as well as the Chair of the Resource Mobilization Committee of the Council of Governors.

830. The nominee has also been a Chairman of the Kwale Health Forum in Kwale District from 2006 to 2009. He also sat on the Board of Governors of Kwale Girls High School from 2007

to 2012. Additionally, he has been a Director of the Kwale Water and Sewerage Company from 2007 to 2009.

### ***Potential Conflict of Interest***

831. The nominee stated that he has no immediate associations that are likely to present potential conflict of interest when he assumes the position, if approved.

### ***Sources of Income and Net-worth***

832. The nominee informed the Committee that his current net worth is Kshs. 120 million held in parcels of land, motor vehicles, rental income and a sum of Kshs. 32 million held in a bank account.

### ***Integrity***

833. The nominee stated that he has not been dismissed or otherwise removed from office for contravening the provisions of Article 75 of the Constitution. He has also not been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties.

834. Further, the nominee submitted that he has not been charged in any court of law in the last three years and neither has he been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years.

## **3.22.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

835. The Committee posed several questions to the nominee on his knowledge of the Public Service. The nominee responded as follows: -

### ***On Deterring Corruption in the Issuance of Licenses and other Permits in the Mining Sector***

836. The nominee informed the Committee that the Cabinet Secretary grants or rejects applications for licenses on the advice of the Mineral Rights Board. Upon assumption of office, he would digitize the application process for transparency and accountability.

### ***On Renewal of Licenses to Base Titanium***

837. On the allegations that the nominee had influenced the renewal of special mining licences for Titanium Companies, the nominee responded that he had not in any way participated or influenced renewal of the licences.

### ***On Foreigners Fishing Vessels in the Kenyan Waters***

838. The nominee undertook to closely work and build synergy with the security agencies such as the Coast Guards to protect the Kenyan waters. The nominee indicated that he would seek the expansion of the Exclusive Economic Zone of the country to enhance the competitive advantage of the local fishermen.

#### ***On Mortgage Facility during his Tenure in Office***

839. The nominee informed the Committee that while serving as a Governor of the County Government of Kwale, he accessed mortgage and car loan facilities but had since fully serviced all the liabilities.

#### ***Operationalization of the National Fish Quality Control Laboratories***

840. The nominee undertook to operationalize the three Fish Quality Control Laboratories in the country if given an opportunity to assume the office of the Cabinet Secretary.

#### ***On Support to artisanal fishermen***

841. The nominee undertook to submit regulations to the National Assembly for the operationalization of the Fisheries Management and Development Act, 2016. The regulations will accord favorable and conducive working environment to the artisanal fishermen. The Ministry will provide cold storage facilities to the fishermen so that they could store their wares instead of selling them at throw away prices.

The fishermen will also be encouraged to form cooperative societies to enable them access funding from the government.

#### ***On Illegal Mining Activities in the Country***

842. The nominee informed that Committee that the country did not have the mechanisms to ascertain the amount and quality of minerals within its borders. This has led to foreign companies misusing artisanal miners and carting away minerals illegally. The nominee submitted that he will undertake geological survey to map out the presence of mineral deposits in the entire country. The Ministry will also source for funds through the Cabinet and the National Assembly to equip Madini House with machinery to determine the quality of the minerals mined in the country.

#### ***Sharing of Royalties among the Levels of the Government***

843. The nominee submitted that upon of assumption of office, he would submit regulations to the National Assembly to operationalize sharing of royalties among the national government, county government and the local community to the ratio of 70:20:10 respectively. The necessary framework will be developed by the National Treasury.

#### ***Welfare of the Seafarers in the Country***

844. The nominee submitted that the Ministry will collaborate with institutions such as Bandari Maritime Academy to train and transfer skill set to the local seafarers. The Ministry will also coordinate with the Ministry of Labour to ensure that seafarers have a conducive working environment and their labour rights protected. The Ministry will train coxswains and make



provisions for the local fishermen to access the landing sites without undue hindrance. The Kenya Coast Guards and other security apparatus will be sensitized on their roles as that of protection and facilitation and not punishing the local fishermen.

#### ***Extending the Services of the Ministry to the Entire Country***

845. The nominee undertook to extend the services of the Ministry to the entire country and undertake geological survey to map out minerals in the country. This will help investors in identifying which mineral was available in what part of the country and to what quantity.

#### ***Training of Artisanal Miners***

846. The nominee submitted that the Ministry will offer training and skill transfer to artisanal miners to avert death and injury of local miners while attending to their trade.

#### ***Policies he will put in place to make the Ministry a Wealth Creation Ministry***

847. The nominee informed the Committee that 90% of Kenya's international trade was through the seas. He would leverage on the available opportunities and develop frameworks to empower the local fishermen. He indicated that he will operationalize the Liwatoni Fisheries Complex to enable fishermen fish and offload in Kenya. The nominee also undertook to leverage on value addition to the fish and minerals explored in the country.

#### ***Closing statement***

848. In his closing statement, the nominee promised to utilize the wealth of experience he gained throughout his public service to transform the Ministry. The nominee indicated that through collaboration with the relevant government Ministries, he will strengthen the contractual agreement between foreign mining companies and the local miners so that royalties and profit sharing is clearly spelt out. He implored upon the Committee to approve his nomination.

### **3.22.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

849. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following Observations on his suitability for appointment as Cabinet Secretary in the Ministry of Mining, Blue Economy and Maritime Affairs—

(1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 1970 in Kwale County and does not hold dual citizenship.

(2) **THAT**, the nominee—

(i) holds a Masters of Arts in participation and social change from the University of Sussex Brighton UK (2011) and a Bachelor's degree in Agribusiness Management from Egerton University (1996).

- (ii) is the former Governor for Kwale County having served since 2013 until 2022. He is a former Program Unit Manager at Plan International (Inc.) where he served during the period 2003 to 2012 and also served as a Programme Officer of Plan International during the period 2000 to 2003; The nominee also served as a field officer for Kwale Rural support programme, Aga Khan Foundation (1998 to 2000) and a Research Assistant at Tegemeo Institute of Agricultural Policy & Development (1997-1998). He also served as a Field Monitoring officer at Rea Vipingo Plantations (between 1995 and 1996).
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, though the nominee is a member of UDA Party, he does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Mining, Blue Economy and Maritime Affairs and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs.

### **3.23 HON. FLORENCE CHEPNG'ETICH KOSKE-BORE – NOMINEE FOR THE POSITION OF CABINET SECRETARY, LABOUR & SOCIAL PROTECTION.**

850. The nominee, Hon. Florence Chepng'etich Koske-Bore, appeared before the Committee on Saturday, 22<sup>nd</sup> October, 2022 at 11.30 a.m. and was vetted under oath pursuant to Article 152(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following

#### ***Citizenship, Date and Place of Birth***

851. The nominee is a female born on 10<sup>th</sup> January, 1970 in Kericho County. The nominee confirmed that she is a citizen of Kenya by birth and does not hold dual citizenship.

#### ***Academic and Professional Qualifications***

852. The nominee holds a Bachelor of Arts Education degree from Moi University (2013); a Diploma in Education from Kagumo Teacher's College (1992). She sat for her Kenya Advanced Certificate of Education (KACE) from Kipsigis' Girls High School and the Kenya Certificate of Education from the Kipsigis Girls' High School.

#### ***Work and Professional Experience***

853. The nominee was the County Woman Member of Parliament for Kericho County from 2017 to 2022; she was a Board Director of the Geothermal Development Company from 2015 to 2017; she was the Education Director in the County Government of Bomet (2015-2017); she was the Deputy Principal at Toror Girls' Secondary School (2011-2012); and a Teacher at the Kericho Tea Secondary School (1992-2009).

#### ***Professional Associations, Other Activities and Membership***

854. The nominee is a member of the Institute of Directors and the Teachers Service Commission.

#### ***Potential Conflict of Interest***

855. The nominee stated that she has no immediate associations that are likely to present potential conflict of interest when she assumes the position.

#### ***Sources of Income and Net-worth***

856. The nominee estimated her net worth to be Kshs.200million. She stated her source of income to include payments from the family tea and dairy farm and dividends from PACOSO, Imarisha Sacco and Kenya Highlands Sacco.

#### ***Integrity***

857. The nominee stated that she has not been dismissed or otherwise removed from office for contravening the provisions of Article 75 of the Constitution. She has also not been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties.

858. Further, the nominee submitted that she has not been charged in any court of law in the last three years and neither has she been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years.

#### ***Pro-bono/Charity Work***

859. The nominee is involved in charity work through supporting the vulnerable in the society.

### **3.23.1 GENERAL AND SECTOR SPECIFIC QUESTIONS**

860. In order to assess the nominee's overall suitability on the position, the Committee examined the nominee on general and specific thematic areas which the nominee responded to as follows:

#### ***On interventions for establishment of a universal social security system***



861. The nominee informed the Committee that the President is keen on promoting a saving culture but the Kshs.200 paid by employees and employers under the NSSF scheme is not enough for saving for the future. She informed the Committee that her proposal is for the contributions to be raised to about 6% of an employee's income. She stated that the universal social security system will make it possible for Kenya to meet the International Labour Organization standards in the next four years.

***On plan to promote enrolment of people in the informal sector into NSSF***

862. On her proposal for generating contributions to the NSSF, she stated that there was need to find innovative ways such as partnering with Safaricom so that when one loads airtime, part of it goes to the fund. She stated that after raising the contributions, there was need to make sure that the fund is productive and has good returns to attract more people to save.

***On interventions for Kenyan Immigrant workers in the Middle East***

863. She informed the Committee that just this year, 62 Kenyans have died in Saudi Arabia. She promised that if approved, her first cause of action would be to discuss with her counterpart in Saudi Arabia to get to the bottom of the issue. She stated that Parliament has approved Kshs. 60 Million to build safe houses for immigrant workers in distress. She also intends to use the money to employ more labour attachées to handle immigrant workers welfare in Saudi Arabia. Other proposals she made on the question include; -

- a. Promoting a form of communication among the workers so that they can know when one is in distress and report to the attachées;
- b. Creating a welfare fund and ensuring they have a medical cover;
- c. Using the Ministerial block formed by the Eastern Africa countries to address the issues collectively;
- d. Opening up more labour markets so that the workforce stops relying on Saudi Arabia alone;
- e. Streamlining the National Employment Authority to promote regulations of the agencies that take people to Saudi Arabia; relook the Committee that approves the agencies; and
- f. Promoting a mandatory pre-departure training on basics such as their roles and the Saudi culture.

864. On the question of why Kenyans are mistreated and end up dead in Saudi Arabia, she stated that it is the Saudi Arabia system that places employees at the mercies of their employers. She said that she is bound on changing this through political goodwill.

***On plans to tap into the labour market in countries with aging workforce***

865. On her ideas for opening up opportunities for Kenyans to work in countries with aging workforce, particularly Western Europe and the Americas, she said that collaboration with the countries will help create opportunities and that the youth can also work remotely.

***On mechanization of tea plucking and its effect on labour in Kericho tea estates***

866. She stated that she is ready to provide an environment for businesses to thrive and an environment for stakeholders to sit down and discuss issues around the mechanization. She

informed the Committee that the Government's position, which she believed to be the status quo, was for 40% mechanization and 60% employment. She stated that if approved, she would hold talks with the companies and ensure they provide employment to the locals through corporate social responsibility.

***On the definition of unemployment insurance as espoused in the Kenya Kwanza Manifesto***

867. She stated would consult further with the relevant agencies on the issue of unemployment insurance in relation to the proposed Hustler Fund.

***On mainstreaming employment to provide greater opportunities for the youth***

868. On ensuring that more opportunities are set aside for the youth and removing the requirement for experience in jobs for the youth, she stated that NITA takes the mandate of providing industrial attachment to equip the youth with the required experience. She said that the recognition of prior learning program will help the youth in blue collar jobs get certification. She intends to work with other ministries to provide opportunities that will give the youth experience to integrate into the workforce.

***On the Kenya Kwanza plans to eradicate malnutrition in 5 years***

869. The nominee stated that she will work with county governments to ensure ECDE children are protected from malnutrition. She also acknowledged the efforts of Non-Governmental Agencies in preventing malnutrition through programs. She stated that there was need to spread the programs across vulnerable populations to salvage the children from malnutrition. She also intends to ensure that children are vaccinated and that there is education on the masses on preserves to prevent malnutrition.

***On the safety of savings under the NSSF scheme***

870. She stated that she intends to streamline NSSF to ensure it has a Board that can take care of the fund and promote investments. She intends to promote oversight and transparency in the management of the fund by ensuring NSSF publishes a quarterly report on their investments and ensuring the Auditor General conducts an annual audit of the fund.

***In addressing the industrial problems at Kenya Airways***

871. She promised the Committee that she will sit down with Kenya Airways and find the best solution for the industrial unrests.

***On plans to improve the Haba Haba scheme***

872. She stated that she did not have sufficient information on the scheme and that if approved she will look into it.

***On the functioning of the Inua Jamii cash transfer programmes***

873. She stated that she had inquired on the challenges facing the disbursement of the fund to the elderly and people with disabilities and she was informed that the main issue is that the funding was not enough. She stated that she plans to lobby for more funds so that all beneficiaries can get the fund on time. She also intends to clean up the database to ensure the



stipend goes equitably to rightful beneficiaries. Further, she stated that mandatory saving in NSSF as a retirement scheme will help reduce the need for the social protection stipends.

874. On duplication of the funds by counties, she stated that she intends to match the funds to prevent duplication that results in wastage of state resources.

***On the incremental value of the Minimum wage bill***

875. On the reluctance by trade unions to discuss with the Government and the Federation of Kenya Employees about the minimum wage bill increments, she stated that she will sit down and agree with the stakeholders. She also confirmed that a Wage Council has been approved that will help address the issue of wages for employees across the country.

***Trade unions using worker's money to play parochial politics***

876. The nominee stated that she intends to prevent trade unions from misusing worker's monies and ensure that the monies contributed go to workers' welfare.

***On the challenges in registration of PWDs***

877. She informed the Committee that she had met with the Chairperson of the PWD council who assured her that there is a new card that will enable PWDs to be registered so that they can enjoy Government services and access employment opportunities.

***On disbursement of savings accrued under the NSSF Scheme***

878. On the challenges faced by beneficiaries in obtaining their savings under the scheme, the nominee assured the Committee that she will work to streamline the scheme to make it possible for beneficiaries to access their savings whenever they need.

***On policies for migrant workers***

879. She informed the Committee that there is a bill that has been drafted that is currently at the Attorney-General's office. She urged Parliament to work together with the Ministry once she is approved to pass the Bill in order to streamline the policy. She stated that the Bill will help fill in gaps that cause challenges among the workers.

880. On the plight of migrant workers in Saudi Arabia, she stated that countries such as the Philippines have been successful in the region because they have systems in place to protect their workers. She informed the Committee that she plans to review the bilateral agreement with Saudi Arabia to promote protection of migrant workers.

***On intervention to address the issues of Child labour in urban areas***

881. She asserted that she would strengthen supervision in the counties by using Children officers to make sure that children are not used in employment. She also stated that she intends to work with Members of Parliament to identify areas where children are used in employment and send the officers to intervene and ensure the children go to school.

***On implementation of the ban on requirement for clearance certificates in the Employment (Amendment) Act 2022***



882. She assured the Committee that she will implement the Act to make sure the youth are able to get clearances free of charge and on time.

### ***Closing statement***

883. In her closing statement, the nominee stated that if approved, she would collaborate with other arms of Government to fulfil her mandate.

### **3.23.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

884. The Committee, having considered the nominee's filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, her curriculum vitae and having heard her oral submission during the approval hearing, made the following observations on her suitability for appointment as Cabinet Secretary in the Ministry of Labour and Social Protection –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since she is a Kenyan citizen born on 10<sup>th</sup> January 1970 in Kericho county and does not hold dual citizenship.
- (2) **THAT**, the nominee—
  - (i) holds a Bachelor of Arts Education degree from Moi University (2013); a Diploma in Education from Kagumo Teacher's College (1992). She sat for her Kenya Advanced Certificate of Education (KACE) from Kipsigis' Girls High School and the Kenya Certificate of Education from the Kipsigis Girls' High School.
  - (ii) is the former Women Representative for Kericho county having served since 2017 until 2022;
  - (iii) she is a former KUPPET woman Representative for Kericho county during the period 2011 to 2012;
  - (iv) also served as a Board Member and Head of HR Committee for Geothermal Development Company Limited (2015 to 2017) and education Director-Vocational training in the County Government of Bomet during the period 2014 to 2015; and
  - (v) further served as a Deputy Principal at Toror girls' secondary school (between 2011 and 2012); teacher at Kericho tea secondary school (2009 to 2011) and teacher at Kericho day Secondary school (1992 to 2009).
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Education Loans Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.

- (5) **THAT**, although the nominee is a member of UDA Party, she does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching on the Ministry of Labour and Social Protection and has the requisite abilities, qualifications and experience to serve as the Cabinet Secretary for Labour and Social Protection.

### **3.24 MS. MERCY KIIRU WANJAU, CBS – NOMINEE FOR THE POSITION OF SECRETARY TO THE CABINET.**

885. The nominee, Ms. Mercy Kiiru Wanjau, CBS, appeared before the Committee on Saturday, 22<sup>nd</sup> October, 2022 at 3.17 p.m. and was vetted under oath pursuant to the Article 154(2) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. The Committee noted the following:

#### ***Citizenship, Date and Place of Birth***

886. The nominee is a female Kenyan born on 29<sup>th</sup> July, 1972 in Meru County and confirmed that she does not hold any other citizenship.

#### ***Academic and Professional Qualifications***

887. The nominee holds a Master's Degree in Commercial Law (LLM) from the University of Cape Town (1998); a post graduate diploma in Law from the Kenya School of Law (1997) and a Bachelor's of Law Degree from the University of Nairobi (1995).

#### ***Employment Record***

888. The nominee has worked in the following institutions in the stated capacities:

- b. Director Legal Services and Corporation Secretary at the Communications Authority of Kenya from 2021 to 2022; acting Director General at the same institution from 2019 to September 2021; Assistant Director, Regulatory Affairs and Governance; and Senior Legal Officer Communication Commission of Kenya from January 2001 to December 2002.
- c. United Nations Telecommunications Union in Geneva, Switzerland (2006 – 2007).
- d. Price Waterhouse coopers between 2000 - 2001;
- e. Kirundi & Company Advocates 1998 to 1999;
- f. KPMG, Cape Town, South Africa in 1998;
- g. Director SOS Children's Village Kenya 2016 – to date.
- h. Director CPS Governance Center Ltd 2018 – August 2022.
- i. Director Institute of Certified Secretaries, Kenya 2017 – 2020;

- j. Director ICT Board of Kenya 2011 – 2014;
- k. Director Multimedia College of Kenya 2010 – 2013;
- l. served as Chairperson Committee 4, UN-Universal Postal Union in 2021;
- m. Chairperson Global Symposium for Regulators 2021; and
- n. Chairperson Taskforce to develop policies and legislation to implement Article 34 of the COK 2013 – 2014.

### ***Honours and Awards***

889. She was awarded the Moran of the Order of the Burning Spear (OGW) and was awarded Eisenhower fellowship.

### ***Professional Associations Published Writing***

890. The nominee is a Member of the Law Society of Kenya from 1998 to date; Member of the Institute of Certified Secretaries; Institute of Certified Secretaries Benevolent Fund; and Institute of Arbitrators, Kenya.

### ***Sources of Income and Net-worth***

891. The nominee estimates her net worth to be Kshs.475, 440,000 from the following sources of income: land and buildings, shares in stock market, commercial farming of trees, motor vehicles. The nominee informed the Committee that she owns a house in Lavington which she brought from Communication Authority at a cost of Kshs 38 million about ten years ago arising from the government policy to move away from non -core business. She further stated that at the time of purchase, she resided in the said house and that occupiers had the first right of refusal.
892. The nominee denied influencing sale of the said house in her favour by stating that it was sold at a market value and financed by Housing Finance Corporation

## **3.24.1 GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE**

893. To assess the nominee's overall suitability on the position, the Committee examined the nominee on general and specific thematic areas which the nominee responded to as follows—

### ***Role of Secretary to the Cabinet***

894. The nominee noted that Article 154 of the Constitution prescribes the role of a Secretary to the Cabinet which includes taking charge of the Cabinet Office, arranging business and keeping the minutes of the Cabinet, conveying the decisions of the Cabinet to the appropriate authorities and performing other functions as may be directed by the Cabinet.
895. The nominee also noted that her roles also included liaising with Cabinet Secretaries; chairing the assumption of office of the President Committee and facilitating the swearing-in of the members of the Cabinet.
896. Additionally, the nominee informed the Committee that the Office of the Secretary to the Cabinet was critical in the facilitation of government operations in execution of policies.



### ***Right to information under Article 35 of the Constitution***

897. If appointed, the nominee undertook to be guided by Access to Information Act, 2016 and government policy regarding sharing of sensitive cabinet information.

### ***On taking a pay cut***

898. The nominee stated that contrary to many views from the Committee, she considered nomination for appointment as a Secretary to the Cabinet was an opportunity for career growth and progression.

### ***Opinion on the installation of device management system(DMS) which is a surveillance tool***

899. She stated that the device management system was aimed at enhancing security and quality of standards for consumers. She further stated that the objective of device management system was to identify all devices that use mobile services in Kenya and enable users to know if the devices they are using are genuine. Further, she stated that though the Court of Appeal ruled in favour of operationalization of device management system on subject to public participation, the matter was appealed and now pending in the Supreme Court.

### ***Limited experience in mainstream public service***

900. The nominee stated that she had vast experience having been a Company Secretary at the Board of the Communications Authority of Kenya comprising eleven (11) members from diverse backgrounds.

### ***Nominees' strengths***

901. The nominee informed the committee that she has worked in government for the past fifteen (15) years and has been developing policy and regulatory frameworks which were prosecuted through the National Assembly. She further stated that she brings competences, integrity, work culture, patriotism and collective decision making.

### ***Appointment of the nominee as Ag. Director-General***

902. The nominee stated that she was appointed on August 17, 2019 as the acting Director-General upon the recommendation by the State Corporation Advisory Committee following the expiry of the term of the former Director-General. She however clarified that the appointment was made by the Committee noting the Board was not quorate.
903. The nominee refuted claims that she had instigated the removal of the former Director-General from Office. She stated that the former Director-General exited by operation of the law.

## **3.24.2 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE**

904. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, her curriculum vitae and having heard her oral submission during the approval hearing, made the following Observations on her suitability for appointment as Secretary to the Cabinet –

- (1) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since she is a Kenyan citizen born on 29<sup>th</sup> July in Meru county and does not hold dual citizenship.
- (2) **THAT**, the nominee—
  - (i) is currently the Director Legal Services and Corporation Secretary at the Communication Authority of Kenya from 2001; she is the immediate former acting Director-General during the period 2019 to 2021 in the Communication Authority of Kenya. She has also served as a regulatory specialist in the UN international telecommunications Union in Geneva Switzerland (international secondment) in the period 2006 to 2007. The nominee also served as a tax consultant at PriceWaterHouse Coopers (2000-2001) and senior legal associate at Kirundi and Company Advocates (1998-1999); She also served as a legal associate at Muthoga Gaturu and company advocates (1997-1998) and internship, Tax division at KPMG, Cape town, South Africa (1998).
- (3) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and the Higher Educations Loan Board (HELB).
- (4) **THAT**, the nominee has not been charged in a court of law in the past three years.
- (5) **THAT**, the nominee is not a member of any Party and does not hold office in any political party.
- (6) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2) (*dual citizenship*) of the Constitution.
- (7) **THAT**, the nominee demonstrated knowledge of the roles to be performed the office of the Secretary to the Cabinet and has the requisite abilities, qualifications and experience to serve as the Secretary to the Cabinet.

## COMMITTEE OBSERVATIONS

905. Pursuant to section 6(7) & (8) and section 7 of the Public Appointments (Parliamentary Approval) Act, 2011, the Committee observed that the following nominees met the integrity threshold; demonstrated knowledge of topical, administrative and technical issues touching on the portfolios to which they had been nominated; and had the requisite abilities, academic qualifications and professional experience to be approved for appointment-

a) as Cabinet Secretaries in accordance with Article 152(2) of the Constitution:

- (1) Hon. Wycliffe Musalia Mudavadi, EGH, nominee, Prime Cabinet Secretary;
- (2) Hon. Aden Barre Duale, EGH, MP, nominee, Cabinet Secretary nominee for Defence;
- (3) Hon. (Dr.) Alfred Nganga Mutua, EGH, nominee, Cabinet Secretary for Foreign & Diaspora Affairs;
- (4) Hon. Alice Muthoni Wahome, MP, nominee, Cabinet Secretary for Water, Sanitation & Irrigation;
- (5) Hon. (Prof.) Kithure Kindiki, EGH, nominee, Cabinet Secretary for Interior & National Administration;
- (6) Prof. Njuguna Ndung'u, PhD, CBS, nominee, Cabinet Secretary for National Treasury & Planning;
- (7) Hon. Aisha Jumwa Karisa Katana, nominee, Cabinet Secretary for Public Service, Gender & Affirmative Action;
- (8) Mr. Davis Kimutai Chirchir, nominee, Cabinet Secretary for Energy & Petroleum;
- (9) Hon. Moses Kuria, nominee, Cabinet Secretary for Trade, Investment & Industry;
- (10) Hon. Onesimus Kipchumba Murkomen, EGH, MP, nominee, Cabinet Secretary for Roads, Transport & Public Works;
- (11) Hon. Roselinda Soipan Tuyu, MP CBS, nominee, Cabinet Secretary for Environment & Forestry;
- (12) Mr. Zacharia Mwangi Njeru, nominee, Cabinet Secretary Lands, Housing & Urban Development;
- (13) Ms. Susan Nakhumicha Wafula, nominee, Cabinet Secretary for Health;
- (14) Hon. Franklin Mithika Linturi, nominee, Cabinet Secretary for Agriculture & Livestock Development;
- (15) Mr. Eliud Okech Owalo, nominee, Cabinet Secretary for Information Communications & The Digital Economy;
- (16) Hon. Ezekiel Machogu Ombaki, CBS, nominee, Cabinet Secretary for Education;
- (17) Hon. Ababu Namwamba, EGH, nominee, Cabinet Secretary for Youth Affairs, Sports & The Arts;



- (18) Ms. Rebecca Miano, MBS, nominee, Cabinet Secretary for East African Community, Arid & Semi-arid Lands & Regional Development;
  - (19) Mr. Simon Kiprono Chelugui, EGH, nominee, Cabinet Secretary for Co-operatives & Micro, Small and Medium Enterprises Development;
  - (20) Hon. Salim Mvurya, EGH, nominee, Cabinet Secretary nominee for Mining, Blue Economy & Maritime Affairs; and
  - (21) Hon. Florence Chepngetich Koske-Bore, nominee, Cabinet Secretary for Labour & Social Protection.
- b) as Secretary to the Cabinet in accordance with Article 154(2) of the Constitution: Ms. Mercy Kiiru Wanjau, CBS.
- c) as Attorney-General in accordance with Article 156(2) of the Constitution: Hon. Justin Bedan Njoka Muturi, EGH.

906. Further, pursuant to section 6(7) & (8) and section 7 of the Public Appointments (Parliamentary Approval) Act, 2011, the Committee observed that Hon. Peninah Malonza, OGW, nominee, Cabinet Secretary for Tourism, Wildlife & Heritage did not demonstrate knowledge on topical, administrative and technical issues touching on the Ministry of Tourism, Wildlife & Heritage, lacked the requisite abilities and professional experience to be approved for appointment to the office of Cabinet Secretary; and

907. Despite the Observations under paragraph 905, a minority of the Members of the Committee recorded a dissenting/minority opinion with regard to the integrity of the **Hon. Aisha Jumwa Karisa Katana** and the **Hon. Franklin Mithika Linturi**.

## COMMITTEE RECOMMENDATIONS

908. Having conducted the approval hearing for the nominees pursuant to Article 152(2) of the Constitution, sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 204 (4), **the Committee recommends that this House –**

- (1) approves the nomination of Hon. Wycliffe Musalia Mudavadi, EGH for appointment as Prime Cabinet Secretary by His Excellency the President of the Republic of Kenya.**
- (2) approves the nomination of Hon. Justin Bedan Muturi Njoka, EGH, for appointment as The Attorney General by His Excellency the President of the Republic of Kenya.**
- (3) approves the nomination of Hon. Aden Barre Duale, EGH, MP for appointment as Cabinet Secretary for Defence by His Excellency the President of the Republic of Kenya.**
- (4) approves the nomination of Hon. (Dr.) Alfred Nganga Mutua, EGH for appointment as Cabinet Secretary for Foreign & Diaspora Affairs by His Excellency the President of the Republic of Kenya.**
- (5) approves the nomination of Hon. Alice Muthoni Wahome, MP, for appointment as Cabinet Secretary for Water, Sanitation & Irrigation by His Excellency the President of the Republic of Kenya.**
- (6) approves the nomination of Hon. (Prof.) Kithure Kindiki, EGH, for appointment as Cabinet Secretary for Interior & National Administration by His Excellency the President of the Republic of Kenya.**
- (7) approves the nomination of Prof. Njuguna Ndung'u, PhD, CBS, for appointment as Cabinet Secretary for National Treasury & Planning by His Excellency the President of the Republic of Kenya.**
- (8) approves the nomination of Hon. Aisha Jumwa Karisa Katana, for appointment as Cabinet Secretary for Public Service, Gender & Affirmative Action by His Excellency the President of the Republic of Kenya.**
- (9) approves the nomination of Mr. Davis Kimutai Chirchir, for appointment as Cabinet Secretary for Energy & Petroleum by His Excellency the President of the Republic of Kenya.**

- (10) approves the nomination of Hon. Moses Kuria, for appointment as Cabinet Secretary for Trade, Investment & Industry by His Excellency the President of the Republic of Kenya.
- (11) approves the nomination of Hon. Onesimus Kipchumba Murkomen, EGH, MP, for appointment as Cabinet Secretary for Roads, Transport & Public Works by His Excellency the President of the Republic of Kenya.
- (12) approves the nomination of Hon. Roselinda Soipan Tuyu, MP CBS, for appointment as Cabinet Secretary for nominee for, Environment & Forestry by His Excellency the President of the Republic of Kenya.
- (13) approves the nomination of Mr. Zacharia Mwangi Njeru, for appointment as Cabinet Secretary for Lands, Housing & Urban Development by His Excellency the President of the Republic of Kenya.
- (14) approves the nomination of Ms. Susan Nakhumicha Wafula, for appointment as Cabinet Secretary for Health by His Excellency the President of the Republic of Kenya.
- (15) approves the nomination of Hon. Franklin Mithika Linturi, for appointment as Cabinet Secretary for Agriculture & Livestock Development by His Excellency the President of the Republic of Kenya.
- (16) approves the nomination of Mr. Eliud Okech Owalo, for appointment as Cabinet Secretary for Information Communications & The Digital Economy by His Excellency the President of the Republic of Kenya.
- (17) approves the nomination of Hon. Ezekiel Machogu Ombaki CBS, for appointment as Cabinet Secretary for Education by His Excellency the President of the Republic of Kenya.
- (18) approves the nomination of Hon. Ababu Namwamba, EGH, for appointment as Cabinet Secretary for Youth Affairs, Sports & The Arts by His Excellency the President of the Republic of Kenya.
- (19) approves the nomination of Ms. Rebecca Miano, MBS, for appointment as Cabinet Secretary for East African Community, Arid & Semi-arid Lands & Regional Development by His Excellency the President of the Republic of Kenya.
- (20) approves the nomination of Mr. Simon Kiprono Chelugui, EGH, for appointment as Cabinet Secretary for Co-operatives & Micro, Small and Medium Enterprises Development by His Excellency the President of the Republic of Kenya.





(21) approves the nomination of Hon. Salim Mvurya, EGH, for appointment as Cabinet Secretary for Mining, Blue Economy & Maritime Affairs by His Excellency the President of the Republic of Kenya.

(22) approves the nomination of Hon. Florence Chepngetich Koske-Bore for appointment as Cabinet Secretary for Labour & Social Protection by His Excellency the President of the Republic of Kenya.

(23) approves the nomination of Ms. Mercy Kiiru Wanjau, CBS, for appointment as Secretary to the Cabinet by His Excellency the President of the Republic of Kenya.

909. Further, pursuant to Article 152(2) of the Constitution, sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 204 (4), the Committee recommends that this House rejects the nomination of Hon. Peninah Malonza OGW, for appointment as Cabinet Secretary for Tourism, Wildlife & Heritage by His Excellency the President of the Republic of Kenya.

910. In addition to the Recommendations under Paragraph 908, a minority of the Members of the Committee recorded a minority/dissenting opinion against the approval of the Hon. Aisha Jumwa Karisa Katana and the Hon. Franklin Mithika Linturi. The Minority/Dissenting Opinion is set out at Chapter 6.0.

 <b>THE NATIONAL ASSEMBLY</b> PAPER LAID	
DATE: 25 OCT 2022	SIGNED: 
TABLED BY: L.O.M. Ha. Kimani Chugueh	
CLERK-AT-THE-FOOT	

RT. HON. MOSES M. WETANGULA, E.G.H., M.P  
SPEAKER OF THE NATIONAL ASSEMBLY/CHAIRPERSON COMMITTEE ON APPOINTMENTS

DATE 25/10/2022

**MINORITY/DISSENTING OPINION ON THE NOMINATION OF HON. AISHA JUMWA KARISA KATANA, FOR APPOINTMENT AS CABINET SECRETARY FOR PUBLIC SERVICE, GENDER & AFFIRMATIVE ACTION; AND HON. FRANKLIN MITHIKA LINTURI, FOR APPOINTMENT AS CABINET SECRETARY FOR AGRICULTURE & LIVESTOCK DEVELOPMENT**

911. Pursuant to **Standing Order No. 199 (5) and (6)**, the following Members of the Committee recorded a Minority/Dissenting Opinion against the approval of **the nomination of Hon. Aisha Jumwa Karisa Katana for appointment as Cabinet Secretary for Public Service, Gender & Affirmative Action; and the Hon. Franklin Mithika Linturi, for appointment as Cabinet Secretary for Agriculture & Livestock Development—**

- (1) Hon. Opiyo Wandayi, CBS, MP
- (2) Hon. Robert Mbui, MP
- (3) Hon. Junet Mohammed, CBS, MP
- (4) Hon. David Pkosing, MP
- (5) Hon. Naisula Lesuuda, MP
- (6) Hon. Mishi Mboko, MP
- (7) Hon. Abdi Shurie, MP
- (8) Hon. Caleb Amisi, MP

912. They noted that the basis for the rejection of two nominees was premised on integrity questions, contrary to the clear provisions of Chapter 6 of the Constitution. The Members were of the firm view that Chapter 6 of the Constitution was put in place by Kenyans at constitution making, well aware of the highest standards of ethics and morality they needed to see in holders of public offices.

913. According to the Members, Kenyans did not do so in ignorance of the principles of presumption of innocence and fair hearing. The intention of the people of Kenya was that the standards of holding a public office be so elevated to a level that simple allegations tainting the office would warrant an automatic disqualification, notwithstanding any judicial finding on criminal culpability on the part of a nominee.

914. It was the view of the Members that the intention is clearly buttressed by Article 75 of the Constitution which states that—

- (1) A State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids—*
- (a) any conflict between personal interests and public or official duties;*
  - (b) compromising any public or official interest in favour of a personal interest;*
  - or*
  - (c) demeaning the office the officer holds.*

915. The Members were of the further view that the integrity principle is so critical that one can glean certain core issues Article 75 of the Constitution including—

- (i) regulation of both private and official conduct of public officers.
- (ii) The conduct of the officers must not demean the office they hold, so it is the image of the office that the law protects and less of the interests of the holder.
- (iii) Personal interest must not override public duty

916. The Members underscored the need to embrace the culture of integrity and cited the example of the former UK Prime Minister Boris Johnson who resigned under the following circumstances—

*A trigger was a sexual abuse scandal. Chris Pincher, a senior member of Johnson's government, was forced to resign on 1<sup>st</sup> July 2022 after allegations that he had groped two men on a drunken night at a private members' club. His resignation was followed by reports in the press of multiple other past sexual harassment allegations against him. Johnson's spokesperson initially said the Prime Minister had not been aware of allegations made about Pincher at the time he had been appointed to government in 2019. But Johnson was forced to backtrack after it emerged he had been briefed about a specific allegation ahead of that appointment. There were reports that Johnson had also referred to the lawmaker as "Pincher by name, pincher by nature".*

917. The Members averred that, although no court of law ever drew direct nexus between the Prime Minister and the scandal, he nevertheless, for his inactions against the senior government official, had to resign.

918. It is on this basis that the Members firmly rejected the nomination of the following persons—

#### **HON. MITHIKA LINTURI**

- (i) The grave matter of the questionable academic qualifications including the elusive Indian university degree which could not be traced.**

919. The Members observed that the Hon. Linturi —

- (a) submitted before the Committee that he could not present some of his academic certificates, including a degree purportedly acquired in India, following court orders that bar him from accessing his house where the said documents were allegedly kept;
- (b) stated that he was only able to present evidence of the documents which he was able to access and that were not subject to court cases, further noting he is presently dealing with 35 civil suits in various courts.
- (c) under oath stated as follows—



*"There are reasons why my certificates are not attached... There is also a court order that bars me from accessing my own house where all documents are, even as I sit here, there are documents - my titles, logbooks - which I can't access."*

920. The Members observed that the Committee had questioned the authenticity of Hon. Linturi's alleged University of Nairobi (UoN) law degree, noting that the institution had sought to discontinue the Hon. Linturi over allegations of forgery of documents. The Nominee in his response, clarified that the UoN degree was legitimate and had no issues around it stating as follows—

*"I don't have any dispute with the University of Nairobi Law degree.....what is in contention is a master degree programme."*

**(ii) The Attempted rape charges of 30<sup>th</sup> of January 2021 are so grave as to demean the office to which Hon. Linturi has been nominated, notwithstanding a subsequent move to have them dropped.**

921. The Members observed that the Nominee stated under oath as follows—

*"As I sit here, I have 35 cases in the court of civil nature, and the only criminal case is the attempted rape case, which has since been discontinued. These cases have really tormented me....,"*

922. The Nominee confirmed existence of the attempted rape charges against him but cited the sub judice rule as reasons for not delving into the details of matters pending before courts of law as follows—

*"Mr Speaker, having been an MP and understanding our practice, I want you to guide me on how I need to proceed in answering questions where I may end up discussing matters before courts for determination. When I sit here, I am so happy but regretful at the same time because of that sub judice rule probably I may not be able to explain to this country properly who Mithika Linturi is,"*

923. The Members further observed that the nominee had decried being a victim of the Criminal Justice System and that the Speaker and the Deputy Speaker had also noted during the session that the nominee was being unhelpful in answering questions by providing too much information that had not been asked for by the Committee.

**(iii) Forgery in securing two loan facilities: - Shs. 530 Million and Shs. 100 Million.**

924. The Members observed during the nominee's approval hearing, a matter arose regarding a commercial dispute where—

- (a) Atticon Limited, a firm that Hon. Linturi fully owned before ceding 50 per cent shares to Baron Estates Ltd in exchange for Baron Estates guaranteeing a Kshs. 50 million loan that Hon. Linturi intended to borrow from Family Bank;
- (b) **documents** filed in court identify Baron Estates' signatories as Rodha Kitany and Collins Kipchumba Ngetich;

- (c) according to the court documents, Baron Estates is owned by Noniko Holdings and Collins Kipchumba Ngetich;
  - (d) Rodha Kitany executed documents as a director of Noniko Holdings;
  - (e) Baron Estates also hired the services of a forensic investigator to ascertain the authenticity of the various signatures used to secure the loans.
925. The Members further observed that the forensic audit report filed in court indicated that Rodha Kitany's signature was forged to secure—
- (a) a loan of Kshs.100 million from Family Bank;
  - (b) a loan of Kshs. 325.7 million; and
  - (c) an overdraft facility of Kshs.100 million using the properties of Baron Estates.
926. According to the Members, the the Nominee, however, did not authoritatively pronounce himself on this matter stating that it is allegedly pending in court.
927. The Members found the Hon. Linturi unsuitable to hold public office due to the gravity of the allegations and the court cases against the Hon. Linturi, the integrity questions allegations and cases raise, and the unsatisfactory responses he provided. The Members therefore rejected his nomination to the Cabinet.

## **HON. AISHA JUMWA**

### **The pending murder case**

928. The Members observed that the Committee interrogated the nominee over the charge of murdering a Mr. Ngumbao in 2019 during campaigns in the Ganda Ward by-election where she is accused jointly with her aide, Geoffrey Okuto. The Members further observed that at least three witnesses have testified against the nominee and noted that, in response, the nominee—
- (a) argued she shot no one,
  - (b) said she does not know how to handle a gun at all as she owns none;
  - (c) asked to be turned into a Prosecution witness upon the review of the case by the DPP; and
  - (d) asserted that she is seeking an out of court settlement with the family over the matter.
929. Further, it was on this basis that the nominee urged the Committee not to deny her an opportunity to serve under the principle of presumption of innocence until one is proved guilty. The nominee, however, did not seem to appreciate how that integrity question would taint the position she has been nominated to because of a public perception of integrity deficit.
930. The Members stated that they hold the strong view that the principle of presumption of innocence until one is proved guilty should never apply in situations of appointment to a high public office such as the Cabinet of the Republic of Kenya.

931. The Members therefore found the Hon. Aisha Karisa Katana Jumwa unsuitable to hold public office due to the gravity of the active criminal case against her, the integrity questions it raises, and the unsatisfactory responses provided. The Members therefore rejected her nomination to the Cabinet.



