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27/2/18*



REPUBLIC OF KENYA



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27/2/2018
Ajah*



NATIONAL ASSEMBLY

TWELFTH PARLIAMENT- SECOND SESSION

**THE DEPARTMENTAL COMMITTEE ON
ADMINISTRATION & NATIONAL SECURITY**

REPORT ON THE VETTING

OF

**MAJ.GEN (RTD) DR. GORDON ODEMO
KIHALANGWANOMINEE, FOR THE APPOINTMENT OF
PRINCIPAL SECRETARY, IMMIGRATION, BORDER
CONTROL AND REGISTRATION OF PERSONS**

**DIRECTORATE COMMITTEESERVICES
THE NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI**

FEBRUARY, 2018

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PREFACE

Honorable Speaker,

The Departmental Committee on Administration and National Security was constituted on 14th December 2017 pursuant to provisions of Standing Orders 216(1).

The Committee executes its mandate in accordance with the provisions of Standing Order 216 (5), from which it draws its mandate to, inter alia;

- a) investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments; and
- b) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204.

Honorable Speaker,

2. In executing its mandate, the Committee oversees the following Ministries and Departments:

- i) The Ministry of Interior & Coordination of National Government
- ii) The National Police Service Commission
- iii) The Independent Policing Oversight Authority
- iv) The Public Service Commission

3. According to Schedule II of the Standing Orders, the Committee is mandated to Consider the following subjects:

- i) National Security;
- ii) Police Services;
- iii) Home Affairs;
- iv) Public Administration;
- v) Public Service,
- vi) Prisons;
- vii) Immigration

The Departmental Committee on Administration and National Security comprises of the following members;

1. Hon. Paul Koinange, MP (Chairperson)
2. Hon. John Waluke, MP (Vice-Chairperson)
3. Hon. Athanas Wamunyinyi, MP
4. Hon. Justus Kizito, MP
5. Hon. Makali Mulu, MP
6. Hon. Didmus Wekesa Barasa Mutua, MP
7. Hon. Geoffrey Kingagi Muturi, MP
8. Hon. Marselino Malimo Arbelle, MP
9. Hon. Tecla Chebet Tum, MP
10. Hon. Josphat Kabinga Wachira, MP
11. Hon. Nimrod Mbithuka Mbai, MP
12. Hon. George Theuri, MP
13. Hon. Martin Deric Ngunjiri Wambugu, MP
14. Hon. Abdi Omar Shurie, MP
15. Hon. Yussuf Mucheke Halima, MP
16. Hon. Peter Masara, MP
17. Hon. Ahmed Kolosh Mohammed, MP
18. Hon. Aduma Owuor, MP
19. Hon. Edward Oku Kaunya, MP

COMMITTEE SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Mr. Daniel Mutunga | - | Principal Clerk I |
| 2. Mr. Abdullahi Aden | - | Senior Clerk Assistant |
| 3. Mr. Joshua Ondari | - | Clerk Assistant III |
| 4. Mr. Sidney Bwire | - | Legal Counsel II |
| 5. Mr. Donald Manyala | - | Researcher Officer |

Honorable Speaker,

5. Article 155(1) of the Constitution of Kenya provides that there is established the Office of the Principal Secretary, which is an office in the public service. Further, Article 155 (3) provides that the President shall nominate a person for appointment as Principal Secretary from among persons recommended by the Public Service Commission; and with approval of the National Assembly, appoint the Principal Secretaries. The duties of Principal Secretaries shall be the administration of a State department.
6. On the 13th of February 2018, Pursuant to Standing Order 42(2) of the National Assembly in your communication, you informed the House that in a message from H. E. the President by way of letter dated 30th January 2018, H. E. the President and Commander in Chief of the Kenya Defence Forces of the Republic of Kenya with respect to appointment of the persons to the various offices of Cabinet Secretaries, Principal Secretaries and of High Commissioners/ Ambassadors of the Republic of Kenya for approval by the House pursuant to Article 155 (3) (b) of the Constitution

Subsequently, you referred the Message from H. E. The President containing the names of the nominees together with their curriculum vitae to the relevant Departmental Committees of the House to conduct the vetting of the nominees. Further, you directed that the Committees deliberate on the nominees and table their reports.

The Maj. Gen (Rtd) Gordon O. Kihalangwa, nominee, Principal Secretary Immigration, Border Control and Registration of Persons was referred to the Departmental Committee on Administration and National Security;

7. The Committee held its sittings on 19th February, 2018 to familiarize themselves with the curriculum vitae of the nominee and to consider memoranda received thereof. On Wednesday 21st February, 2018 the committee held an approval hearing meeting, during which the nominee appeared and was vetted. In conducting the vetting exercise, the Committee made reference to the Constitution, the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, and the Standing Orders. During the exercise, the nominee made submissions on why he should be appointed to the position of Principal Secretary Immigration Border Control and Registration of Persons.

8. The Committee, in compliance with the Constitutional and other legal requirements and established procedures for vetting, ensured its meetings were open to the public and covered by the media. The Committee also placed a memorandum in the mainstream print media, and pursuant to Article 118 of the Constitution on 14th February 2018 inviting the public to submit memoranda, in tandem with the law.

Honorable Speaker,

9. The Committee takes this opportunity to thank the Offices of the Speaker and the Clerk of the National Assembly for the logistical support accorded to it during the vetting exercise. The Committee is also grateful to the media for their coverage of the proceedings of the Committee, thus enhancing accountability and transparency of the vetting exercise.

Honorable Speaker,

- 10 The Committee deliberated on the nominees' biodata, curriculum vitae submissions, made by the nominee including and his oral submissions during the vetting at the sitting held on Wednesday 21st February 2018.

The Committee came up with several findings during the vetting exercise. The observations, findings and conclusions guided the Committee in making its final recommendations. The recommendations of the Committee were unanimously agreed upon by the Members during the adoption of the Report on Thursday 22nd February 2018.

On behalf of the Committee, and pursuant to Article 155(3)(b) of the Constitution, Section 8(1) and (2) of the Schedule to the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, and Standing Order no. 199(6), it is my pleasant duty to Table the Report of the Departmental Committee on Administration and National Security , on the vetting of nominee, Maj Gen. (Rtd) Dr. Gordon Kihalangwa, for appointment to the Office of Principal Secretary Immigration, Border Control and Registration of Persons.



SIGNED.....

HON. (HON. PAUL KOINANGE, MP)
(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

DATE..... 27th February 2018

1.0 BACKGROUND

Establishment of the Office of Principal Secretary and nomination

a) Article 155 of the Constitution provides that;

(1) There is established the office of Principal Secretary, which is an office in the public service.

(2) Each State department shall be under the administration of a Principal Secretary.

(3) The President shall—

(a) Nominate a person for appointment as Principal Secretary from among persons recommended by the public service commission

(b) With the approval of the National Assembly, appoint Principal Secretaries.

Issues for consideration in conducting the Approval hearing

c) In conducting the Approval hearing, the Committee was guided by Article 73(2)(a) (b)(c) and (e) of the Constitution, and the provisions of Sections 6 (7) and 7 of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011.

12. Article 73 (2) of the Constitution provides that:

(2) 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, favoritism, 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.

Message from H.E. the President

13. On the 13th February 2018, pursuant to Standing Order 42 (2), the Speaker of the National Assembly conveyed a message to the House from H.E. the President dated 30th January 2018 that Maj. Gen (Rtd) Dr. Gordon Odemo Khilangwa CBS was among the candidates nominated to serve as Principal Secretaries.

Article 155(3)(a) of the Constitution confers upon the President the power to nominate, and subject to approval by the National Assembly, appoint Principal Secretaries.

14. After conveying the message from H. E. the President on the nomination, the Speaker of the National Assembly forwarded the name of the nominee and his curriculum vitae to the Departmental Committee on Administration and National Security to conduct Approval hearings.

Clearance Requirements

15. On Wednesday 14th February 2018, the Clerk of the National Assembly wrote a letter to

- 1) the Office of the Registrar Political Parties
- 2) the Criminal Investigation Department
- 3) the Ethics and Anti-Corruption Commission
- 4) the Higher Education Loans Board (HELB)
- 5) the Kenya Revenue Authority (KRA)

seeking information on the nominee with respect to matters relating to integrity, status of a pending criminal record, tax compliance, an unpaid loan and whether they are officials of a registered political party.

Notification to the Nominee

16. On Wednesday 14th February 2018, the Clerk of the National Assembly, pursuant to Section 6(3) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, notified the nominee in writing that the approval hearing was scheduled to take place on Wednesday 21st February, 2018, in 4th Floor of Continental House Parliament Buildings, at 11:00 am.

17. Section 6(9) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, 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 the office to which the candidate has been nominated”.
18. On Wednesday, 14th February 2018, the Office of the Clerk published an advertisement via print media inviting the public to present submission and memoranda touching on suitability of the nomination of Maj. Gen (Rtd) Dr. Gordon Kihalangwa as Principal Secretary for the State Department-Immigration, Border Control and Registration of persons by Tuesday, 20th February, 2018 at 5.00 pm. two memoranda were received. Further, the advert notified the public that the Departmental Committee of Administration and National Security would conduct an Approval hearing, pursuant to Article 118 (1)(a)(b) and(2) of the Constitution, Standing Order 198 (1) and Section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011.

Committee Meetings

20. The Committee carried out the vetting exercise on Wednesday 21st February 2018. The committee held two preparatory meetings to familiarize themselves with the curriculum vitae of the nominee examine memoranda and formulate questions for the approval pursuant to the provisions of the Public Appointments (Parliamentary Approval) Act No.33 2011.

Submissions

21. At the close of business on Tuesday 20th February, 2018 the Committee had received the following submissions from

- 1— Thirdway Alliance Kenya (a registered political party)
- 2— Kenya National Commission on Human Rights

22. **Thirdway Alliance Kenya** presented a memorandum wherein it submitted that the Committee, while undertaking the exercise of vetting nominees for the position of Principal Secretary should ensure that the process; reflects the role of the National Assembly, adhere to the provisions regulating leadership and integrity, respect the two-thirds gender rule, reflect equitable representation of

special interest groups as well as regional and ethnic diversity of the people of Kenya.

23. The Committee observed that the submission could not be classified as a memorandum because it was not a sworn statement and did not appear to urge the National Assembly to reject or support the approval of the nominee.
24. **The Kenya National Commission on Human Rights** presented a memorandum opposing the nomination of Maj. Gen (Rtd) Dr. Godron Kihalangwa as Principal Secretary for the State Department-Immigration, Border Control and Registration of persons on the grounds that the nominee was found culpable for impunity and violation of the law in Misc. Criminal Application No. 57 of 2018 wherein the High Court found that the Director of Immigration acted together with the Inspector General of Police and the Director of Criminal Investigations to defeat the orders of the court that the required the applicant, Mr. Miguna Miguna to be produced in court so that he could be dealt with in accordance with the law;
25. The Commission concludes its submission by urging Parliament to reject the nominee on the grounds of gross breach of Article 10 of the Constitution (national values and principles of governance), sections of Chapter 6 of the Constitution touching on leadership and integrity, the rule of law (namely Articles 3 (Defence of this Constitution), 28 (Human dignity), 29 (Freedom and security of the person), 40 (Protection of right to property), 43(Economic and social rights), 45 (Family) and 51 (Rights of persons detained, held in custody or imprisoned) of the Constitution, section 7 of the Leadership and Integrity Act that requires a state officer to carry out duties of the office in accordance with the rule of law) and the fundamental human rights of Mr. Miguna Miguna.
26. The Committee observed that;
 - i. upon inquiry it emerged
 - a) There was a subsisting appeal against Misc. Criminal Application No. 57 of 2018. Consequently, the legal process is yet to be exhausted and

therefore there was no final determination under Article 75(2) of the Constitution and the matter was *sub judice* under Standing Order 89 of the National Assembly Standing Orders

- b) The memorandum did not take the form of a sworn statement in accordance with the advert published inviting the public to submit on the same.

Clearance Letters

21. Further, the Committee received letters from the Kenya Revenue Authority, indicating that the nominee was tax compliant, and the Higher Education Loans Board, stating that the Board was not owed any loans by the nominee

The Ethics and Anti-Corruption Commission and the Directorate of Criminal Investigation confirmed that there were no outstanding issues or ongoing investigations against the nominee. The Office of the Registrar of Political Parties confirmed that the nominee was not an official of a registered political party. The nominee also presented before the Committee his Certificates of Good Conduct.

The Vetting Process

22. On Wednesday 21st February, 2018 the Committee held a session with the Principal Secretary nominee. In conducting the vetting exercise, the Committee was guided by, among other documents, the Constitution, the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 and the National Assembly Standing Orders.

2.0 VETTING OF MAJ.GEN (RTD) DR. GORDON ODEMO. KIHALANGWA - PRINCIPAL SECRETARY NOMINEE, IMMIGRATION, BORDER CONTROL AND REGISTRATION OF PERSONS

23. The Committee examined the nominee using the guidelines provided for in the Public Appointments (Parliamentary Approval) Act No. 33 of 2011. The Committee also followed the following criteria in vetting the nominee: -

- i) Academic qualifications
- ii) Employment record and work experience
- iii) Professional association
- iv) Suitability to the position
- v) Tax compliance
- vi) Integrity

24. Maj. Gen (Rtd) Dr. Gordon O. Kihalangwa appeared before the Committee on Wednesday 21st February 2018, the Committee having heard his submissions during the meeting, made the following observations on his nomination to the position of Principal Secretary, Immigration, Border Control and Registration of Persons Ministry of Interior and Coordination of National Government.

Personal Background

He was born in Kakamega County, Married to Madame Christine and they are blessed with three sons namely Marvin, Andricus and Earl aged between 35-22 years.

Academic Background

Doctor of Philosophy in International Studies and Diplomacy, Washington International University (WIU) USA, (Thesis: The Security Implication of Illegal Immigration in Kenya: A case study of Nairobi (2013)

MA in International Studies and Diplomacy, Washington International University (WIU) – USA. (Thesis: Conflict Prevention and Management in IGAD Sub – Region – Sub –Saharan Africa (2011).

Diploma in International Studies- University of Nairobi (UoN) (Thesis: Conflict over Natural Resources: A case study of the River Nile (2005).

Diploma in Strategic Studies- University of Nairobi (UoN) Thesis: Conflict Management by Regional Bodies of Africa; A comparison between IGAD and ECOWAS (2006).

Professional Experience

- i) Director of Immigration Services, Ministry of Interior and Coordination of National Government, - 2014: Maj. Gen (Rtd) Dr. Kihalangwa has been the Director of Immigration Department for three (3) years and 4 months. A Department that was confronted with a lot of challenges that included corruption, poor work ethics and ethnicity all threatening national security.
- ii) To date Maj. Gen (Dr) Kihalangwa has addressed most of the challenges. Notable achievements include the introduction of online immigration services and use of e-citizen. The passport application, e-visa and e-Foreign Nationals Management online has improved service delivery. The cue management system was introduced in January 2015. Besides improving in service delivery, there has been a notable increment in revenue collection that has risen from kshs.7 billion to Kshs. 10.2billion annually. The introduction of e-Passport with advanced security features on 1st September, 2017 was a great achievement.
- iii) The Department is finalizing the Immigration Policy by March 2018 and having the first class for the Institute of Migration Studies in August, 2018. As the Chairman of the Kenya-Somalia Border Securitization Project before it was moved to the Ministry of Defence in 2017, he was able to start the construction of the fence which is currently contributing to security on our border with Somalia as it has diminished porosity.
- iv) During his tenure, the Integrated Population Registration System (IPRS) was officially launched. With the IPRS in place, the data for all citizens will be captured making it the single source of truth.

Achievements

- i) Maj. Gen. (Rtd) Dr. Kihalangwa career in the Defence Forces saw him accomplish many things which includes successful planning and

implementation of the modernizing programme of KDF, proper utilization of resources both financial and material, attainment of high standards of discipline, posting of key events and addressing the challenge of housing.

- ii) Maj.Gen (Rtd) Dr. Kihalangwa periodically lectures at both National and Defence Colleges Kenya and National Intelligence Service Academy on issue of security and conflict.
- iii) He was honored with the award of the Chief of the Burning Spear in 2011. Having held various appointments and responsibilities Maj. Gen (Rtd) Dr. Kihalangwa has acquired enormous experience in areas of security, personnel management, development and analysis of policy, project management at various levels.

On the suitability of the nominee for appointment as Principal Secretary, Immigration, Border Control and Registration of Persons

25. The Maj. Gen informed the committee that as the Director of Immigration Department for the last three and half years he is well versed with matters relating to immigration Border Control and Registration of persons which entails the issuance of travel documents, Permits, Citizenship Permanent Residence, and Inter-agency cooperation which makes him suitable for the position.

The Maj Gen. further informed the committee that he has addressed most of the challenges faced by the department and the notable achievements include the introduction of online immigration services and use of e-citizen. The passport application, e-visa and e-Foreign Nationals Management online.

During his tenure he spearheaded the official launching of the Integrated Population Registration System (IPRS) which enables, the data for all citizens to be captured, making it the single source of truth.

On what he will do on his first ninety days in office

26. The Maj. Gen informed the committee that he will undertake a system audit in his first three months in office to overcome the challenges facing the country on Immigration, border control and registration of persons.

With regard to the separation of powers and the relationship he will cultivate with institutions such as the National Assembly, Ethics and Anti-Corruption and the Office of the Auditor General?

27. The Maj Gen. informed the committee that he understands the role of the National Assembly under Article 95 and 125 of the Constitution; he is also well versed with the mandates of the Ethics and Anti-Corruption Commission and the Office of the Auditor General. Respects the rule of law and enjoys cordial relationship with above offices and will always honor their invitation on any matter.

With regard to the total adherence to the Bill of rights pursuant to chapter four of the constitution.

27. The Maj Gen informed the committee that the bill of rights is an integral part of the Kenya's democratic state and is the framework for social, economic and cultural policies, assured the committee of his adherence to the requirement of the Constitution to preserve the dignity of individuals and communities to promote social justice and the realization of the potential of all Kenyans.

Issuance of Identification cards and Passports

29. The nominee informed the Committee that he has always endeavored to fast track the process, and now that the docket of registration of persons is under him, he will always ensure the process is efficient and effective. He however cautioned that the delays in northern Kenya areas are as a result of security checks that have to be carried out to confirm genuine citizens from non-citizens. He further urged members to assist him in educating and ensuring Kenyans have basic documents like birth certificate before applying FOR A passport.

- 1) On passports he indicated that Kenyans on medical emergencies and urgent travel timelines and VIPs are accorded priority. He also promised to weed out middlemen who have always given them a hard time in efficient delivery of services.

- 2) He noted that the closure of Garissa Passport control office was temporary and with the introduction of E-passport, new offices in Embu, Garissa, Nakuru and Eldoret will be opened.

Border Control & Security.

30. The nominee informed the committee that border control and security has direct impact on the big four agenda of the government. He hopes that the '*nyumbakumi*' initiative works efficiently to help weed out illegal immigrants who are a threat to national security.

On respect of court orders.

31. On the incident of Senator James Orengo and Mr. Jimmi Wanjigi being barred from travelling to Harare, Zimbabwe, the Nominee informed the committee that he had not been served with court orders reversing the suspension of their passport. Consequently, after the Directorate was served with court order the following day, the two were allowed to travel to Zimbabwe.
32. On the deportation of Dr. Miguna Miguna, the Nominee informed the Committee that when Migunu fled the Country to Canada in 1986, he lost his citizenship as Kenya had not yet adopted the dual citizenship system. He further clarified that after the promulgation of the new Constitution, Kenyans who had lost their citizenship as a result of acquiring other nationalities were required to officially apply a fresh to regain their citizenship, something that Dr. Miguna Miguna did not do.
33. On the move to suspend the passport of National Super alliance (NASA) supporters and Members of Parliament the Nominee informed the Committee that a passport is the property of the government and can be withdrawn any time for various reasons. He further told the committee that the Immigration Department wrote letters to 21 people informing them to surrender their passports and only one Member of Parliament surrendered his passport to the Immigration department.

3.0 COMMITTEE FINDINGS

The Committee having considered the curriculum vitae of the nominee and having heard his oral submissions during the vetting exercise, at the sitting held on Wednesday 21st February, 2018 made the following observations;

- i) That; Maj Gen. (Rtd) Dr. Gordon Odemo Kihalangwa nominee had the requisite qualifications, experience which qualifies him for the appointment as a Principal Secretary, Immigration, Border Control and Registration of Persons, Ministry of Interior and Coordination of National Government
- ii) The nominee exhibited impressive knowledge, experience, skills on issues touching on Security, Immigration, Border control and registration of persons.

4.0 RECOMMENDATION OF THE COMMITTEE

Having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 155(3)(a) of the Constitution and Section 8 (2) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, the Committee therefore unanimously recommends that this House approves the nomination and subsequent appointment of Maj. Gen. (Rtd) Dr. Gordon Odemo Kihalangwa to serve as Principal Secretary Immigration, Border Control and Registration of Persons, Ministry of Interior and Coordination of National Government.

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Annex 1 Adoption list

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REPUBLIC OF KENYA



NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

ATTENDANCE/PAYMENT SCHEDULE

Agenda:

Venue: 11th Floor, Protection

Date: 22/02/2018 Time: 11am

- a) Adoption of the report on vetting of the Principal Secretary nominee for Immigration, Border Control & Registration of Persons – Maj. Gen. (Rtd) Dr. Gordon Odemo Kihalangwe

NO.	NAME	SIGNATURE
1.	Hon. Paul Koinange, MP - Chairperson	
2.	Hon. John Waluke, MP - Vice – Chairperson	
3.	Hon. Wafula Wamunyinyi, MP	
4.	Hon. Justus Kizito, MP	
5.	Hon. Dr. Makali Mulu,MP	
6.	Hon. George Theuri, MP	
7.	Hon. Didmus Wekesa Barasa Mutua, MP	
8.	Hon. Geoffrey Kingagi Muturi, MP	
9.	Hon. Marselino Malimo Arbelle, MP	
10.	Hon. Dr. Tecla Chebet Tum, MP	
11.	Hon. Josphat Kabinga Wachira, MP	
12.	Hon. Nimrod Mbithuka Mbai, MP	
13.	Hon. Ngunjiri Wambugu, MP	
14.	Hon. Abdi Omar Shurie, MP	
15.	Hon. Halima Mucheke, MP	
16.	Hon. Peter Masara, MP	
17.	Hon. Ahmed Kolosh Mohammed ,MP	
18.	Hon. Aduma Owuor, MP	
19.	Hon. Oku Kaunya,MP	

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1. Minutes of the 8th Sitting held on Monday 19th February, 2018 at 3.00pm were confirmed as the true deliberations of the committee as proposed by the Hon. Peter Francis Masara, MP and Seconded by the Hon. Josphat Kabinga Wachira, MP
2. Minutes of the 13th Sitting held on Wednesday 21st February 2018 at 11:00 am were confirmed as the true deliberations of the committee as proposed by Hon. Josphat Kabinga Wachira, MP and seconded by Hon. Abdi Omar Shurie, MP.

MIN. NO.65/ANS/2018: ADOPTION OF THE REPORT ON THE VETTING OF NOMMINEE, MAJ GEN. DR. GORDON O. KIHALANGWA FOR APPOINTMENT TO THE OFFICE OF PRINCIPAL SECRETARY IMMIGRATION, BORDER CONTROL AND REGISTRATION OF PERSONS

The Committee Members unanimously adopted the Report on the vetting of the nominee for appointment as Principal Secretary Immigration, Border Control and Registration of Persons;

Observations

1. That; Maj Gen. (Rtd) Dr. Gordon Kihalangwa nominee had the requisite qualifications, experience which qualifies him for the appointment as a Principal Secretary, Immigration, Border Control and Registration of Persons, Ministry of Interior and Coordination of National Government
2. The nominee exhibited impressive knowledge, experience, skills on issues touching on Security, Immigration, Border control and registration of persons.

Recommendation

On the nomination of Maj Gen. (Rtd) Dr. Gordon Odemo Kihalangwe, the committee approved his nomination for appointment as Principal Secretary for the State Department of Immigration, Border Control and Registration of Persons, Ministry of Interior and Coordination of National Government.

MIN. NO.66/ANS//2018: ADJOURNMENT OF THE MEETING

There being no other business, the meeting adjourned at thirty minutes past one o'clock

SIGNED


HON. PAUL KOINANGE, M.P.
(CHAIRPERSON)

DATE: 22nd 02 - 2018

MINUTES OF THE 14TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 22ND FEBRUARY, 2018 IN THE BOARDROOM OF 11TH FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 12.00 P.M.

MEMBERS PRESENT

1. The Hon. Paul Koinange, MP - **Chairperson**
2. The Hon. Didmus Wekesa Barasa Mutua, MP
3. The Hon. Geoffrey Kingagi Muturi, MP
4. The Hon. Josphat Kabinga Wachira, MP
5. The Hon. Nimrod Mbithuka Mbai, MP
6. The Hon. Abdi Omar Shurie, MP
7. The Hon. Peter Francis Masara, MP
8. The Hon. Ahmed Kolosh Mohammed, MP
9. The Hon. Aduma Owour, MP
10. The Hon. Oku Kaunya, MP
11. The Hon. Marselino Malimo Arbelle, MP

MEMBERS ABSENT

1. The Hon. John Waluke, MP - **Vice-Chairperson**
2. The Hon. Wafula Wamunyinyi, MP
3. The Hon. Ngunjiri Wambugu, MP
4. The Hon. Justus Kizito, MP
5. The Hon. George Theuri, MP
6. The Hon. Dr. Makali Mulu, MP
7. The Hon. Halima Mucheke, MP
8. The Hon. Dr. Tecla Chebet Tum, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

- | | | |
|-----------------------|---|------------------------|
| 1. Mr. Abdullahi Aden | - | Senior Clerk Assistant |
| 2. Mr. Joshua Ondari | - | Clerk Assistant III |
| 3. Mr. Sidney Bwire | - | Legal Counsel II |
| 4. Mr. Donald Manyala | - | Researcher Officer |

MIN. NO.63/ANS/2018:

PRELIMINARIES

The meeting was called to order at Twenty Minutes past Twelve O'clock and prayers were said.

MIN. NO.64/ANS/2018:

CONFIRMATION OF MINUTES

The following minutes were confirmed as the true deliberations of the committee

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Annex 2- Minutes

MINUTES OF THE 13TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON WEDNESDAY, 21ST FEBRUARY, IN 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 11.00 A.M.

MEMBERS PRESENT

1. The Hon. Paul Koinange, MP - **Chairperson**
2. The Hon. John Waluke, MP - **Vice-Chairperson**
3. The Hon. Justus Kizito, MP
4. The Hon. George Theuri, MP
5. The Hon. Dr. Makali Mulu, MP
6. The Hon. Wafula Wamunyinyi, MP
7. The Hon. Didmus Wekesa Barasa Mutua, MP
8. The Hon. Geoffrey Kingagi Muturi, MP
9. The Hon. Dr. Tecla Chebet Tum, MP
10. The Hon. Josphat Kabinga Wachira, MP
11. The Hon. Nimrod Mbithuka Mbai, MP
12. The Hon. Ngunjiri Wambugu, MP
13. The Hon. Abdi Omar Shurie, MP
14. The Hon. Peter Francis Masara, MP
15. The Hon. Ahmed Kolosh Mohammed, MP
16. The Hon. Aduma Owour, MP
17. The Hon. Oku Kaunya, MP
18. The Hon. Marselino Malimo Arbelle, MP

ABSENT

1. The Hon. Halima Mucheke, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk I
2. Mr. Abdullahi Aden - Senior Clerk Assistant
3. Mr. Joshua Ondari - Clerk Assistant III
4. Mr. Sidney Bwire - Legal Counsel II
5. Mr. Donald Manyala - Researcher Officer

MIN.NO.59/ANS/0/2018:

PRELIMINARIES / REMARKS BY THE CHAIRPERSON

The Chairperson called the meeting to order at eleven o'clock and requested the Hon. Josphat Kabinga Wachira, M.P., to lead on a word of prayer.

In conducting the vetting process, the Departmental Committee on Administration and National Security examined the nominees against criteria that included the following as set out in the Public Appointment (Parliamentary Approval) Act, 2011

- a. Academic qualifications
- b. Employment records
- c. Professional affiliations
- d. Potential conflict of interest
- e. Knowledge of relevant subject
- f. Expectations and key priorities
- g. Overall suitability of the position
- h. Integrity
- i. Vision and Leadership

MIN.NO.60/ANS/0/2018: VETTING OF MAJ. GEN (RTD) DR. GORDON ODEMO KIHALANGWE, CBS PRINCIPAL SECRETARY NOMINEE FOR THE STATE DEPARTMENT OF IMMIGRATION, BORDER CONTROL & REGISTRATION OF PERSONS, MINISTRY OF INTERIOR & COORDINATION OF NATIONAL GOVERNMENT

Maj. Gen. (Rtd) Dr. Gordon Odemo Kihalangwe, the Principal Secretary nominee, State of Immigration, Border Control and Registration of Persons, Ministry of Interior and Coordination of National Government appeared before the committee on Wednesday 21st February, 2018 at 11.00 am and was orally interviewed pursuant to the provisions of the Constitution of Kenya, the Public Appointments (Parliamentary approvals) Act, 2011 and the Standing Orders of the National Assembly.

Date and place of Birth

1. He is a Kenyan Citizen born on 13^h May, 1956 in Kakamega County.

Academic and Professional Qualifications

1. He holds a PhD in International Studies and Diplomacy which he attained in 2013 from Washington International University. (WIU) - USA
2. He holds a Masters in International Studies and Diplomacy which he attained in 2013 from Washington International University. (WIA) - USA
3. He holds a Diploma in International Studies which he attained in 2005 from University of Nairobi, (Uon).
4. He holds a Diploma in Strategic Studies which he attained in 2006 from University of Nairobi (Uon).
5. He holds a Certificate, which he attained in 2006 from National Defence College Kenya.
6. He holds a Certificate, which he attained in 2004 from South African National Defence College.

7. He holds a Certificate, which he attained in 1998 from Defence Staff College Kenya.

Employment Record

8. He is currently the Director of Immigration Services.

9. He was Assistant Chief of Defence Forces (Acdf) in Charge of Personnel and Logistics between 2010 and 2014.

10. He was Chief of Personnel-Defence Headquarters between 2006 and 2010.

11. He was Provost Marshal - Defence Headquarters between 2002 and 2006.

12. He was Commanding Officer Military Police Corps between 2001 and 2002.

13. He was Staff Officer 1 in Charge of Personnel, Headquarter, Kenya Army between 1999 and 2001.

14. He was Military Assistant to Commander Kenya Army between 1999 and 2001.

15. He was Staff Officer Class 2 in Charge of Logistics and Planning, Headquarter Kenya Army between 1998 and 1999.

16. He was Staff Officer 2 in Charge of Personnel and Logistics- Armoured Brigade Headquarters between 1996 and 1998.

17. He was Operations Officer Kenya Battalion 6 in Former Yugoslavia between 1993 and 1995.

18. He was Squadron Commander - 76 Armored Reconnaissance between 1991 and 1993.

19. He was Instructor Cadets - School of Armor between 1988 and 1991.

20. He was Gunnery Instructor - School of Armor between 1987 and 1988.

21. He was Troop Commander between 1982 and 1987.

Honors and Awards

22. He was awarded Chief of Burning Spear (CBS) in 2011.

23. He was awarded 20TH Anniversary Commemorative

24. He was awarded the 10 Great Years of Nyayo Era

25. He was awarded 25th Anniversary Commemorative

26. He was awarded 20 Years of Nyayo Era
27. He was awarded the Constitution Medal
28. He was awarded the Linda Nchi Campaign Medal
29. He was awarded Un Peace Keeping (UNPROFOR)

Published Writings

30. The nominee has published numerous academic and non-academic writings on journals, reports and other materials i.e. Automation of Immigration services, Concept note for the establishment of Institute of migration, Border procedure manual and National Migration policy.

Potential Conflicts of Interest

31. The nominee declared that he currently doesn't have any persons or matter that would present a potential conflict of interest should he assume the position of Principal Secretary, Ministry of Interior and Coordination of National Government. 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

32. As the current Chair of Board of Management of Ingidi Secondary School, the nominee donated books worth over 1.5 million. In 2016 with the help of his friends, he bought Ingidi Secondary School a bus worth 4.8 million.
33. In his capacity as the current chair for development of Waigama Friends Church Kitale, the nominee helped built a church worth 7.5 million.
34. The nominee and his family are supporting ten children in paying for their school fees—eight in a day secondary school and two in a teachers' training college.

Integrity

35. The nominee has fully complied with his tax obligations to the state as confirmed by the commissioner General, Kenya Revenue Authority in a letter to the Clerk of the National Assembly Ref. KRA/CDT/HO/54 dated 16th February 2018 received on 19th February, 2018 and Tax compliance certificate No. KRAWON9534622018 dated 30th January, 2018.
36. In a letter Ref. EACC./7/10/5 VOL. V (102) dated 13th February, 2018 to the Clerk of the National Assembly, the Chief Executive Officer of the Ethics and Anti-Corruption

Commission confirmed that there are no outstanding issues or ongoing investigations against the nominee.

37. 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.
38. The Director of Criminal Investigations issued the nominee with a Police Clearance Certificate No. 156457 dated 24th April, 2015. In a letter to the Clerk National Assembly, referenced DCI/CRO/SEC/6/7/2/A/VOL.VI/12 dated 19th February 2018 also confirmed that the nominee had been genuinely issued with certificate of good conduct.
39. The nominee was not a beneficiary of the University loans scheme, hence has been cleared by the Higher Education Loans Board (HELB) and was issued with a Certificate of Clearance No. HELB – 4507 dated 5th February 2018.
40. The nominee has also been cleared by Metropol Credit Reference Bureau Limited via certificate number MCRB/C710022 dated 6th February 2018.

GENERAL AND SECTOR SPECIFIC QUESTIONS TO THE NOMINEE

The Committee posed several questions to the nominee on his knowledge of the Public Service, Youth and Gender affairs. The nominee responded as follows: -

Immediate Issues to be addressed in the Ministry.

41. The nominee informed the Committee that he will comply fully with the PFM Act, and will institute an audit, within 90 days, of the state department to fully understand all the issues in the dockets under him so as to be able to address the challenges faced by the department.
42. He also noted that the ministry was in the process of issuing third generation identity cards that will be a one document with information on driving license, NHIF, NSSF and PIN details and an e-passport. Automation of issuance of birth certificates is top of his priorities as well.

Principle of separation of powers

43. The nominee informed the Committee that he has always respected the three arms of government and worked closely with independent oversight institutions of government like the EACC and the Ombudsman to deliver justice and services to Kenyans.
44. On the incident of Senator James Orengo and Mr. Jimmi Wanjigi being barred from travelling to Harare, Zimbabwe, the Nominee clarified that he had not been served with court orders reversing the suspension of their passport. Therefore, after the Directorate

of Immigration had been served with court order the following day, the two were allowed to travel to Harare Zimbabwe.

45. On the deportation of Dr. Miguna Miguna, the Nominee informed the Committee that when Migunu fled the Country to Canada in 1986, he lost his citizenship as Kenya had not yet adopted the dual citizenship system. He further retaliated that after the promulgation of the new Constitution, Kenyans who had lost their citizenship as a result of acquiring other nationalities were required to officially apply a fresh to regain their citizenship, something that Dr. Miguna Miguna did not do.
46. On the move to suspend the passport of National Super alliance (NASA) supporters and Members of Parliament the Nominee informed the Committee that a passport is the property of the government and can be withdrawn any time for various reasons. He further told the committee that the Immigration Department wrote letters to 21 people informing them to surrender their passports and only one Member Parliament surrendered his passport to the Immigration department.

Issuance of Identification cards and Passports

47. The nominee informed the Committee that he has always endeavored to fast track the process, and now that the docket of registration of persons is under him, he will always ensure the same is issued fast enough. He however cautioned that the delays in northern Kenya areas are as a result of security checks that have to be carried out to confirm genuine citizens from non-citizens. He urged members to assist him in ensuring that only genuine Kenyans present request for passports and that all Kenyans should strive to have basic documents like birth certificate before application of a passport.
48. On passports he indicated that Kenyans on medical emergencies and urgent travel timelines and VIPs are accorded priority. He also promised to weed out middlemen who have always given them a hard time in efficient delivery of services.
49. He noted that closure of Garissa Passport Control Office was temporary and with the introduction of e-passport, new offices in Embu, Garissa, Nakuru and Eldoret will be opened.

Border Control & Security.

50. The nominee informed the committee that border control and security has direct impact on the big four agenda of the government. He hopes that the '*nyumbakumi*' initiative works efficiently to help weed out illegal immigrants who are a threat to national security.

Succession plan and nurturing/mentoring officers

51. The nominee informed the committee that the state department has a pyramid like structure which has provided a good succession plan. He also indicated that out of the 1200 employees, 722 have Masters' degrees while 4 are PhD holders.

Achievements and Legacy by the end of term

52. The Nominee informed the Committee that he wants to leave behind a rich legacy that will include the E-passport, an Institute of immigration Services Automated system of issuance of IDs and birth certificates which will increase government revenue collection.

MIN.NO.61/ANS/2018:

ADJOURNMENT OF THE MEETING

There being no other business, the meeting was adjourned at thirty minutes past one o'clock.

MIN.NO.62/ANS/2018:

DATE OF THE NEXT MEETING

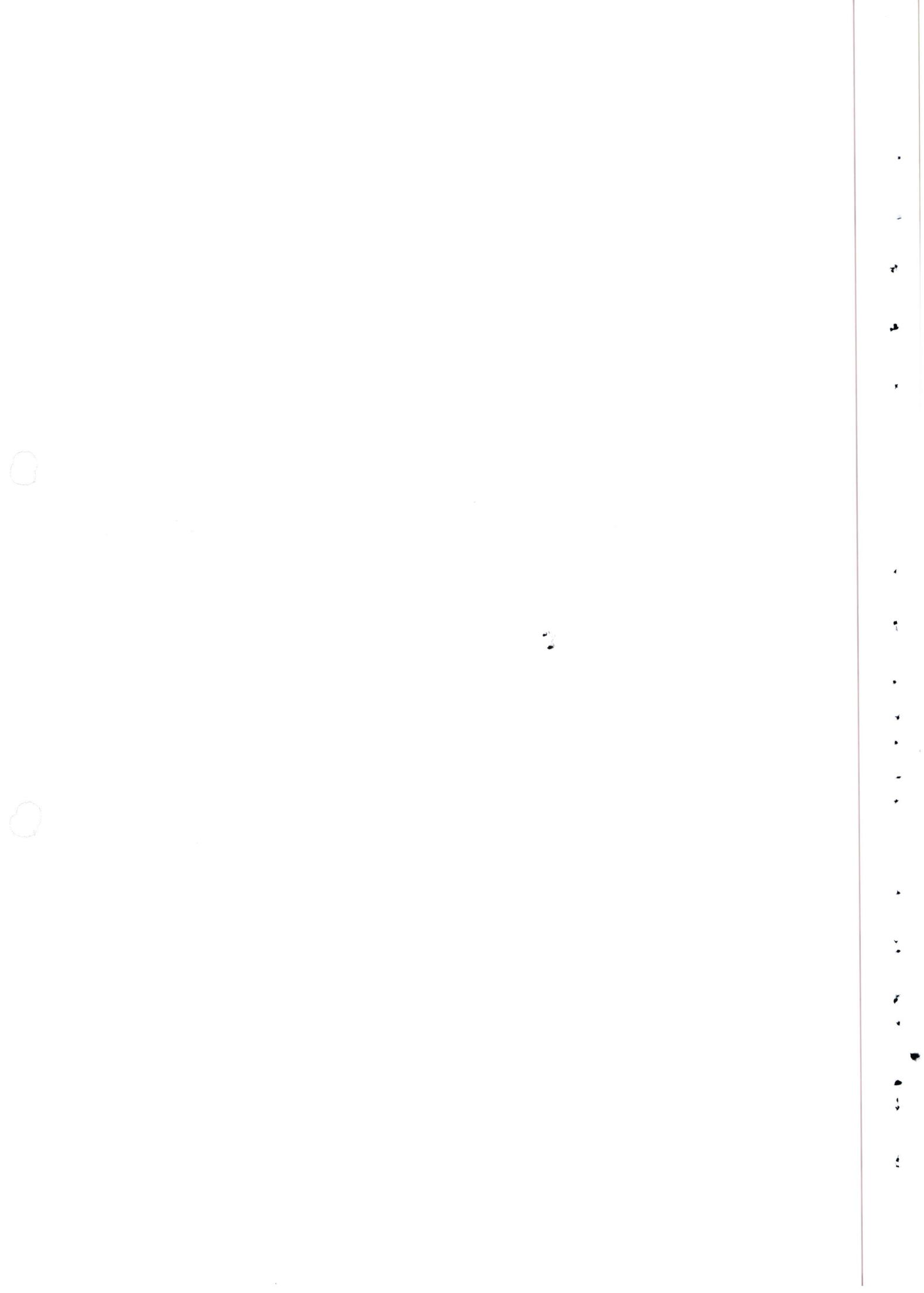
The Committee resolved to have the next meeting on Thursday, 22nd February 2018 at 10:00 am at a venue to be communicated later.

SIGNED _____



**HON. PAUL KOINANGE, M.P.
(CHAIRPERSON)**

DATE: 22nd 02. 2018



MINUTES OF THE 8TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON MONDAY 19TH FEBRUARY, 2018 IN THE BOARDROOM OF 11TH FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 3:00 PM

PRESENT:

1. The Hon. Paul Koinange, MP - Chairperson
2. The Hon. John Waluke, MP Vice-Chairperson
3. The Hon. Dr. Makali Mulu, MP
4. The Hon. Wafula Wamunyinyi, MP
5. The Hon. Geoffrey Kingagi Muturi, MP
6. The Hon. Dr. Tecla Chebet Tum, MP
7. The Hon. Josphat Kabinga Wachira, MP
8. The Hon. Abdi Omar Shurie, MP
9. The Hon. Peter Francis Masara, MP
10. The Hon. Ahmed Kolosh Mohammed, MP
11. The Hon. Edward Oku Kaunya, MP

ABSENT

1. The Hon. Justus Kizito, MP
2. The Hon. George Theuri, MP
3. The Hon. Didmus Wekesa Barasa Mutua, MP
4. The Hon. Nimrod Mbithuka Mbai, MP
5. The Hon. Marselino Malimo Arbelle, MP
6. The Hon. Halima Mucheke, MP
7. The Hon. Aduma Owour, MP
8. The Hon. Ngunjiri Wambugu, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Abdullahi Aden - Senior Clerk Assistant
2. Mr. Joshua Ondari - Clerk Assistant III
3. Mr. Sidney Bwire - Legal Counsel II
4. Mr. Donald Manyala - Researcher Officer
5. Mr. Edison Odhiambo - Fiscal Analyst

MIN.NO.37/ANS/2018:

PRELIMINARIES

The meeting was called to order at ten minutes past Three O'clock, after which prayer was said by the Hon. Oku Kaunya, MP.

MIN. NO.38/ANS/2018: BRIEFING ON THE BUDGET POLICY STATEMENT BY THE PARLIAMENT BUDGET OFFICE

Mr. Edison Odhiambo, Budget Officer took the members through the Budget Policy Statement and informed the Committee as follows;

- a) The BPS is prepared in accordance with section 25 of the Public Finance Management Act, 2012 and Standing Order No. 232. It outlines the current state of the economy and outlook over the medium term, broad macro-economic issues and the medium term fiscal framework; the key strategic priorities and policy goals and a summary of the Governments spending plans as a basis for the FY 2018/2019 budget and the medium term.
- b) The departmental committee on Administration and National Security will be expected to scrutinize policy highlights and spending plans as envisaged in the BPS 2018 touching on the votes under its purview. The votes include:
 - i) Vote 1011: The Presidency
 - ii) Vote 1021 : State Department for Interior
 - iii) Vote 1023: State Department for Correctional Services
 - iv) Vote 2071: Public Service Commission
 - v) Vote 2101: National Police Service Commission
 - vi) Vote2151: Independent Police Oversight Authority
- c) Upon being laid before the House, the Budget Policy Statement shall stand committed to each Departmental Committee to consider and make recommendations to the Budget and Appropriations Committee within seven days of committal. The resolution of the House on the Budget Policy Statement shall serve as a basis of the proposed estimates of expenditure for the next financial year and the medium term.
- d) The agencies under the purview of the Committee will be implementing a total of sixteen programmes
- e) The budget ceilings are provided to guide the budget allocations but overtime it has not been the case.

- f) The Revenue Projections for 2018/19 BPS targets for revenue collections including A-I-A is projected at Kshs.1,849.4 billion translating to 18.9% of GDP which is an increase from the 2017/18 projections of Kshs. 1,643.1 billion which was 19% of GDP.
- g) The overall expenditure and net lending are projected at Kshs. 2,488.4 billion (25.4% of GDP) increasing from the estimated Kshs. 2,323.1 billion (26.8% of GDP) in the FY 2017/18. The projected expenditures for 2017/18 includes Kshs.1509.1 billion to defray recurrent Expenditures and Kshs. 658.9 billion for development Expenditures. In addition a contingency amount of Kshs. 5 billion and Kshs. 8.5 billion for Equalization Fund is also provided.
- h) The deficit of Kshs.588.5 billion will be financed both externally and domestically.
- i) The analysis of the pending bills for state departments reveals that there has been an increase in pending bills both for recurrent and development.
- j) The 2018 BPS promises to construct 100,000 houses for the Police through Public-Private Partnership
- k) The pivotal policy thrust of the 2018 BPS is to achieve a better quality of life for all Kenyans by implementing the big four strategic areas of :
 - i) Supporting value addition and raising the manufacturing sectors share of GDP to 15 percent by 2022. This will accelerate economic growth, create jobs and reduce poverty
 - ii) Focusing on initiatives that guarantee food security and improve nutrition to all Kenyans by 2022 through expansion of food production and supply, reduction of food prices to ensure affordability and support value addition in the food processing value chain
 - iii) Providing Universal Health Coverage thereby guaranteeing quality and affordable healthcare to all Kenyans and
 - iv) Providing at least five hundred thousand affordable new houses to Kenyans by 2022, hence improve living conditions for Kenyans.

Committee Observations

- a) An analysis of the previous BPS's and approved estimates over time reveals that MDAs do not adhere to House Resolutions as recommended by the National Treasury and adopted by the House.
- b) Pending bills have been increasing and there is need to verify the authenticity of all pending bills before any payments are made. Any pending bill that is incurred unprocedurally should attract a penalty. A policy should also be developed to provide for pending bills through the normal budgetary process.
- c) There has been slow in implementation of police reforms and there is need for the Committee to take up the matter.
- d) There are limited funds for completion of capital projects critical for the achievement of the big four. The government should adopt a strategy of completing fewer projects based on the level of funds available.
- e) The Ministry or State departments have been undertaking new projects without finalizing on the ongoing projects, Priority should be given to the ongoing projects which were started earlier in the second Medium Term.
- f) It is not indicated on how or who is going pay for 100,000 housing units for police which will be built through Public Private Partnership. The time for delivering these units is also not specific and it may take further than anticipated due to the bureaucratic process of PPP procurement.

MIN.NO.39/ANS/2018:

**BRIEFING ON THE VETTING OF THE PRINCIPAL
SECRETARY NOMINEE FOR IMMIGRATION,
BORDER CONTROL & REGISTRATION OF
PERSONS**

The Secretariat took the members through the vetting process as provided for by Article 155 (3) of the constitution and section 6 (9) of the Public Appointments (Parliamentary Approval) Act 2011 and Standing Order 216 (5) of the National Assembly

The members were informed that;

- a) Following the receipt of the nomination of Maj. Gen. (Rtd) Dr. Gordon Odemo Kihalangwe, the Principal Secretary nominee, State Department of Immigration, Border Control and Registration of Persons. The Committee on Administration & National Security is mandated pursuant to **Standing Order 216(5) (f)** to vet and consider his suitability for appointment to the position and submit its report to the House for Approval.
- b) Pursuant to section 6(9) of the Public Appointment (Parliamentary Approval) Act, 2011, the Committee on Administration & National Security invited interested members of the public to submit any representation by written statement on oath (affidavit), that they may have on the suitability or otherwise of the nominee, Maj. Gen. (Rtd) Dr. Gordon Odemo Kihalangwe for appointment to the office of the Principal Secretary.
- c) So far, the Office of the Clerk has received one memoranda wherein, it submitted that the Committee to ensure that the process; reflects the role of the National Assembly, adhere to the provisions regulating leadership and integrity, respect the two-thirds gender rule, reflect equitable representation of special interest groups as well as regional and ethnic diversity of the people of Kenya.
- d) The Committee observed that the submission could not be classified as a memorandum because it was not a sworn statement and did not appear to urge the National Assembly to reject or support the approval of the nominee.
- e) The Secretariat had written to the Ethics and Anti-Corruption Commission, Kenya Revenue Authority, Directorate of Criminal Investigation, Higher Education Loans Board and office of the Registrar of Political Parties seeking information touching on the integrity of the nominee tax compliance, outstanding issues or ongoing investigations by the nominee, re-payments of any loans that may have been advanced to the nominee and whether the nominee is an official of a registered political party.

- f) The vetting of an officer for appointment to public office is guided by the provisions of the Constitution as well as the Public Appointments (Parliamentary Approvals). Act of 2011.
- g) The Members will be provided with questions to guide them in the vetting process

MIN. NO.40/ANS/ 2018:

ANY OTHER BUSINESS

The Secretariat was tasked to come up with the functions of the newly created State Department of Immigration, Border Control and Registration of Persons; this will guide members in interrogating the nominee.

MIN. NO.41/ANS/ 2018:

ADJOURNMENT

There being no other business the meeting was adjourned at Five O'clock.

MIN.NO.42/ANS/2018:

DATE OF THE NEXT MEETING

The Committee resolved to convene on Tuesday 20th February, 2018 at 9.00 a.m. same venue.

SIGNED _____



**HON. PAUL KOINANGE, M.P.
(CHAIRPERSON)**

DATE: _____

22nd 02.2018

**Annex 3- Notification Letter from the appointing authority,
His Excellency, The President and Commander in
Chief of the Kenya Defence Forces of the Republic
of Kenya.**





TWELFTH PARLIAMENT
THE NATIONAL ASSEMBLY

COMMUNICATION TO MEMBERS OF THE NATIONAL ASSEMBLY

RECEIPT OF MESSAGE ON APPOINTMENT OF PRINCIPAL
SECRETARIES AND HIGH COMMISSIONERS/AMBASSADORS

Pursuant to Standing Order 42(2) of the National Assembly Standing Orders, I hereby notify Members of the National Assembly of my receipt, on the 29th day of January 2018 of the attached message dated 29th January 2018 from His Excellency the President and Commander in Chief of the Kenya Defence Forces of the Republic of Kenya Hon. Uhuru Kenyatta with respect to appointment of the persons to the various offices of Cabinet Secretaries, Principal Secretaries and of High Commissioners /Ambassadors of the Republic of Kenya.

HON. JUSTIN B.N MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Tuesday, 30th January 2018

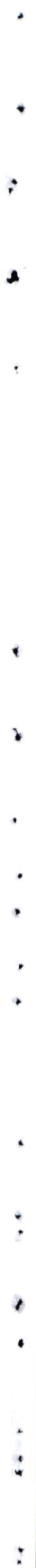
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Annex 4- Communication from the Speaker



REPUBLIC OF KENYA



TWELFTH PARLIAMENT (SECOND SESSION)
THE NATIONAL ASSEMBLY

MESSAGES

MESSAGE FROM THE PRESIDENT
(No. 001 of 2018)

ON THE NOMINATION OF CABINET SECRETARIES, PRINCIPAL
SECRETARIES AND AMBASSADORS/HIGH COMMISSIONERS

Honourable Members,

It is my pleasure to welcome you back from a long recess, hoping that you are rejuvenated and ready for a busy Second Session.

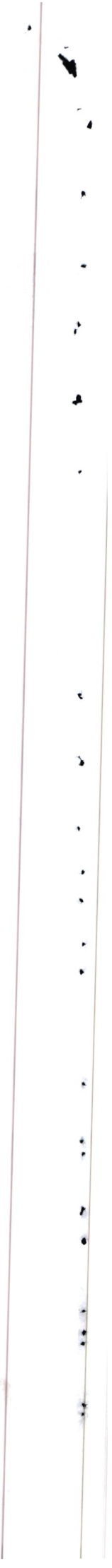
As you are aware, pursuant to Standing Order 42(2), I conveyed to you a Message from His Excellency the President on *30th January, 2018*, regarding his nominations for appointment to the offices of Cabinet Secretaries and indeed, Principal Secretaries, Ambassadors and High Commissioners. The Messages were submitted by way of separate letters received in my office during the period of the long recess. You will also recall that, on 14th December, 2017, the House passed a resolution authorizing the Speaker to directly refer the names of proposed appointees to the office of Cabinet Secretary to the Committee on Appointments without having to recall the House for that purpose. Indeed, I am certain that the Leader of the Majority Party will be tabling the report of that Committee in the course of today's sitting.

Honourable Members,

In addition and pursuant to the provision of Articles 132 (2)(e) and 155(3)(a) of the Constitution, H.E. the President also submitted three further Messages nominating the following persons to the offices of Principal Secretaries and Ambassadors and High Commissioners-

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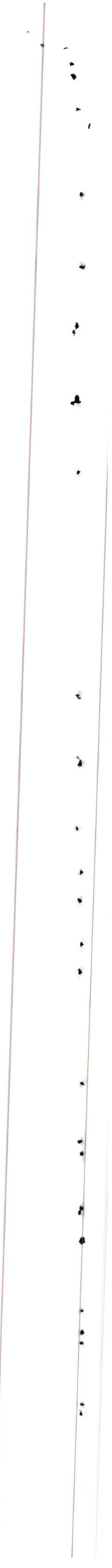


a) Principal Secretaries

<u>S/No.</u>	<u>Name</u>	<u>State Department</u>
(1)	Ms. Safina Kwekwe	Gender
(2)	Mr. Nelson Marwa	Devolution
(3)	Amb. Macharia Kamau	Foreign Affairs
(4)	Dr. Julius Muia	Planning
(5)	Maj. Gen. (Rtd.) Gordon Kihalangwa	Immigration, Border Control and Registration of Persons
(6)	Mr. Hamadi Boga	Agricultural Research
(7)	Mr. Peter Tum	Health
(8)	Mr. Joseph Wairagu Irungu	Water and Sanitation
(9)	Mr. Charles Hinga Mwaura	Housing and Urban Development
(10)	Mr. Kevit Desai	Vocational and Technical Training (TVET)

b) Ambassadors/ High Commissioners

<u>S/No.</u>	<u>Name of Nominee</u>	<u>Country</u>
(1)	Prof. Judy Wakhungu	France
(2)	Dr. Cleopa Mailu	Permanent Mission, UN Geneva
(3)	Hon. Dan Kazungu	United Republic of Tanzania
(4)	Mrs. Phyllis Kandie	Kingdom of Belgium, the Grand Duchy of Luxemburg and the European Union
(5)	Mr. Willy Bett	India
(6)	Prof. Jacob Kaimenyi	Permanent Mission, UNESCO Paris
(7)	Mr. Hassan Wario Arero	Austria
(8)	Mr. Lawrence Ntoye Lenayapa	Kingdom of Netherlands



Honourable Members,

In accordance with the provision of Standing Order 45 (1) which requires that upon receipt of notification of nomination for appointments, such nominations shall stand committed to the relevant Departmental Committees for consideration, the nominations for appointment to the positions of Principal Secretaries and Ambassadors/High Commissioners are hereby referred to the respective Departmental Committees as follows-

<u>S/No.</u>	<u>Departmental Committee</u>	<u>Nominee</u>
(1)	Finance and National Planning	(i) Mr. Nelson Marwa (ii) Dr. Julius Muia
(2)	Administration & National Security	Maj. Gen. (Rtd.) Gordon Kihalangwa
(3)	Defence & Foreign Relations	(i) Amb. Macharia Kamau (ii) Prof. Judy Wakhungu (iii) Dr. Cleopa Mailu (iv) Hon. Dan Kazungu (v) Mrs. Phyllis Kandie (vi) Mr. Willy Bett (vii) Prof. Jacob Kaimenyi (viii) Mr. Hassan Wario Arero (ix) Mr. Lawrence Ntoye Lenayapa, CBS
(4)	Labour and Social Welfare	Ms. Safina Kwekwe
(5)	Agriculture and Livestock	Mr. Hamadi Boga
(6)	Health	Mr. Peter Tum
(7)	Environment and Natural Resources	Mr. Joseph Wairagu Irungu
(8)	Transport, Public Works and Housing	Mr. Charles Hinga Mwaura

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(9) Education and Research

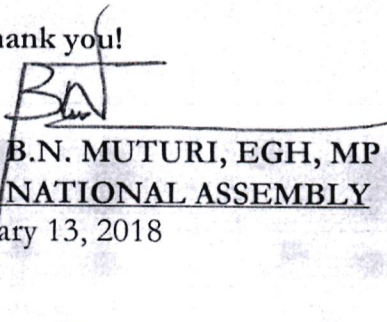
Mr. Kevit Desai

I have also directed the office of the Clerk to publish and circulate the list of the nominees, showing clearly the respective Committees in which they will be vetted.

Hon. Members,

Section 8 of the Public Appointments (Parliamentary Approval) Act requires that a Committee shall consider a nomination and table a report for debate and decision in the House within fourteen (14) days from the date of notification. It is therefore imperative that each of the aforementioned Committees immediately seizes itself of the matter to enable speedy conclusion within the set timelines. The Committees are expected to have concluded their reports and submit them to the House **on or before Tuesday February 27, 2018** to enable the House to consider and finalize on the nominees within the stipulated timelines.

I thank you!



THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

February 13, 2018

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**Annex 5- Advertisement inviting Submission of
Memoranda from the Public**



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REPUBLIC OF KENYA



**NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – SECOND SESSION**

SUBMISSION OF MEMORANDA

**In the Matter of Approval by the National Assembly of
persons nominated for appointment as Principal Secretaries,
Ambassadors/High Commissioners & Members of the Judicial
Service Commission**

Pursuant to Articles 155(3), 132(2), 171(2)(g) & 250(2)(b) of the Constitution, H.E. the President has nominated the following ten (10) Principal Secretaries; eight (8) Ambassadors/High Commissioners and three (3) members of the Judicial Service Commission for appointment to their respective positions as indicated below:-

A. PRINCIPAL SECRETARIES		
No.	MINISTRY	NOMINEE
1.	Public Service, Youth & Gender Affairs State Department – Gender	Ms. Safina Kwakwa Tsungu
2.	Devolution and ASAL State Department - Devolution	Mr. Nelson Marwa Sospeter
3.	Foreign Affairs & International Trade State Department – Foreign Affairs	Amb. Macharia Kamau
4.	The National Treasury & Planning State Department - Planning	Dr. Julius Muia
5.	Interior and Coordination of National Government State Department - Immigration, Border Control & Registration of Persons	Maj. Gen. Gordon Kihlangwa
6.	Agriculture and Irrigation State Department- Agricultural Research	Prof. Hamadi Iddi Boga
7.	Transport, Infrastructure, Housing & Urban Development State Department – Housing & Urban development	Mr. Charles Hinga Mwaura
8.	Health	Mr. Peter Tum Kiplagat
9.	Education, Vocational & Technical Training (TVET) State Department – Vocational & Technical Training (TVET)	Mr. Kevit Desai
10.	Water & Sanitation	Joseph Wairagu Irungu
B. AMBASSADORS/HIGH COMMISSIONERS		
No.	COUNTRY	NOMINEE
1.	France	Prof. Judy Wakhungu
2.	Permanent Mission, UN Geneva	Dr. Cleopa Mailu
3.	Tanzania	Hon. Dan Kazungu
4.	Belgium, Luxemburg; European Union	Mrs. Phyllis Kandle
5.	India	Mr. Willy Bett
6.	Permanent Mission UNESCO, Paris	Prof. Jacob Kaimenyi
7.	Austria	Mr. Hassan Wario Arero
8.	Netherlands	Lawrence Ntoye Lenayapa
C. JUDICIAL SERVICE COMMISSION		
No.	NOMINEE	POSITION
1.	Mr. Patrick Gichohi	Member (JSC Nominee)
2.	Prof. Olive Mugenda	Member
3.	Felix Koskei Kiptarus	Member

Following the receipt of the nominations from H.E. the President, the respective Departmental Committees are mandated pursuant to Standing Order 216(5)(f) to vet and consider their suitability for appointment to their respective positions and submit their reports to the House for approval.

Pursuant to Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the respective Departmental Committees now invites interested members of the public to submit any representations by written statement on oath (affidavit), that they may have on the suitability or otherwise of the said nominees for appointment to their respective positions. The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Tuesday 20th February, 2018 at 5.00 pm.

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY



**Annex 6-Invitation letter from the Clerk of the National
Assembly to the Nominee for vetting by the
Departmental Committee on Administration &
National Security**

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REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: clerk@parliament.go.ke



National Assembly
Clerk's Chambers
Parliament Buildings
P. O. Box 41842 -00100
NAIROBI, Kenya

Ref.NA/DC/ANS/2018

14th February, 2018

Maj. Gen. Gordon Kihalangwa
P.O BOX 30191-00100
NAIROBI
Email: gordonkihalangwa@yahoo.co.uk

Dear Sir,

RE: INVITATION FOR VETTING BY THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

Following your nomination by H.E. the President for appointment to the position of **Principal Secretary (Immigration, Border Control and Registration of Persons), Ministry of Interior and Coordination of National Government**, the **Departmental Committee on Administration and National Security** of the National Assembly hereby invites you for vetting pursuant to section 6(3) of the Public Appointments (Parliamentary Approval) Act, 2011, on **Wednesday 21st February, 2018** in **Committee Room on 4th Floor, Continental House, Parliament Buildings** at **11.00 am**.

Kindly fill the attached questionnaire as required by the Public Appointments (Parliamentary Approval) Act, 2011 and return **on or before Monday 19th February, 2018**. You are required to bring with you originals of your National Identity Card, academic and professional certificates and any other documents and testimonials. In addition, you should bring letters/certificates of clearance from the following:-

- i. Ethics and Anti-Corruption Commission.
- ii. Kenya Revenue Authority Tax Compliance Certificate.
- iii. Higher Education Loans Board.
- iv. Directorate of Criminal Investigations.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'M. Sialai'.

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY



Annex 7- Schedule of vetting



REPUBLIC OF KENYA



NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – SECOND SESSION

**NOTIFICATION FOR VETTING BY THE DEPARTMENTAL COMMITTEES
OF PERSONS NOMINATED FOR APPOINTMENT AS PRINCIPAL SECRETARIES,
AMBASSADORS/HIGH COMMISSIONERS AND MEMBERS OF
THE JUDICIAL SERVICE COMMISSION**

Pursuant to Article 155(3), 132(2), 171(2)(g) & 20(2)(b) of the Constitution and Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the National Assembly invites the following persons nominated for appointment as Principal Secretaries, Ambassadors/High Commissioners and members of the Judicial Service Commission for vetting by their respective Departmental Committees.

Pursuant to provisions of Article 118 of the Constitution, Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No.33 Of 2011) and Standing Order 45(3), the general public is hereby notified that the respective Departmental Committees shall conduct the vetting of the following persons for appointment to their respective positions on **Wednesday 21st and Thursday 22nd February, 2018** as indicated below:-

WEDNESDAY 21ST FEBRUARY, 2018

VENUE – COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDING

DEPARTMENTAL COMMITTEE	JUDICIAL SERVICE COMMISSION	NOMINEE	TIME
C-Justice & Legal Affairs	Member (PSC Nominee)	Mr. Patrick Gichohi	9.00 am
	Member	Prof. Olive Mugenda	10.30 am
	Member	Mr. Felix Koskei Kiptarus	12.00 pm

VENUE – COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDING

DC – Finance & National Planning	MINISTRY		
	1. The National Treasury & Planning		
	PS – Planning	Dr. Julius Muia	9.00 am
	2. Devolution & ASAL		
	PS - Devolution	Mr. Nelson Marwa	10.30 am
DC- Health	Ministry of Health		
	PS – Health	Mr. Peter Tum Kiplagat	12.00 pm

VENUE – COMMITTEE ROOM 2ND FLOOR, CONTINENTAL HOUSE

DC – Labour & social Welfare	Ministry of Public Service, Youth & Gender		
	PS – Gender	Ms. Safina Kwekwe	9.00 am
DC - Environment & Natural Resources	Ministry of Environment & Forestry		
	PS – Water & Sanitation	Mr. Joseph Wairagu Irungu	11.00 am

VENUE – COMMITTEE ROOM 4ND FLOOR, CONTINENTAL HOUSE			
DEPARTMENTAL COMMITTEE	MINISTRY	NOMINEE	TIME
DC – Education & Research	Education, Vocational & Technical Training		
	PS – Vocational & Technical Training	Mr. Kevit Desai	9.00 am
DC – Administration & National Security	Ministry of Interior & Coordination of National Government		
	PS – Immigration, Border Control & Registration of Persons	Maj. Gen. Gordon Kihlangwa	11.00 am
VENUE - COMMITTEE ROOM 5TH FLOOR, CONTINENTAL HOUSE			
DC – Agriculture & Livestock	Agriculture & Irrigation		
	PS – Agricultural Research	Prof. Hamadi Iddi Boga	9.00 am
DC – Transport, Public Works & Housing	Ministry of Infrastructure, Housing & Urban Development		
	PS – Housing & Urban Development	Mr. Charles Hinga Mwaura	11.00 am
DC – DEFENCE & FOREIGN RELATIONS			
VENUE – MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS			
WEDNESDAY 21ST FEBRUARY, 2018			
Ministry of Foreign Affairs & International Trade	PS- Foreign Affairs	Amb. Macharia Kamau	9.00 am
AMBASSADORS/HIGH COMMISSIONERS			
COUNTRY	NOMINEE		
1. France	Prof. Judy Wakhungu		10.30 am
2. Permanent Mission, UN Geneva	Dr. Cleopa Mailu		12.00 pm
3. Tanzania	Hon. Dan Kazungu		2.00 pm
4. Belgium, Luxemburg, European Union	Ms. Phyllis Kandie		3.30 pm
THURSDAY 22ND FEBRUARY, 2018			
5. India	Mr. Willy Bett		9.00 am
6. Permanent Mission UNESCO, Paris	Prof. Jacob Kaimenyi		10.30 am
7. Austria	Mr. Hassan Wario Arero		12.00 pm
8. Netherlands	Lawrence Ntoye Lenayapa		2.00 pm

The nominees should bring the originals of their identity card, academic and professional certificates and other relevant testimonials. In addition, the nominees should bring letters/certificate of clearance/compliance from the following:-

- (i) Ethics and Anti-Corruption Commission;
- (ii) Kenya Revenue Authority;
- (iii) Higher Education Loans Board; and
- (iv) Directorate of Criminal Investigations.

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

**Annex 8-Higher Education Loans Board Compliance
Certificate**

① D/Cutteras
20/2/18

② VETTING
COMMITTEES
pls deep
FA

20/2/18



HIGHER EDUCATION LOANS BOARD

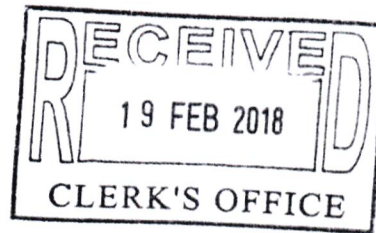
Tel: 0711052000, 2278000, 0722205292, 0733205292,
0704333035, 0704 333036, 0737205292
E-mail: ceo@helb.co.ke
Website: www.helb.co.ke

Anniversary Towers
18th Floor, University Way
P.O. Box 69489-00400
Nairobi, Kenya

HELB/RR/112009/V/64

16th February, 2018

Michael R. Sialai, EBS
Clerk
The National Assembly
P.O Box 41842-00100
NAIROBI.



Dear *Michael,*

VETTING OF NOMINEES TO POSITIONS OF PRINCIPAL SECRETARY BY THE NATIONAL ASSEMBLY

We acknowledge with thanks the receipt of your letter dated 14th February 2018 regarding the vetting of the nominees to positions of principal secretary by the committee on appointments.

Please find a list confirming the loan status of the nominees with the Board.

S/NO	NAME	ID NO.	STATUS	YEAR OF CLEARANCE
1.	Safina Kwekwe	11367097	Cleared Certificate No. 08290	29 th August, 2017
2.	Mr. Nelson Marwa	3980474	Not a Beneficiary	N/A
3.	Amb. Macharia Kamau	28095481	Not a Beneficiary	N/A
4.	Dr. Julius Muia	4827415	Cleared Certificate No. 45395	2 nd September, 2016
5.	Maj. Gen. (Rtd.) Gordon Kihalangwa	0569046	Not a Beneficiary	N/A
6.	Prof. Hamadi Iddi Boga	8434346	Cleared Certificate No. 38552	9 th February, 2016
7.	Mr. Peter Tum	3276913	Not a Beneficiary	N/A
8.	Mr. Charles Hinga Mwaura	13535122	Cleared Certificate No. 07778	2 nd August, 2017
9.	Mr. Kevit Desai	21361733	Not a Beneficiary	N/A
10.	Mr. Joseph Wairagu Irungu	7197113	Cleared Certificate No. 19248	20 th September, 2007



ISO 9001: 2008 Certified. Working with you to finance Higher Education now and in the future

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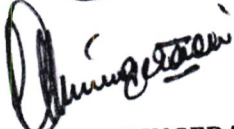


We urge you to encourage applicants to seek their compliance certificate from the Board as part of testimonials and conformity to Chapter six of the constitution of Kenya.

We wish to thank you most sincerely for allowing us to provide you this information as this kind of collaboration goes a long way in assisting HELB finance needy Kenyans pursuing higher education now and in the future.

Yours

Sincerely



CHARLES M. RINGERA

CHIEF EXECUTIVE OFFICER & BOARD SECRETARY

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Annex 9- Kenya Revenue Authority Clearance Certificate



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KENYA REVENUE AUTHORITY

ISO 9001:2008 CERTIFIED

OUR REF: KRA/CDT/HO/54

YOUR REF: KNA2/4/2018/(47)

① D/Committee

TRA.

16th February, 2018

Mr. Michael R. Sialai, EBS
Clerk of the National Assembly
National Assembly, Clerk's Chambers
Parliament Buildings
P.O. Box 41842-00100,
NAIROBI

CA. A.

19/2/18

② VETTING COMMITTEES
pls deaf
FA 19/2/18

Dear Sir,

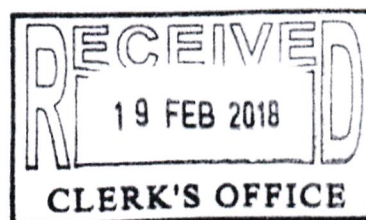
COMPLIANCE STATUS OF NOMINEES TO POSITIONS OF PRINCIPAL SECRETARY, AMBASSADORS/HIGH COMMISSIONERS AND JUDICIAL SERVICE COMMISSIONERS.

We refer to your letters dated 8th February 2018 and 14th February 2018 on the subject matter herein.

The compliance status of the respective nominees is as follows:-

No.	Name	ID Number	PIN	Tax Status
A. Nominees to be appointed as Principal Secretaries				
1	Safina Kwekwe	11367097	A002582244P	Compliant
2	Mr. Nelson Marwa	3980474	A001749543G	Compliant
3	Amb. Macharia Kamau	28095481	A000157209G	Compliant
4	Dr. Julius Muia	4827415	A000230027T	Compliant
5	Maj. Gen. (Rtd.) Gordon Kihalangwa	0569046	A001330135X	Compliant
6	Mr. Hamadi Iddi Boga	8434346	A001383665V	Compliant
7	Mr. Charles Hinga Mwaura	13535122	A011325336K	Compliant
8	Mr. Peter Tum Kiplagat	3276913	A001268954D	Compliant
9	Mr. Kevit Desai	21361733	A001735177F	Compliant
10	Mr. Joseph Wairagu Irungu	7197113	A001261870J	Compliant

Tulipe Ushuru, Tujitegemee!



B. Nominees to be appointed as Ambassadors/High Commissioners				
1	Prof. Judy Wakhungu	3962007	A003623927U	Compliant
2	Dr. Cleopa Mailu	4829569	A000114568K	Compliant
3	Hon. Dan Kazungu	10831431	A002481727K	Compliant
4	Mrs. Phyllis Kandie	0334848	A002309241Z	Compliant
5	Mr. Willy Bett	3448933	A001596445C	Compliant
6	Prof. Jacob Kaimenyi	0995606	A000108709I	Compliant
7	Mr. Hassan Wario Arero	10956527	A005665918C	Compliant
8	Lawrence Ntoye Lenayapa	16121196	A001948313X	Compliant
C. Nominees to be appointed as Judicial Service Commissioners				
1	Mr. Patrick Gichohi	5541762	A000100244O	Compliant (has undertaken to clear outstanding issues)
2	Prof. Olive Mugenda	4835662	A001957347J	Compliant
3	Mr. Felix Koskei Kiptarus	6665340	A001383634M	Compliant

Yours faithfully,



Benson Korongo, OGW
Commissioner of Domestic Taxes



www.kra.go.ke

Taxpayer PIN : A001330135X

Certificate Date: 30/01/2018

Name and Address :

Certificate Number:

Gordon Odemo Kihalangwa
Kitale, NAIROBI CITY, Westlands District,
PO Box:3266,
Postal Code:30200

KRAWON9534622018



**This is to confirm that Gordon Odemo Kihalangwa,
Personal Identification Number A001330135X
has filed relevant tax returns and
paid taxes due as provided by Law.**

**This Certificate will be valid for
twelve (12) months up to 29/01/2019.**

Caveat: This certificate is issued on the basis of information available with the authority as at the certificate date mentioned above. The Authority reserves the right to withdraw the certificate if new evidence materially alters the tax compliance status of the recipient.

Disclaimer : This certificate is system Generated and therefore does not require signature. You may confirm validity of this certificate on the iTax Portal by using the TCC Checker.



INCOME TAX DEPARTMENT

PERSONAL IDENTIFICATION NUMBER CERTIFICATE



PIN:

A001330135X

NAME:

KIRALANGWA GORDON ODENO

DATE OF BIRTH:

1 / 1966

PLACE OF BIRTH:

MARAGOLI

Date:

13/4/94



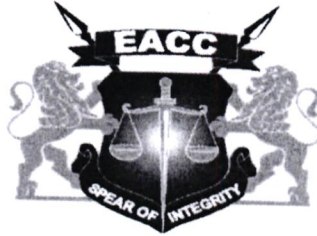
FORM PIN 1



Annex 10- EACC clearance Letter



① D/Committees
13/2/18



② VETTING
COMMITTEES
TO NOTE

RA
14/2/18

ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Valley Rd./Jakaya Kikwete Rd. Junction) P.O. Box 61130 – 00200, NAIROBI, Kenya
TEL.: 254 (020) 2717318 / 2720722, MOBILE: 0729 88881/2/3
Fax: 254 (020) 2717473 Email: eacc@integrity.go.ke Website: www.eacc.go.ke

When replying please quote:

Our Ref: EACC.7/10/5 VOL.V (102)

13th February, 2018

Michael R. Sialai, EBS
Clerk of the National Assembly
National Assembly
Parliament Building
P. O. Box 41842-00100
NAIROBI

CONFIDENTIAL

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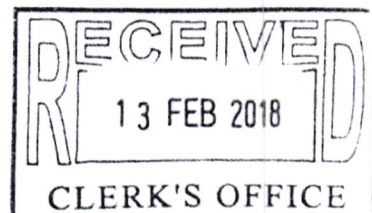
RE: VETTING OF NOMINEES TO POSITIONS OF PRINCIPAL SECRETARY BY THE NATIONAL ASSEMBLY

Your letter dated 6th February, 2018 on the above subject matter, refers.

We wish to confirm that there are no outstanding issues or ongoing investigations against the following nominees:-

S/No	Name	Ministry	State Department
1.	Safina Kwekwe	Public Service, Youth and Gender Affairs	Gender
2.	Mr. Nelson Marwa	Devolution and ASAL	Devolution
3.	Amb. Macharia Kamau	Foreign Affairs and International Trade	Foreign Affairs
4.	Dr. Julius Muia	The National Treasury and Planning	Planning
5.	Maj. Gen (Rtd) Gordon Kihalangwa	Interior and Coordination of National Government	Immigration, Border Control & Registration of Persons
6.	Mr. Hamadi Boga	Agriculture and Irrigation	Agricultural Research
7.	Mr. Peter Tum	Health	Health

The information provided is based on records available as at 13th February, 2018.



Please note that the absence of records in the Commission's database is not a guarantee of absolute integrity of the nominees.



MICHAEL K. MUBEA, EBS
DEPUTY SECRETARY/CEO - TECHNICAL SERVICES
FOR: SECRETARY/CHIEF EXECUTIVE OFFICER

EH/tnm

Annex 11- Copy of the National Identity Card



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SERIAL NUMBER: 238703413

ID NUMBER: 10569046

FULL NAMES: GORDON ODEMO KIHALANGWA

DATE OF BIRTH: 13.05.1956

SEX: MALE

DISTRICT OF BIRTH: KAKAMEGA 'CEN'

PLACE OF ISSUE: CENTRAL

DATE OF ISSUE: 10.02.2015



HOLDER'S SIGN: *Gordon Odemo Kihalangwa*



DISTRICT
VIHIGA
DIVISION
VIHIGA
LOCATION
LUGAGA
SUB-LOCATION
BUNANDI



PRINCIPAL REGISTRAR'S SIGN

[Signature]

TP-180101475

IDKYA2387034137<<3811
5605134M1502109<B0005690465
GORDON<ODEMO<KIHALANGWA



SERIAL NUMBER: 238703413

ID NUMBER: 10569046

FULL NAMES: GORDON ODEMO KITHALANGWA

DATE OF BIRTH: 13. 05. 1956

SEX: MALE

DISTRICT OF BIRTH: KAKAMEGA 'CEN'

PLACE OF ISSUE: CENTRAL

DATE OF ISSUE: 10. 02. 2015

HOLDER'S SIGN: *Gordon Odemo Kithalangwa*



DISTRICT
VIHIGA
DIVISION
VIHIGA
LOCATION
LUGAGA
SUB-LOCATION
BUNANDI



PRINCIPAL REGISTRAR'S SIGN

[Signature]

T.O. 80101475

IDKYA2387034137<<3811
5605134M1502109<B000589046
GORDON<ODEMO<KIHALANGA



**Annex 12- Directorate of Criminal Investigations
Clearance**



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D/Chatterjee
20/2/18

NATIONAL POLICE SERVICE

Telephone: "020" 2712889
Telex: 2712889
Fax: 2712889
E-mail: icnairobi@gmail.com
When reporting please quote ref No. and date.



CRIMINAL RECORDS OFFICE
P.O. Box 30600 - 0100 NAIROBI
NAIROBI

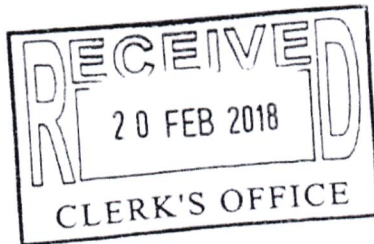
DIRECTORATE OF CRIMINAL INVESTIGATIONS

DCI/CRO/SEC/6/7/2/A/VOL.VI/12

19 FEBRUARY, 2018

The Clerk

National Assembly
Clerk's Chambers
Parliament Buildings
P O Box 41842 - 00100
NAIROBI



*VETTING
COMMITTEES
pls deaf
FA
20/2/18*

Attn: Michael R. Sialai, EBS

SUBJECT: VETTING OF PERSONS NOMINATED AS AMBASSADORS/HIGH COMMISSIONERS AND JUDICIAL SERVICE COMMISSIONERS BY THE NATIONAL ASSEMBLY

Your correspondence Ref. No. KNA2/4/2018 (47) dated 14th February, 2018 refers.

We hereby confirm that the below mentioned applied for Police Clearance Certificates on diverse dates and were **genuinely** issued with certificates by this office.

S/NO.	NAME	IDENTITY NO.
1.	Mr. Nelson Marwa Sospeter	3980474
2.	Amb. Macharia Kamau	28095481
3.	Dr. Julius Muia	4827415
4.	Maj. Gen. (Rtd.) Gordon Kihalangwa	0569046
5.	Prof. Hamadi Iddi Boga	8434346
6.	Mr. Charles Hinga Mwaura	13535122
7.	Mr. Peter Tum Kiplagat	3276913

OUR VISION: To be the best forensic science laboratory with emphasis on continual linkage of the Crime, the Crime -Scene and the Criminal.
FACES CAN LIE, FINGERPRINTS NEVER.

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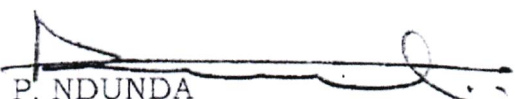


8.	Mr. Joseph Wairagu Irungu	7197113
9.	Pr. Judy Wakhungu	3962007
10.	Dr. Cleopa Mailu	4829569
11.	Hon. Dan Kazungu	10831431
12.	Mrs. Phyllis Kandie	0334848
13.	Mr. Willy Bett	3448933
14.	Prof. Jacob Kaimenyi	0995606
15.	Mr. Hassan Wario Arero	10956527
16.	Mr. Lawrence Ntove Lenayapa	16121196
17.	Mr. Patrick Gichohi	5541762
18.	Prof. Olive Mugenda	4835662
19.	Mr. Felix Koskei Kiptarus	6665340

Please note that this office could not give you details pertaining the status of the below mentioned persons since their applications have not reached us.

S/NO.	NAME	IDENTITY NO.
1.	Ms. Safina Kwekwe	11367097
2.	Mr. Kevit Desai	21361733

Kind regards.


P. NDUNDA
FOR: DIRECTOR OF CRIMINAL INVESTIGATIONS

Copy to: DCI

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C.24A

Nº 156457



**NATIONAL POLICE SERVICE
DIRECTORATE OF CRIMINAL INVESTIGATIONS**

DIRECTORATE OF CRIMINAL INVESTIGATIONS
P. O. Box 30036-00100 GPO
NAIROBI, KENYA

Ref. No. **672080 / 2015**

Date **24/04/2015**

POLICE CLEARANCE CERTIFICATE

I hereby certify that the fingerprints recorded from

GORDON ODEMO KIHALANGWA

*holder of ID/Passport No. **0569046** have been searched in
Criminal Records Office's database with/without previous record. The validity of the
information on this Certificate is as of the date of issue.*

REMARKS IN CASE OF PREVIOUS RECORD

OFFENCE(S).....

NIL

RESULTS OF TRIAL.....

DATE.....

This Certificate has been issued without any alteration or erasure.



(J.M. Magambo)

For: Director, Directorate of Criminal Investigations

(P.T.O.)



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To verify this certificate visit: www.metropol.co.ke/verification

Serial No. MCRB/C710022



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**Metropol Credit Reference
Bureau Limited**

Certificate of Clearance

GORDON ODEMO KIHALANGWA

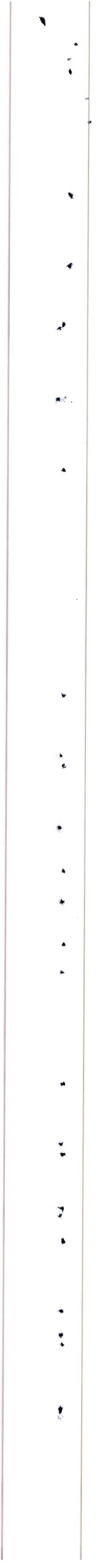
National ID Number: 0569046

This is to certify that the above named person has No negative listing as at the date below.

Managing Director's Signature

06/02/2018

Date



HIGHER EDUCATION LOANS BOARD



Serial No: 45072

Compliance Certificate

GORDON ODEMO KIHALANGWA

Holder of National IDNo. 0569046 is not a beneficiary of the University Loans Scheme.

Signed by: Head Of Operations

Caveat

- a) This certificate is issued on the basis of information available to the Board on the date shown above. The Board reserves the right to withdraw the certificate if new evidence materially alters the compliance status of the recipient.
- b) To confirm genuineness and validity of the certificate use the HELB website <http://www.helb.co.ke> or contact our office.

Date of Issue: 05-02-2018

Manager, Loan Repayment and Recovery

This certificate is valid until: February 2019





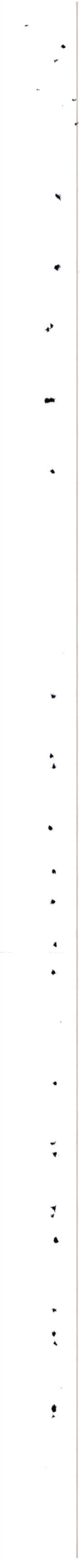
FIRST SCHEDULE (S.13) / TARATIBU YA KWANZA (S.13)

SELF-DECLARATION FORM / FOMU YA KUJITANGAZA

1. GENERAL INFORMATION / TAARIFA YA JUMLA

Title / Cheo	Surname / Jina la ukoo	First Name / Jina la Kwanza	Middle Name / Jina la Katikati	Other Names / Majina Mengine
Mr/Mrs/Prof/ Miss/Ms/Dr Bw/Bi/Prof/ Binti/Bibi/Dkt	KI HALANGWA	GORDON	ODORO	
ID CARD No. Na. ya Kitambulisho	PASSPORT NO. NA. ya PASIPOTI	EXPIRY DATE OF PASSPORT TAREHE YA MUDA WA PASIPOTI KUISHA	PIN NO. NA. ya PIN	
0559046	A029452	14 MAY 2018	A 001330135X	
SEX (Tick) JINSIA (Weka Alama)	Occupation: Kazi: DIRECTOR OF IMMIGRATION SERVICES			
Male Kiume <input checked="" type="checkbox"/>	E-Mail Address: Anwani ya Barua pepe: gordonkihalangwa@jsho.com			
Female Kike <input type="checkbox"/>	Postal Address: PO Box 30191 Code: 00100 Anwani ya Posta: SL Posta: NAIROBI Msimbo:			
	Other Addresses: Anwani Nyingine: BOX 3266-30200 KITALALE			
Telephone No. Na. ya Simu	Mobile No. Na. ya Rununu	Other Numbers Nambari Nyingine		
0721294925	0202186784	0771909264		
RESIDENCE MAKAZI	ESTATE/TOWN/LOCATION MTAA/MJI/LOKESHENI			
	KIAMBO WINDSOR KLEN GARDENS			
	DISTRICT WILAYA			
	KIAMBO			
	COUNTY KAUNTI			
KIAMBO				
TOWN/CITY MJI/JIJI				
KIAMBO				
COUNTRY NCHI				
KENYA				
2. BIRTH INFORMATION / TAARIFA YA KUZALIWA				
DATE OF BIRTH /TAREHE YA KUZALIWA			13 MAY 1956	





BIRTH CERTIFICATE NO. / NA. YA CHETI CHA KUZALIWA

PLACE OF BIRTH / MAHALI PA KUZALIWA

DISTRICT OF BIRTH / WILAYA YA KUZALIWA

COUNTY OF BIRTH / KAUNTI YA KUZALIWA

COUNTRY OF BIRTH / NCHI YA KUZALIWA

KAKAMEGA

VIHIGA

VIHIGA

KENYA

3. NATIONALITY / UTAIFA

Kenyan
Mkenya

Dual

Kotekote

(Provide details)

(Toa maelezo)



4. MARITAL STATUS / HALI YA NDOA

SINGLE

NINGALI SIJAOA/ SIJAOLEWA

MARRIED

NIMEOA/NIMEOLEWA

SEPARATED

NIMETENGANA

DIVORCED

NIMETALAKIANA

WIDOWED

NIMEFIWA

IF MARRIED GIVE NAMES OF THE SPOUSE(S) (Surname, First Name, middle name, others)
KAMA UMEOA TOA MAJINA YA MUME/MKE(Wa) WAKO (Jina la ukoo, Jina la Kwanza, jina la kati, mengine)

DIHALANGWA CHRISTINE PHILISTERS

NATIONALITY OF SPOUSE
UTAIFA WA MKE/MUME

KENYAN

NAME OF CHILDREN UNDER THE AGE OF 18 YEARS
JINA LA WATOTO WALIO CHINI YA UMRI WA MIAKA 18

NONE

5. EDUCATIONAL QUALIFICATIONS / KUFUZU KWA KIELIMU

PRIMARY CERTIFICATE
CHETI CHA M'SINGI

SECONDARY

SHULE YA UPILI

'A' LEVEL

KIWANGO CHA 'A'

DIPLOMA
STASHAHADA

DEGREE
SHAHADA

MASTERS
UZAMILI

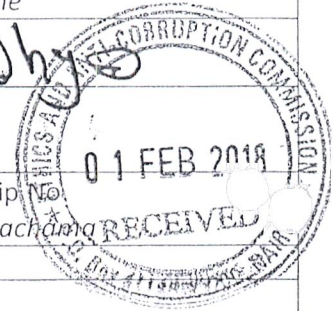
PHD

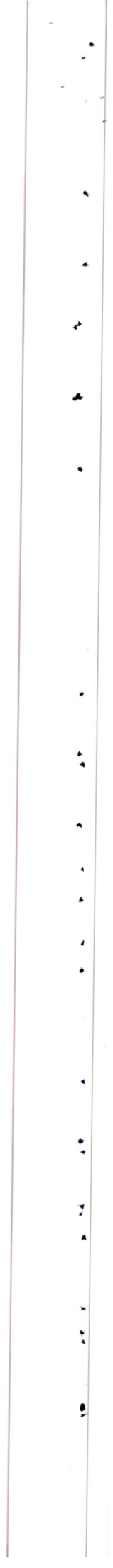
UZAMIFU

OTHERS
VINGINE

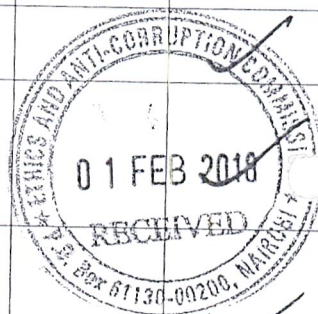


HIGHEST ACADEMIC QUALIFICATION OBTAINED KUFUZU KWA JUU ZAIDI KWA KIAKADEMIA ULIKOPATA		
Qualification / Kufuzu	Institution / Taasisi	Year / Mwaka
PhD (L&D)	Washington International University	2013
6. LANGUAGE SPOKEN / LUGHA UNAZOZUNGUMZA		
First Language Lugha ya Kwanza	Second Language Lugha ya Pili	Others Nyingine
English	Kiswahili	Wahy
7. MEMBERSHIP OF PROFESSIONAL ORGANISATION(S) (If any) UANACHAMA WA SHIRIKA(MA) YA KITAALAMU (Kama yapo)		
Name of Organization Jina la Shirika	Date of Admission Tarehe ya Kuandikishwa	Membership No. Na. ya Uanachama
NIA		
8. REASON(S) FOR DECLARATION / SABABU ZA KUJITANGAZA		
Purpose for which declaration is required / Kusudio la kuhitajika kwa kujitangaza huku		
Election Upigaji kura <input type="checkbox"/>	Employment Kuajiriwa <input checked="" type="checkbox"/>	
Others (Specify) _____ Nyingine (Bainisha)		
State office for which the declaration is being submitted Ofisi ya serikali ambayo kujitangaza huku kunawasilishwa		DSC
9. MORAL AND ETHICAL QUESTIONS / MASWALI YA NIDHAMU NA KIMAADILI		
Answers to the following questions are mandatory. If YES to any question you must provide additional information on a supplementary sheet. Majibu kwa maswali yafuatayo ni lazima. Kama NDIYO katika swali lolote lazima utoe taarifa ya ziada kwenye karatasi nyingine.		
	YES	NO
a) Have you ever engaged in any form of dishonesty in the conduct of public affairs a) Umewahi kujihusisha na hali yoyote ya kutokuwa mwaminifu katika kazi zako na shughuli za umma		✓
b) Have you ever abused a public office? b) Umewahi kutumia vibaya ofisi ya umma?		✓
c) Have you ever misrepresented information to the public? c) Umewahi kuwakilisha kwa njia isiyofaataarifa kwa umma?		✓
d) Have you ever engaged in wrongful conduct whilst in the furtherance of personal benefit?		✓





d) Umewahi kujihusisha katika tabia mbaya huku ukitaka kujinufaisha kibinafsi?		✓
e) Have you ever misused public resources? e) Umewahi kutumia vibaya rasilimali za umma?		✓
f) Have you ever discriminated against anyone of any grounds other than as provided for under the Constitution or any other law? f) Umewahi kubagua yeyote kwa misingi yoyote mbali na vile ilivyoelezwa katika Katiba au sheria yoyote nyingine?		✓
g) Have you ever falsified official or personal records? g) Je, umewahi kudanganya katika rekodi rasmi au za kibinafsi?		✓
h) Have you ever been debarred or removed from the Register of Members of your professional organization? h) Umewahi kupigwa teke au kuondolewa kutoka kwenye Rejista ya Wanachama wa shirika lako la kitaalamu?		✓
i) Have you ever had any occupational or vocational license revoked and/or otherwise subjected to any other disciplinary action for cause in Kenya or any other country i) Umewahi kujipata katika hali ya leseni yako ya kikazi au ya kiufundi kutupiliwa mbali na/au vinginevyo kuchukuliwa hatua nyingine ya kinidhamu katika nchi ya Kenya au nchi yoyote nyingine		✓
j) Have you ever dismissed from employment on account of lack of integrity? j) Umewahi kufutwa kazi katika ajira kutokana na ukosefu wa uadilifu?		✓
k) If you have been a public officer, have you ever failed to declare your Income, Assets and Liabilities as required under the Public Officer Ethics Act, 2003? k) Kama umewahi kuwa ofisa wa umma, umewahi kushindwa kutangaza Mapato yako, Mali na Gharama kama unavyohitajika katika Kifungu cha sheria cha Maadili ya Ofisa wa Umma, 2003?		✓
l) Have you ever been the subject of disciplinary or criminal proceedings for breach of the Public Officer Ethics Act, 2003 or a Code prescribed thereunder? l) Umewahi kuwa mada katika taratibu za kinidhamu au kihalifu kwa kuvunja kifungu cha sheria cha Maadili ya Ofisa wa Umma 2003, au Msimbo ulioainishwa hapo chini?		✓
m) Have you ever been convicted of any offence and sentenced to serve imprisonment for a period of at least six months? m) Umewahi kushtakiwa kwa kosa lolote na kuhukumiwa kifungo gerezani kwa kipindi kipatacho miezi sita?		✓
n) Have you ever had an application for a Certificate of Clearance or a Certificate of Good Conduct or for a visa or other document authorizing work in a public office denied and/or rejected for cause in Kenya or any other country?		✓





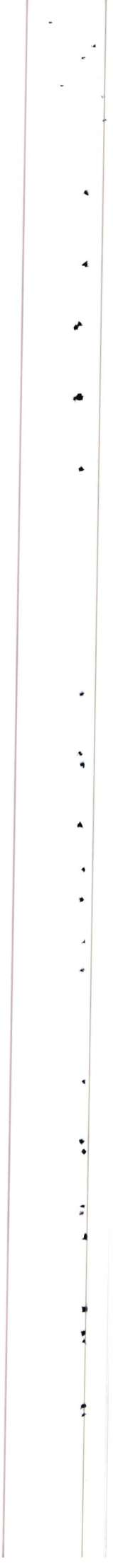
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n) Umewahi kutuma ombi la Cheti cha kuondolewa Hatia au Cheti cha Kinidhamu au cha visa au nyaraka nyingine zinazoidhinisha kazi katika ofisi ya umma na hivyo basi wewe kunyimwa na/ au kukataliwa kwa sababu yoyote nchini Kenya au nchi yoyote nyingine?

10. EMPLOYMENT INFORMATION / TAARIFA YA KUAJIRIWA

NAME OF EMPLOYER JINA LA MWAJIRI	POSITION/RANK CHEO/WADHIFA	DATE OF FIRST APPOINTMENT TAREHE YA KUAJIRIWA KWA KWANZA	DATE OF-PRESENT APPOINTMENT TAREHE YA KUAJIRIWA KWA SASA
DSC - Ministry of Interim	Director of Immigration	21/8/2004	
WORKSTATION KITUO CHA KAZI Immigration Department Nyayo Hse Nairobi	NATURE OF EMPLOYMENT (Constitutional/Elective/Permanent/Contractual/Other) TAARIFA YA KUAJIRIWA (Kikatiba/Kuteuliwa/Kudumu/Kikandarasi/Nyingine)		





OATH AND AFFIRMATION / KIAPO NA UTHIBITISHWAJI

I solemnly swear (or affirm) and certify, under penalty of false declaration under the Oaths and Statutory Declarations Act (Cap 15 of the Laws of Kenya), that all the foregoing statements in this declaration are true and correct to the best of my knowledge.

Ninaapa ya kwamba (ninathibitisha) na kuidhinisha, katika adhabu ya kujitangaza kwa uongo chini ya kifungu cha sheria cha Viapo na Kujitangaza Kisheria (Ibara 15 ya Sheria za Kenya), kwamba kauli zote zilizotajwa katika kujitangaza huku ni za kweli na sahihi kwa kadri ninavyojua.

Dated at / Mnamo tarehe 1st February 2018 this / kwenye.....

day of / siku hii ya

SIGNATURE OF DECLARANT:
SAINI YA ANAYEJITANGAZA:

[Handwritten signature]



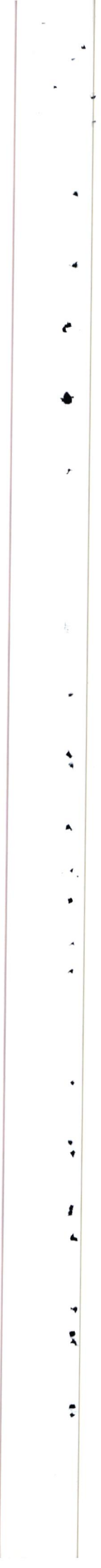
SWORN/DECLARED BEFORE ME / ALIYELISHWA KIAPO/TANGAZWA MBELE YANGU

This / Mnamo 1st day of / siku hii ya Feb 20 18

at / katika mahali hapa Nairobi

[Signature]
VIVIANNE W. WACHANGA
Advocate & Commissioner
for Oaths
P.O. Box 1297 00100, Nairobi

COMMISSIONER FOR OATH/MAGISTRATE
KAMISHNA WA KIAPO/ HAKIMU



Annex 13- Curriculum Vitae



MAJ. GEN (Rtd) DR. GORDON ODEMO KIHALANGWA, CBS

DIRECTOR OF IMMIGRATION SERVICES
MINISTRY OF INTERIOR AND CO-ORDINATION OF NATIONAL
GOVERNMENT - REPUBLIC OF KENYA

P. O. BOX 30191-00100

NAIROBI

KENYA

EMAIL: gordonkihalangwa@yahoo.co.uk

PROFESSION

Retired General who has specialized in security and conflict management in Sub Saharan Africa. Peace, Security and Conflict are key areas.

BIO MAJ. GEN (Rtd) Dr. GORDON ODEMO KIHALANGWA, CBS

Maj. Gen (Rtd) Dr. Gordon Odemo Kihalangwa is the Director of Immigration Services, Ministry of Interior and Co-ordination of National Government, Republic of Kenya where he was appointed on 21st August 2014 after retiring from the Kenya Defence Forces on 12th May 2014. Maj. Gen (Rtd) Dr. Kihalangwa handles all matters related to immigration which includes issuance of travel documents, Permits, Citizenship, Permanent Residence, border management and inter-agency cooperation all meant to enhance National Security.

Maj. Gen (Rtd) Dr. Kihalangwa prior to his retirement was the Assistant Chief of the Defence Forces incharge of Personnel and Logistics (ACDFP& L) between November 2010– May 2014. As the ACDF P&L, Maj. Gen (Rtd) Dr. Kihalangwa was the Principal Staff Officer to the Chief of Defence Forces in all matters relating to overall discipline of the Forces as the Adjutant General. He was the Secretary to the No.1 Board and took minutes during the Defence Council. A job that required the highest level of confidentiality/dedication during the preparation.

As the ACDF P& L, Maj. Gen (Rtd) Dr. Kihalangwa managed effectively the 42,000 personnel of KDF in terms of recruitment, remuneration, promotion and appointment, career progression and welfare. During his tenure, Kenya Defence Forces was able to successfully host the East African Military Games that saw a gathering of 5,000 soldiers from the region participate. Both occasions were presided over by the Commander In Chief Maj. Gen (Rtd) Dr. Kihalangwa has played a key role in ensuring that Kenya Defence Forces remains a disciplined force with a proper reward system. As the ACDFP& L, Maj. Gen (Rtd) Dr. Kihalangwa addressed the issue of equity that had been brought about by bad practices of the past. This was achieved within six years and today KDF prides itself as equitable institution.

As the ACDF P & L, Maj. Gen (Rtd) Dr. Kihalangwa managed and controlled an annual budget of approximately 70 billion that steered the three Services namely: the Kenya Army, Kenya Air Force and Kenya Navy. Besides ensuring the prudent usage of funds and resources, he ensured that procurement procedures were strictly adhered to. During his tenure the

modernization programme was realized in 5 years seeing the procurement of various sophisticated arsenals.

It was his tenure that the Cadet Academy at Lanet which costed approximately Kshs.2.5 billion built and completed. It's the best academy on the continent only comparable to West Point Military Academy (New York) in the USA. He was also instrumental in the writing of the Kenya Defence Forces Procurement book that continues to guide all the procurement procedures in the Defence Forces. He was instrumental in the introduction of the computerized payment systems of vouchers.

Prior to being appointed as the ADCF P &L in November 2010, Maj. Gen (Rtd) Dr. Kihalangwa served as the Chief of Personnel at the Defence Headquarters in the rank of a Brigadier. As the Chief of Personnel, he was the Assistant Adjutant General where he handled all personnel matters for the three Services. During his tenure, three books were written on retirement so as to assist military personnel going on retirement to settle comfortably in the society.

Under this docket, Maj. Gen (Rtd)Dr. Kihalangwa effectively managed welfare, discipline, recruitment, dresscode, promotion, posting and career progression. With a proper seniority roll of all personnel of KDF, Maj. Gen (Rtd) Dr. Kihalangwa enabled the Chief of Defence Forces make decisions based on facts. This post enabled Maj Gen (Rtd) Dr. Kihalangwa to travel widely to attend seminars, give lectures, and attend all military ceremonies. He also represented KDF in the Salary and Remuneration Board for four years.

Prior to being appointed to the rank of Brigadier in November 2006, Maj. Gen (Rtd.) Dr Kihalangwa was the Provost Marshal in the rank of a Colonel. As the Provost Marshal, Maj. Gen (Rtd.) Dr. Kihalangwa was virtually incharge of the entire Military Police whose mandate was to instill discipline, liaise with other security agencies like the National Police Service, National Intelligence Service and Directorate of Military Intelligence and guarding of the Defence and Service Headquarters, arrest and prosecute offenders, and provide escort. During his tenure, Maj. Gen. (Rtd.) Dr.Kihalangwa was able to drastically reduce misuse of resources and also improved on how the military related with the civilians. As the Provost Marshall Maj.Gen (Rtd.) Dr. Kihalangwa initiated and supervised the construction of secure gates and perimeter fence at Defence Headquarters that today is considered very secure. The Provost Marshal periodically advices the VIPs on their security as persons and also at their residences. This he did with a lot of zeal and professionalism.

Prior to becoming the Provost Marshal in November 2002, Maj.Gen (Rtd) Kihalangwa, was the Commanding Officer of the Military Police. This is a force of 1,200 personnel who cover the military camps. At the time of the appointment, the outfit was highly indisciplined and had a poor working relationship with the Civil Police.

During his tenure, Maj. Gen (Rtd) Dr.Kihalangwa turned this Unit into a professionalism outfit that was heavily relied on in the provision of security, enforcement of discipline and monitoring of all sorts of malpractices particularly misuse of resources like vehicles.

During his tenure the Unit was expanded to a force of 2,200 persons and a Military School was built at Embakasi. Today, the relationship between the Military and Civil Police is cordial for they cooperate to address various crimes. For security to be achieved, inter- agency co-operation is critical.

Maj. Gen (Rtd) Dr. Kihalangwa prior to becoming Commanding Officer – Military Police was promoted to the rank of Lieutenant Colonel in December 1999 and appointed the Staff Officer One Incharge of Personnel at the Army Headquarters. As the Staff Officer, he directly worked under the Colonel Personnel and dealt with matters of promotion, appointments, welfare, ceremonies etc. During his tenure, Maj.Gen (Rtd) Dr.Kihalangwa computerized the current seniority roll that is used in the Kenya Defence Forces. With it, the growth of an individual in terms of career progression is closely monitored.

Prior to being appointed to Staff Officer One incharge of Personnel at Service Headquarters, Maj.Gen (Rtd) Dr.Kihalangwa was the Military Personnel Assistant to the Army Commander the Late Lt Gen (Rtd) Adan Abdullahi MGH from February 1999. As the Military Assistant I was able to co-ordinate all issues pertaining to the Commander's office. Although directly worked for the Commander, Maj.Gen (Rtd) Dr. Kihalangwa ensured that he maintained good working relationship with his seniors. During his tenure he made sure the Commander's directives/policies were received and implemented.

Prior to being appointed the Military Assistant for Commander Kenya Army in 1999, he was the Staff Officer Two at the Armored Brigade Headquarters in Isiolo as a Major incharge of Personnel and Logistics in 1996. As the Staff Officer Two Incharge of Personnel/Logistics he handled all personnel matters and did the budgeting for three Armoured Units. During his tenure he ensured that the strategic tank of fuel with a capacity of 2,000,000 litres fuel was operational. It was during his tenure that the Armoured Gunnery Book was written.

Prior to being appointed to Staff Officer incharge of Personnel and Logistics at Brigade Headquarters Maj. Gen (Rtd) Dr.Kihalangwa was the Staff Officer Incharge of Operations with Kenya Battalion 3 (kenbatt3) in former Yugoslavia in 1994. This appointment enabled him to oversee the entire operations of the Batallion and co-ordinate activities with Sector Headquarters at Knin.

As the Operations Officer, Maj. Gen (Rtd) Dr.Kihalangwa stood against the malpractices being perpetrated by the Commanding Officer and other senior officers of selling United Nations Fuel. All those officers (8) who were involved were retired in public interest where the tour of duty ended. Honesty is the hallmark of Maj. Gen (Rtd) Dr.Kihalangwa even in the advent of opposition.

Prior to being appointment to the Staff Officer Incharge of Operations with Kenbett3, Maj. Gen (Rtd) Dr.Kihalangwa was the Officer Commanding Incharge of training at the Cadet School at Lanet. As the Commanding Officer Maj. Gen (Rtd) Dr.Kihalangwa handled and monitored four intakes of Cadets each with a class of 120 cadets during their training. Today most of those cadets who trained between 1987-1990 are senior officers with four of them wearing the rank of a Brigadier.

During his tenure, Maj. Gen (Rtd) Dr.Kihalangwa emphasized on the issue of character development, professionalism, courage and leadership. It was during this period that the idea of having an Academy was mooted. Today cadets do a 3 years programme that see them commission besides being awarded a degree of Bachelor of Science in Military Studies.

Prior to becoming the Officer Commanding Cadets Maj. Gen (Rtd) Dr. Kihalangwa held various ranks from 2 Lieutenant – Captain in various Positions at troop and squadron level. Having joined the cadet course at age of 26 years, he demonstrated mature and leadership skills in the early stages of his career. This saw the Maj Gen (Rtd) Dr.Kihalangwa entrusted with heavy responsibility that showed trust and confidentiality. His early promising career in the military prepared him for higher responsibilities.

Accomplishments: Maj. Gen. (Rtd) Dr. Kihalangwa career in the Defence Forces saw him accomplish many things which includes successful planning and implementation of the modernizing programme of KDF, proper utilization of resources both financial and material, attainment of high standards of discipline, posting of key events and addressing the challenge of housing

Maj.Gen (Rtd) Dr. Kihalangwa periodically lectures at both National and Defence Colleges Kenya and National Intelligence Service Academy on issue of security and conflict.

He was honoured with the award of the Chief of the Burning Spear in 2011. Having held various appointments and responsibilities Maj. Gen (Rtd) Dr. Kihalangwa has acquired enormous experience in areas of security, personnel management, development and analysis of policy, project management at various levels.

His understanding of National, Regional and International issues is solid.

EDUCATION:

Doctor of Philosophy in International Studies and Diplomacy, Washington International University (WIU) USA, (Thesis: The Security Implication of Illegal Immigration in Kenya: A case study of Nairobi (2013)

MA in International Studies and Diplomacy, Washington International University (WIU) – USA. (Thesis: Conflict Prevention and Management in IGAD Sub – Region – Sub –Saharan Africa (2011).

Diploma in International Studies- University of Nairobi (UoN) (Thesis: Conflict Over Natural Resources: A case study of the River Nile (2005).

Diploma in Strategic Studies- University of Nairobi (UoN)Thesis: Conflict Management by Regional Bodies of Africa; A comparison between IGAD and ECOWAS(2006).

His post graduate work looks at conflict and security and how these issues can be managed. Human security has taken precedence over state security hence the understanding of the five vectors of security namely; Political, Economic, Security, Societal and Environmental. Most of the lapses being experienced can be drastically reduced if this was understood. Security needs to be understood holistically and inter-agency coordination is critical.

SENIOR MANAGEMENT COURSES

National Defence College (RSA) - 2004:Maj. Gen (Rtd) Dr.Kihalangwa attended National Defence College in South Africa in 2004.

The course enabled him to understand and develop a strategic and policy thinking at National, Regional and International levels.

This is where Maj. Gen (Rtd) Dr.Kihalangwa picked an interest on subject of illegal immigration and continued it to the Doctorate level. Today, South Africa is confronted with challenges of illegal immigrants.

National Defence College (NDC) (K), - 2006: Maj. Gen (Rtd) Dr. Kihalangwa was privileged to attend the local National Defence College in Kenya. As participant he was exposed to strategic and policy issues during the one year study. At national level, the participants learn and discussed national issues before proceeding to regional issues and international levels culminating with an overseas tour.

Maj.Gen (Rtd) Dr. Kihalangwa having attended the course comprehended issues of National, Regional and International levels. The understanding of National Security is key resulting to xenophobia. Kenya is therefore not exceptional.

Defence Staff College 1997 – 1998: This is a combined staff course that empowers those at the rank of Major and Lieutenant Colonels to understand staff command and also staff work. On completion of the course, Maj. Gen (Rtd) Dr. Kihalangwa was able to be accomplished in command and staff.

LANGUAGES:

English (fluent), Kiswahili (fluent) & Luhya (fluent).

WORK EXPERIENCE

CURRENT POSITION:

Director of Immigration Services, Ministry of Interior and Coordination of National Government, - 2014:Maj. Gen (Rtd) Dr. Kihalangwa has been the Director of Immigration Department for three (3) years and 4 months. A Department that was confronted with a lot of challenges that included corruption, poor work ethics, ethnicity etc all threatening national security.

To date Maj. Gen (Dr) Kihalangwa has addressed most of the challenges. Notable achievements include the introduction of online immigration services and use of e-citizen. The passport application, e-visa and e-Foreign Nationals Management online has improve service delivery. The cue management system was introduced in January 2015. Beside improving in service delivery, there has been a notable increment in revenue collection that has risen from kshs.7 billion to kshs. 10.2billion annually. The introduction of e-Passport with advanced security features on 1st September, 2017 was a great achievement.

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The Department is finalizing the Immigration Policy by March 2018 and having the first class for the Institute of Migration Studies in August, 2018. As the Chairman of the Kenya-Somalia Border Securitization Project before it was moved to the Ministry of Defence in 2017, he was able to start the construction of the fence which is currently contributing to security on our border with Somalia as it has diminished porosity.

During his tenure, the Integrated Population Registration System(IPRS) was officially launched. With the IPRS in place, the data for all citizens will be captured making it the single source of truth.

PREVIOUS POSITION

Assistant Chief of Defence Forces in Charge of (ACDF P & L) - 2010 - 2014: Principal Staff Officer to the Chief of the Defence Forces on all matters to personnel and Logistics. Also the Adjutant General who oversaw discipline in the Military.

Accomplishments: Ensured that the Kenya Defence Forces Personnel issues of promotion, posting, recruitment, career progression etc were addressed. Managed the budget that saw modernization of equipment and proper utilization of resources. During his tenure accommodation that was a challenge was partially addressed, now Military School was built with the Cadets Academy being the biggest of the projects.

RECENT NOMINATIONS

Chairman of MHRMAC.

Chairman of National Co-ordination of Migration

Member of the Kenya-Somalia Border Securitization Project (KSBSP).

Member of the Ministerial Tender Committee (MTC).

OTHER POSITIONS

Chief of the Personnel, Defence Headquarters 2005 – 2009: Ensured policy issues related to personnel were implemented as directed by the Defence Council. Monitored career progression of all personnel in the Military in terms of promotion, appointment, courses, leave and retirement. As the Assistant Adjutant General, issues of discipline remained key.

Provost Marshal 2002 – 2005:

Discipline remains key to security entities. During his tenure he provided guidance on security of installations and VIPs, monitored and investigated malpractices in Defence Forces, escorts and liaison with the Civil Police. It is essential for security agencies to understand each other's roles and learn to cooperate.

Accomplishments: Includes the establishment of secure Defence Headquarters, elimination of malpractices particularly misuse of resources and also maintenance of discipline.

Commanding Officer – Military Police Corps, 2001 – 2002: Ensuring that soldiers maintain discipline and all malpractices are monitored. Providing security to key headquarters, arresting errant soldiers and providing escorts. This unit is key to the maintenance of discipline in the Defence Forces.

Staff Officer I Personnel – 1999 – 2001: Deputized the Colonel Personnel on all the personnel issues. During his tenure the introduction of computerized seniority roll was introduced that has helped planning of career, promotion and postings.

OTHER POSITIONS

Between 1981-1996: Maj. Gen (Rtd) Dr.Kihalangwa held various positions in the Unit, Brigade and Institutions. These included appointments in Command, Administration and Instructions.

HOBBIES

Maj. Gen (Rtd) Dr. Kihalangwa hobbies include reading, farming and travelling.

MARITAL STATUS

Married to Madame Christine and they are blessed with three sons namely Marvin, Andricus and Earl aged between 35-22 years.

Dr. Kihalangwa
1981-1996
1999-2001
2001-2002

D. Sambharam - Security
1981-1996
1999-2001
2001-2002



Annex 14- Vetting Questionnaire



No. 33 of 2011 [Rev. 2012]

Public Appointments (Parliamentary Approval)

[Issue 1] 8

SCHEDULE

[Section 6(8).]

**CRITERIA FOR VETTING/APPROVAL OF NOMINEES FOR
APPOINTMENT TO PUBLIC OFFICE BY PARLIAMENT QUESTIONNAIRE**

Notes:

- a) This questionnaire applies to appointments to public office arising by or under the Constitution or any other law where parliamentary approval is required.
- b) The questionnaire shall be used by the relevant parliamentary committee to vet a nominee appearing before the committee in the process of parliamentary approval.
- c) The questionnaire shall be filled and submitted by the nominee to the relevant parliamentary committee through the Clerk of the relevant House of Parliament on or before a date set by the committee.
- d) The submission of false information in the questionnaire is an offence and may result in prosecution.
- e) Any form of canvassing by a nominee shall lead to disqualification.
- f) The nominee must answer all the questions.

1. **Name:** (State full name) MAJ GEN (Rtd) Dr. GORDON ODEMO KIHALANGWA

2. **Position:** (State office to which you have been nominated).

PS - STATE DEPARTMENT OF IMMIGRATION, BORDER CONTROL AND
REGISTRATION OF PERSONS.

3. **Sex:** MALE

4. **Date of Birth:** (State year and place of birth) 13TH MAY 1956 - KAKAMEGA

5. **Marital Status:** MARRIED

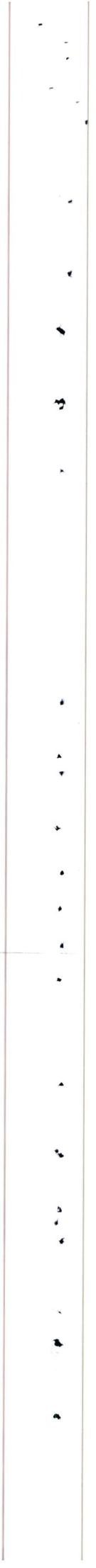
6. **Daytime phone number:** 020-225358

7. **Mobile phone number:** 0721294925

8. **Email Address:** gordonkihalangwa@yahoo.co.uk

9. **ID Number:** 0569046

10. **PIN Number:** A001330135X



11. Nationality: KENYAN

12. Postal Address: 30191-00100

13. Town/City: NAIROBI

14. Knowledge of Languages: (Specify Languages):

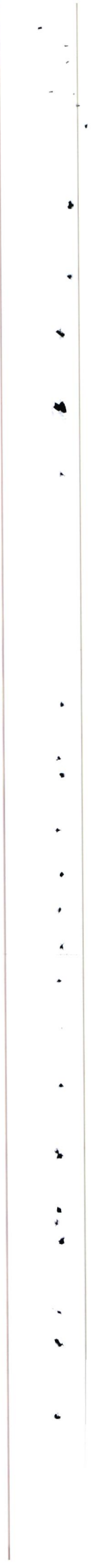
ENGLISH, SWAHILI AND LUHYA

15. Education: (List, in reverse chronological order, each university, college, or any other institution of higher education attended and indicate, in respect of each, the dates of attendance, academic award obtained, whether a degree was awarded, and the dates on which each such degree was awarded).

- PhD IN INTERNATIONAL STUDIES AND DIPLOMACY. – WASHINGTON INTERNATIONAL UNIVERSITY. (WIU) - USA YEAR 2013.
- MASTERS IN INTERNATIONAL STUDIES AND DIPLOMACY - WASHINGTON INTERNATIONAL UNIVERSITY. (WIU) - USA - YEAR 2011
- DIPLOMA IN INTERNATIONAL STUDIES - UNIVERSITY OF NAIROBI, (UoN) YEAR 2005
- DIPLOMA IN STRATEGIC STUDIES. UNIVERSITY OF NAIROBI (UoN)
➤ YEAR 2006
- CERTIFICATE, NATIONAL DEFENCE COLLEGE KENYA. YEAR 2006
- CERTIFICATE, SOUTH AFRICAN NATIONAL DEFENCE COLLEGE. YEAR 2004
- CERTIFICATE, DEFENCE STAFF COLLEGE KENYA. YEAR, 1998

Employment Record: (List in reverse chronological order all government agencies, business or professional corporations, companies, firms or other enterprises with which you have been affiliated as an officer, director, partner, proprietor, employee or consultant)

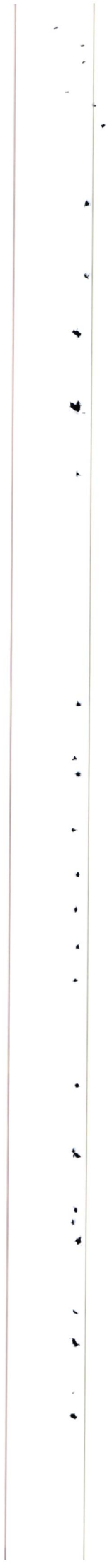
- DIRECTOR OF IMMIGRATION SERVICES, FROM 21ST AUGUST 2014 TO DATE



- ASSISTANT CHIEF OF DEFENCE FORCES (ACDF) IN CHARGE OF PERSONEL AND LOGISTICS. FROM 2010 - 2014
- CHIEF OF PERSONEL – DEFENCE HEADQUATERS, 2006 - 2010
- PROVOST MARSHAL - DEFENCE HEADQUATERS, 2002 - 2006
- COMMANDING OFFICER MILITARY POLICE CORPS, 2001-2002
- STAFF OFFICER 1 IN CHARGE OF PERSONNEL, HQ, KENYA ARMY, 1999-2001
- MILITARY ASSISTANT TO COMMANDER KENYA ARMY, 1999-2001
- STAFF OFFICER CLASS 2 IN CHARGE OF LOGISTICS AND PLANNING, HQ KENYA ARMY, 1998-1999
- STAFF OFFICER 2 IN CHARGE OF PERSONNEL AND LOGISTICS- ARMoured BRIGADE HQs, 1996-1998
- OPERATIONS OFFICER KENYA BATTALION 6 IN FORMER YUGOSLAVIA, 1993-1995
- SQUODRON COMMANDER – 76 ARMoured RECONNAISSANCE, 1991-1993
- INSTRUCTOR CADETS – SCHOOL OF ARMOR, 1988-1991
- GUNNERY INSTRUCTOR – SCHOOL OF ARMOR, 1987-1988
- TROOP COMMANDER, 1982- 1987

16. Honours and Awards: (List any scholarships, fellowships, honorary degrees, academic or professional honours, honorary society memberships, military awards and any other special recognition for outstanding service or achievement and in respect of each, state the date of award and the institution or organization that made the award).

- CHIEF OF BURNING SPEAR CBS YEAR 2011
- 20TH ANNIVERSARY COMMEMORATIVE
- THE 10 GREAT YEARS OF NYAYO ERA
- 25TH ANNIVERSARY COMMEMORATIVE



- 20 YEARS OF NYAYO ERA
- THE CONSTITUTION MEDAL
- THE LINDA NCHI CAMPAIGN MEDAL
- UN PEACE KEEPING (UNPROFOR)

17. **Professional Association** (where applicable): (List all professional associations of which you are or have a member and give any positions held and the respective dates when each such position was held).

NONE

18. **Memberships:** (List all professional, business, fraternal, scholarly, civic, charitable or other organizations, (other than those listed in response to Question 16) to which you belong or have belonged).

NONE

19. **Published Writings:**

(a) List the titles, publishers and dates of books, articles, reports, letters to the editor, editorial pieces or other published materials you have authored or edited.

NONE

(b) Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of any bar association, committee, conference or organization of which you were a member.

- *Automation of Immigration services.*
- *Concept note for the establishment of Institute of migration*
- *Border procedure manual.*
- *National Migration policy*

20. **Public Office, Political Activities and Affiliations:**

(a) List chronologically any public offices you have held or are currently holding, including the terms of service and whether such positions were elected or appointed.



- DIRECTOR OF IMMIGRATION SERVICES YEAR 2014 TO DATE
- CHAIRMAN KENYA SOMALIA BORDER SECURITIZATION PROJECT YEAR 2015 – APPOINTED
- CHAIRMAN MHRMAC – IMMIGRATION AND REGISTRATION OF PERSONS YEAR 2014 TO DATE – APPOINTED
- CHAIRMAN OF BOARD OF MANAGEMENT, INGIDI SEC SCHOOL 2015 TO DATE
- MEMBER OF THE DEFUNCT SALARY REVIEW, 2006-2010

(b) List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities. Also include any linkage you have to a political party at present.

NONE

(b) Have you ever been dismissed or otherwise removed from office for a contravention of the provisions of Article 75 of the Constitution?

NO

(c) Have you ever been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties?

NO

21. **Deferred Income/Future Benefits:** (List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, etc).

NONE



22. **Outside commitment during service in office:** (Do you have any plans, commitments or agreements to pursue outside employment with or without compensation during your service in office? If so explain).

NO

23. **Sources of Income:** (List sources and mounts of all income received during the calendar year preceding your nomination and in the current calendar year).

- SALARY/ PENSION Kshs 7 M
- REAL ESTATE- (RENTAL HOUSES) Kshs 6M
- FARMING (CROP, DAIRY AND POULTRY) Kshs 2M
- GYM MANAGEMENT Kshs 1.5 M

24. **Tax Status:** (State whether you have fully complied with your tax obligations to the State up to the end of the financial year immediately preceding the nomination for appointment).

TAX COMPLIANT

25. **Statement of Net Worth:** (State you financial net worth).

APPROXIMATELY; Kshs 200 MILLION

(REAL ESTATE, LAND AND MOTOR VEHICLES)

26. **Potential Conflicts of Interest:**

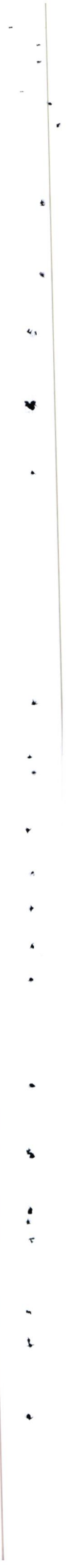
(a) Identify the family members or other persons, parties, categories obligation or financial arrangements that are likely to present potential conflicts-of-interest

NONE

(b) when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to rise.

NONE

(c) Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern



- *Currently I don't have any conflict of interests, in the event of any arising, the best action will be to inform my seniors for both direction/guidance.*

27. **Pro-Bono/Charity Work/Donations to charity:** (Describe what you have done by way of pro bono or charity work, listing specific instances, the amount contributed and the amount of time devoted to each).

- I am the Chairman of the Board of Management for Ingidi Secondary School for the past 4 years to date, I have bought them books of over kshs 1.5 million in the last three years and organized to buy them a school bus with my friends in 2016 worth kshs 4.8 million.
- As the chairman of development for Waigama Friend's Church in Kitale, we built a church worthy 7.5 million.
- As a family, we are also paying school fees for 8 children in day secondary schools and 2 in teachers training college from humble families.

28. Have you ever been charged in a court or law in the last three years? If so, specify the nature of the charge, where the matter is ongoing, the present status of the matter, or where the matter is concluded, the judgment of the court, or otherwise, how the case was concluded.

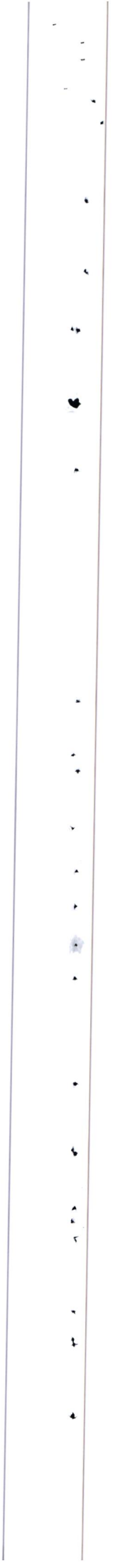
NO

29. Have you ever been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years?

NO

30. Have you any objection to the making of enquiries with your present employer/referees in the course of consideration of your nomination?

NO



31. **References:** (List three persons who are not your relatives who are familiar with your character, qualification and work).

- GENERAL SAMSON JEFWA MWATHETHE EGH MBS DCO
 - CHIEF OF THE DEFENCE FORCES – KENYA
 - Cell NO; 0722-765-304

- Professor RICHARD MUSANGI MBS
 - CHANCELLOR OF KABIANGA UNIVERSITY COLLEGE
 - Cell NO; 0724-947-799

- Reverend. AGGREY MUKIRIMA
 - OVERSEER FRIENDS CHURCH (QUAKERS)
 - Cell NO; 0720-583-388

No. 33 of 2011 [Rev. 2012]

Public Appointments (Parliamentary Approval)

[Issue 1] 10

10

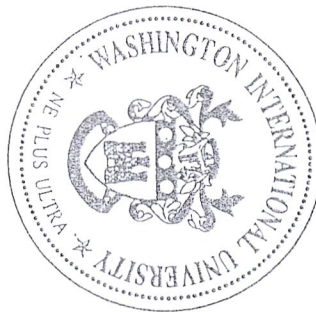
20



Annex 15- Academic and professional Certificates



Washington International University



To all to whom these letters shall come, Greetings.

The Directors of the University on the recommendation of the Faculty and by virtue of the Authority in them vested have conferred

Kihalangua Othema Borbon

who has satisfactorily pursued the Accelerated Program Studies and satisfied the requirements for the Degree of

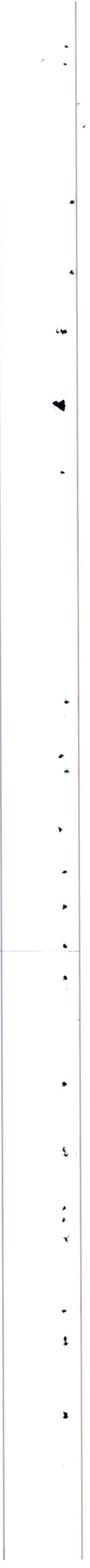
Doctor of Philosophy in Arts in International Studies and Diplomacy

with all the rights, privileges and honors thereunto appertaining

Given on the 15th day of January,

in the year two thousand and thirteen.





United States of America



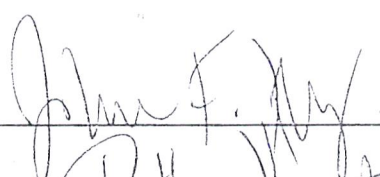
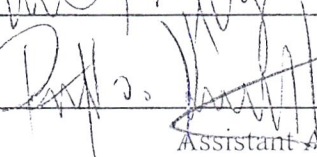
DEPARTMENT OF STATE

To all to whom these presents shall come, Greetings:

I Certify That the document hereunto annexed is under the Seal of the Secretary of State of the State(s) of Delaware, and that such Seal(s) is/are entitled to full faith and credit.*

**For the contents of the annexed document, the Department assumes no responsibility
This certificate is not valid if it is removed or altered in any way whatsoever*

In testimony whereof, I, John F. Kerry, Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Assistant Authentication Officer, of the said Department, at the city of Washington, in the District of Columbia, this eighth day of April, 2013.


 _____ Secretary of State
 By 
 _____ Assistant Authentication Officer,
 Department of State

Issued pursuant to CHXIV, State of Sept. 15, 1789. 1 Stat. 68-69; 22 USC 2657; 22 USC 2651a; 5 USC 301; 28 USC 1733 et. seq.; 8 USC 1443(f); RULE 44 Federal Rules of Civil Procedure.



Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT SHARON AGNEW, WHOSE GENUINE SIGNATURE APPEARS ON THE ABOVE AND FOREGOING DOCUMENT WAS AT THE TIME OF MAKING AND NOW IS THE PROTHONOTARY OF THE SUPERIOR COURT FOR THE STATE OF DELAWARE IN AND FOR NEW CASTLE COUNTY DULY APPOINTED, COMMISSIONED, AND QUALIFIED, AND THAT FULL FAITH AND CREDIT ARE, AND OUGHT TO BE, GIVEN TO ALL OF HIS OFFICIAL ACTS AS SUCH.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL OF OFFICE AT DOVER ON THE TWENTY-EIGHTH DAY OF MARCH, A.D. 2013, AT 4:14 P.M.



20131197574UCS
130368854

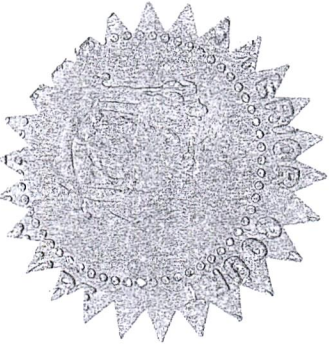
AUTHENTICATION: 0321294

DATE: 03-28-13

Jeffrey W. Bullock, Secretary of State



State of Delaware,
New Castle County, }
§§



I, SHARON AGNEW, Prothonotary of the Superior Court of the State of Delaware, In and for New Castle County, which Court is a Court of Record, DO HEREBY CERTIFY, THAT William B. Brown, by whom the foregoing affidavit or acknowledgment is certified, now is and was at the date of said affidavit or acknowledgment a Notary Public for the State of Delaware residing in New Castle County, and duly commissioned and qualified as such to take acknowledgment to all deeds and instruments in writing and administering oaths and take affidavits within said State, that I am well acquainted with the handwriting of said Notary Public and verily believe that the signature to said certificate of proof or acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, the 21st day of March, 2013.

Sharon Agnew
Prothonotary of the Superior Court.



Washington International University



To all to whom these letters shall come, Greetings.

The Directors of the University on the recommendation of the Faculty and by virtue of the Authority in them vested have conferred

Kihalaingwa Øbema Øorðom

who has satisfactorily pursued the Accelerated Program Studies and satisfied the requirements for the Degree of

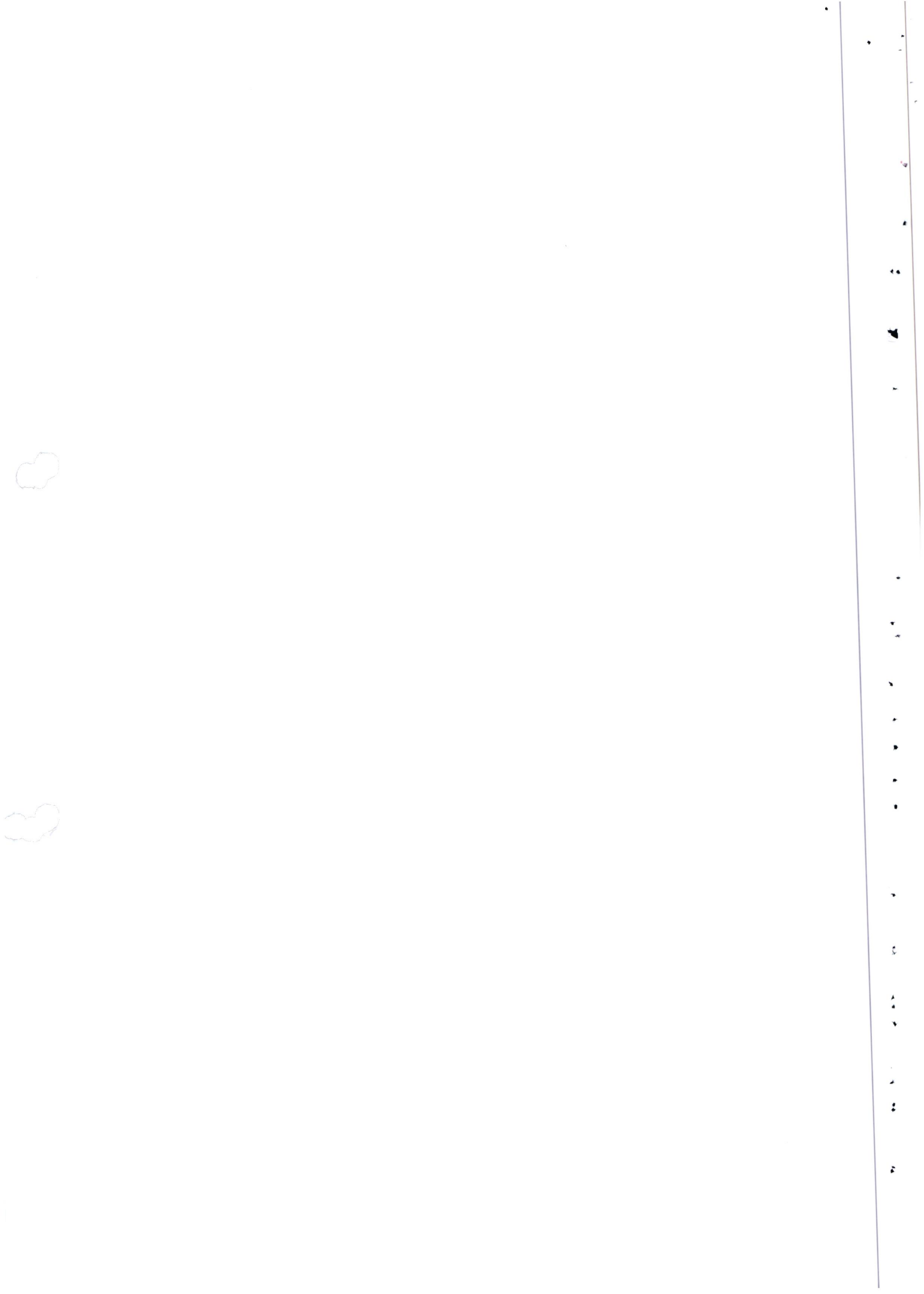
Master of Arts in International Studies and Diplomacy

with all the rights, privileges and honors thereunto appertaining

Given on the 15th day of November,

in the year two thousand and eleven.





United States of America



DEPARTMENT OF STATE

To all to whom these presents shall come, Greetings:

I Certify That the document hereunto annexed is under the Seal of the Secretary of State of the State(s) of Delaware, and that such Seal(s) is/are entitled to full faith and credit.*

**For the contents of the annexed document, the Department assumes no responsibility
This certificate is not valid if it is removed or altered in any way whatsoever*

In testimony whereof, I, Hillary Rodham Clinton, Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Assistant Authentication Officer, of the said Department, at the city of Washington, in the District of Columbia, this sixteenth day of December, 2011.

Secretary of State
By _____
Assistant Authentication Officer,
Department of State

Issued pursuant to CHXIV, State of Sept. 15, 1789, 1 Stat. 68-69; 22 USC 2657; 22 USC 2651a; 5 USC 301; 28 USC 1733 et. seq.; 8 USC 1443(f), RULE 44 Federal Rules of Civil Procedure.



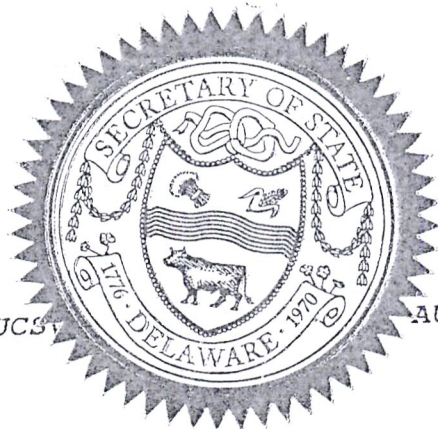
Delaware

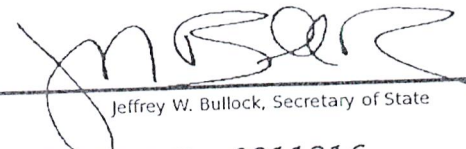
PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT SHARON AGNEW, WHOSE GENUINE SIGNATURE APPEARS ON THE ABOVE AND FOREGOING DOCUMENT WAS AT THE TIME OF MAKING AND NOW IS THE PROTHONOTARY OF THE SUPERIOR COURT FOR THE STATE OF DELAWARE IN AND FOR NEW CASTLE COUNTY DULY APPOINTED, COMMISSIONED, AND QUALIFIED, AND THAT FULL FAITH AND CREDIT ARE, AND OUGHT TO BE, GIVEN TO ALL OF HIS OFFICIAL ACTS AS SUCH.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL OF OFFICE AT DOVER ON THE EIGHTH DAY OF DECEMBER, A.D. 2011, AT 11:58 A.M.




Jeffrey W. Bullock, Secretary of State

20114702919UCS

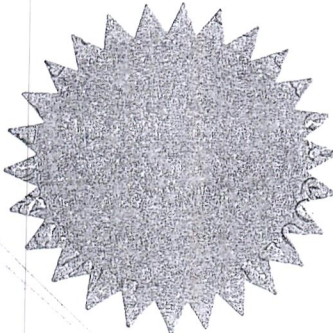
111266148

AUTHENTICATION: 9211316

DATE: 12-08-11



State of Delaware, } §§
New Castle County, }



I, SHARON AGNEW, Prothonotary of the Superior Court of the State of Delaware, in and for New Castle County, which Court is a Court of Record, DO HEREBY

CERTIFY, THAT William B. Brown, by whom the foregoing affidavit or acknowledgment is certified, now is and was at the date of said affidavit or acknowledgment a Notary Public for the State of Delaware residing in New Castle County, and duly commissioned and qualified as such to take acknowledgment to all deeds and instruments in writing and administering oaths and take affidavits within said State, that I am well acquainted with the handwriting of said Notary Public and verily believe that the signature to said certificate of proof or acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, the 6th day of December, 2011.

Sharon Agnew
Prothonotary of the Superior Court.



UNIVERSITY OF NAIROBI



This is to certify that

Gordon Odemo Kihalangwa

having satisfied the requirements
for the award of the

DIPLOMA
IN INTERNATIONAL STUDIES

Pass

was presented
at a Congregation held at
this University on the

Ninth Day of December in the Year
2005

A handwritten signature in black ink, appearing to be 'J. M. S. O.', written over a horizontal line.

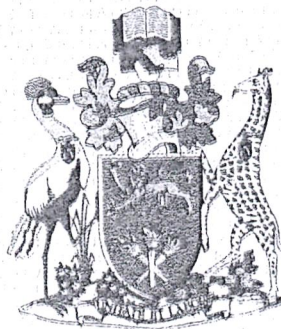
VICE-CHANCELLOR

A handwritten signature in black ink, appearing to be 'Kaimenyi', written over a horizontal line.

DEPUTY VICE-CHANCELLOR (ACADEMIC AFFAIRS)



UNIVERSITY OF NAIROBI



This is to certify that

Godon Kihalangwa Demo

having satisfied the requirements
for the award of the

**DIPLOMA
IN STRATEGIC STUDIES**

Credit

was presented
at a Congregation held at
this University on the

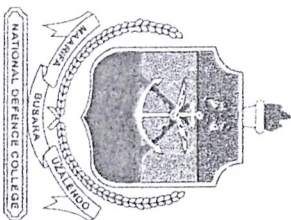
Fourth Day of December in the Year
2006

VICE-CHANCELLOR

DEPUTY VICE-CHANCELLOR (ACADEMIC AFFAIRS)



National Defence College KENYA



This is to certify that

Col Gordon Odeno Njirabagwa

of Kenya Army

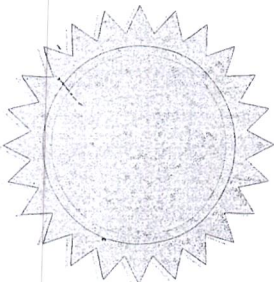
Graduated from the National Defence College by successfully completing

AND Course No. 09-227

From 5th January 2006 On 23rd November 2006

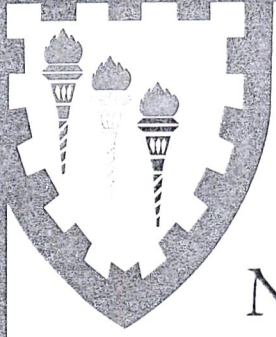
23rd November 2006

Karen Nairahi




Lieutenant General
Commandant





South African National Defence College

This is to certify that

Col G O Kihalangwa MBS "psc"(K)

of the Kenyan Defence Force

successfully completed the

Executive National Security Programme

No 09 of 2004

over the period

26 January to 11 June 2004

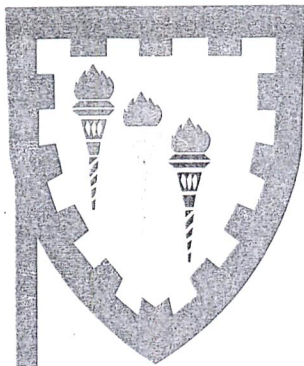
and is now entitled to the post-nominal title
'ensp'


General
Chief of the SA National Defence Force


Rear Admiral (JG)
Commandant SA National Defence College







South African National Defence College

ACCOLADES

for one of the best individual research
papers submitted during

ENSP 09/04

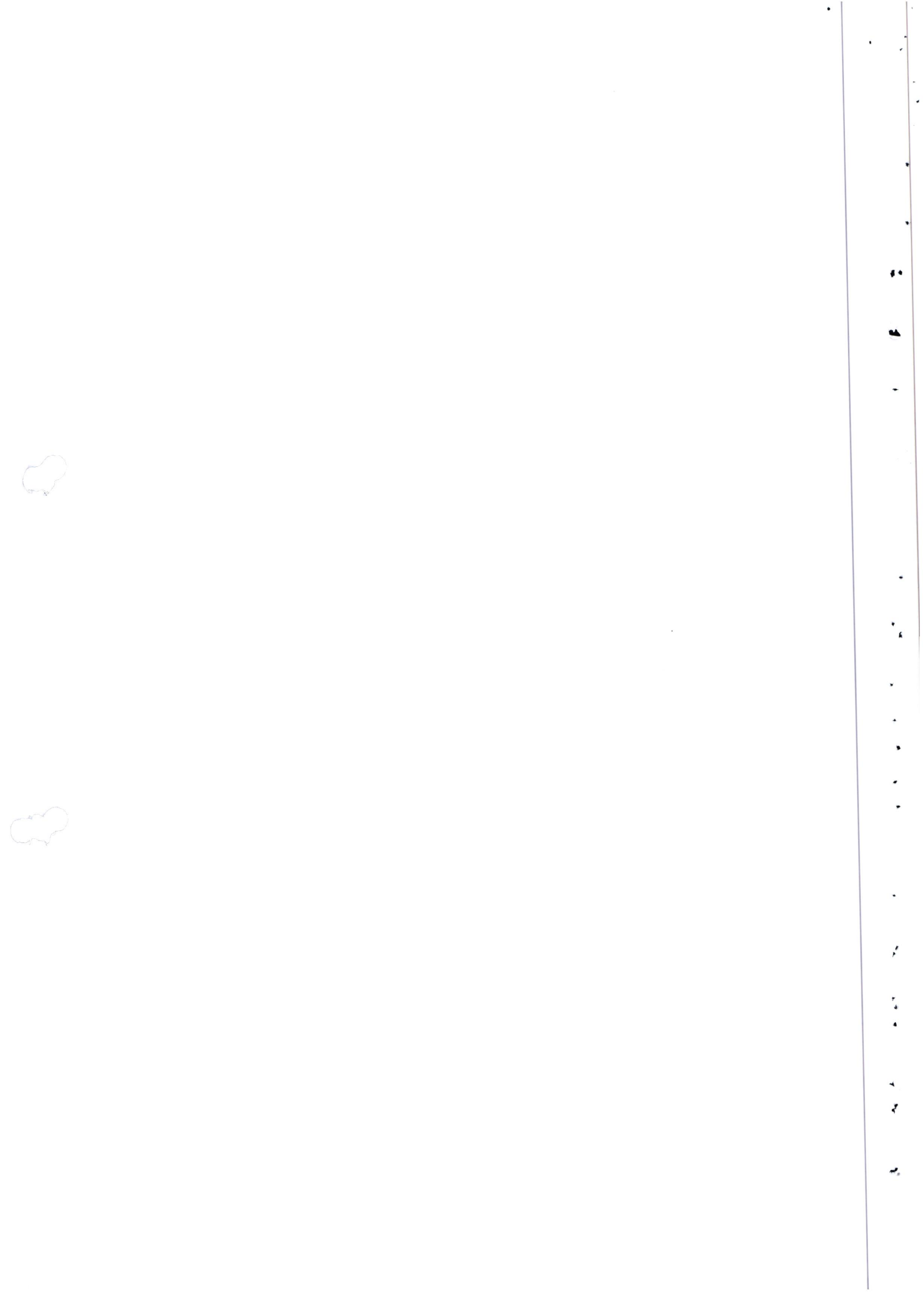
is awarded to

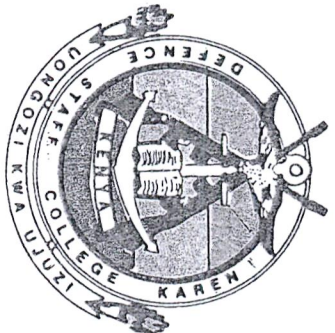
Col G.O. Kihalangwa

This paper complied with the criteria set by the
SA National Defence College.
The content and recommendations testify of thorough
and professional research.

Rear Admiral (JG)
Commandant SA National Defence College⁶²⁰

11 June 2004





This is to certify that

Maj Gordon Dhemo Jhikalanguwa

successfully graduated in Defence Staff Course

which was held at the

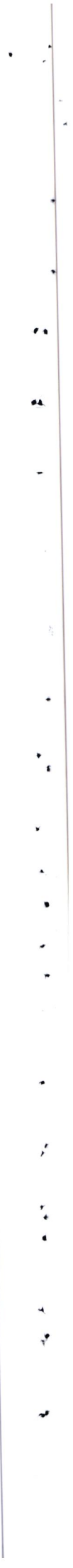
Defence Staff College, Karen, Kenya

from 25 AUG 97 to 9 JUL 98

and was awarded the designation P S C

Major General
Commandant, Defence Staff College

Karen



Annex- 16 Letter from the Clerk of the National Assembly to the Registrar of Political Parties, Director of Criminal Investigation, Ethics & Anti-Corruption Commission, Higher Education Loans Board, Kenya Revenue Authority



REPUBLIC OF KENYA



Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: clerk@parliament.go.ke
When replying please quote

National Assembly
Clerk's Chambers
Parliament Buildings
P. O. Box 41842 -00100
NAIROBI, Kenya

KNA2/4/2018/(47)

14th February, 2018

Mrs. Lucy Ndung'u

Registrar of Political Parties,
Office of the Registrar of Political Parties,
P.O Box 1131 -00606,
Lions Place, 1st Floor,
Karuna Close, Waiyaki Way, Westlands,
NAIROBI

Mr. George Kinoti

Director of Criminal Investigations,
Directorate of Criminal Investigations,
P.O Box 30036 -00100,
Mazingira Hse, Kiambu Road,
Opp. Forestry Department Headquarters, Karura,
NAIROBI

Mr. Halake Dida Waqo

Secretary/Chief Executive Officer,
Ethics and Anti - Corruption Commission,
Integrity Centre,
Milimani/Valley Road Junction,
P.O Box 61130 -00200,
NAIROBI

Mr. Charles M. Ringera

Chief Executive,
Higher Education Loans Board,
Anniversary Towers, 18th Floor,
University Way,
P.O Box 69489 -00100,
NAIROBI

Mr. John Njiraini, MBS

Commissioner General,
Kenya Revenue Authority,
Times Towers, 30th Floor,
Haile Selassie Avenue,
P.O Box 48240 -00100
NAIROBI

Dear Sir/Madam,

**RE: VETTING OF PERSONS NOMINATED AS PERMANENT SECRETARIES,
AMBASSADORS/HIGH COMMISSIONERS AND JUDICIAL SERVICE COMMISSIONERS BY
THE NATIONAL ASSEMBLY**

Our letter dated 8th February, 2018 on the above subject refers.

We are in receipt of notification of nominations of twenty one (21) persons for appointment as Permanent Secretaries, Ambassadors/High Commissioners and Judicial Service Commissioners by H.E. the President.

Attached please find the list of the nominees and the relevant details as requested for your action.

We will appreciate if the information is received on or before **Tuesday 20th February, 2018.**

Yours faithfully,



**MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY**

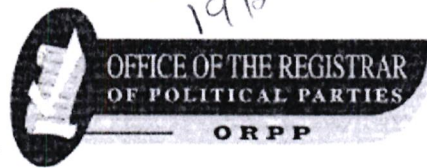
Annex- 17 Clearance from the Registrar of Political Parties



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(2) VETTING COMMITTEES
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Republic of Kenya

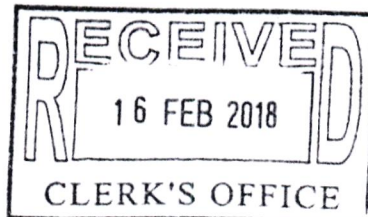
Telephone: +254(0)204022000
Email: registrar@orpp.or.ke
Website: www.orpp.or.ke
When replying please quote

Lion Place, 1st Floor
Off Waiyaki Way
P.O Box 1131-00606
Sarit Centre, Nairobi.

REF NO.: RPP/ORG/34 Vol. II (13)

DATE: 15th February, 2018

Michael R. Sialai, EBS,
Clerk of the National Assembly,
Clerks Chamber,
Parliament Buildings,
P.O. Box 41842-00100,
NAIROBI.



Dear Sir,

RE: VETTING OF PERSONS NOMINATED AS PERMANENT SECRETARIES, AMBASSDORS/HIGH COMMISSIONERS AND JUDICIAL SERVICE COMMISSIONERS BY THE NATIONAL ASSMBLY

Reference is made to your letter Ref.KNA2/4/2018/(47) dated on 14th February, 2018 on the above subject matter.

According to the records held by this office as at 15th February, 2018, the list of the twenty one (21) nominees tabulated herein below are not officials of a registered political party.

No.	Name of Nominee	ID No.
1.	Ms. Safina Kwekwe	11367097
2.	Mr. Nelson Marwa Sospeter	3980474
3.	Amb. Macharia Kamau	28095481
4.	Dr. Julius Muia	4827415
5.	Maj. Gen. (Rtd) Gordon Kihalangwa	0569046
6.	Prof. Hamadi Iddi Boga	8434346
7.	Mr. Charles Hinga Mwaura	13535122
8.	Mr. Peter Tum Kiplagat	3276913
9.	Mr. Kevit Desai	21361733
10.	Mr. Joseph Wairagu Irungu	7197113
11.	Prof. Judy Wakhungu	3962007
12.	Dr. Cleopa Mailu	4829569
13.	Hon. Dan Kazungu	10831431
14.	Mrs. Phyllis Kandie	0334848
15.	Mr. Willy Bett	3448933



Office of the Registrar of Political Parties-ORPP



@ORPPKenya

16.	Prof. Jacob Kaimenyi	0995606
17.	Mr. Hassan Warioarero	10956527
18.	Mr. Lawrence Ntoye Lenayapa	16121196
19.	Mr. Patrick Gichohi	5541762
20.	Prof. Olive Mugenda	4835662
21.	Mr. Felix Koskei Kiptarus	6665340

Yours faithfully,


Lucy K. Ndungu, *EBS*
Registrar of Political Parties



Office of the Registrar of Political Parties-ORPP



@ORPPKenya

Annex- 18 Memoranda Submitted to the Committee





THIRDWAY HEADQUARTERS
 Chaka Place, Suite No. 2, Chaka Road
 P.O. Box 4781-00100 Nairobi
 Email: leader@thirdwayalliance.org
 Website: www.thirdwayalliance.org
 Tel. 254 20 3860296

① Noted. CNA to deal with
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 SNA
 9/2/18
 6th January 2017

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 12/2/18

MEMORANDUM OF THE THIRDWAY ALLIANCE KENYA TO THE VETTING COMMITTEE OF THE NATIONAL ASSEMBLY ON THE APPOINTMENT OF NATIONAL EXECUTIVE (CS, CAS, PS & AMBASSADORS) OUR PERSPECTIVE AND WHAT NATIONAL ASSEMBLY SHOULD CONSIDER BEFORE RECOMMENDING THEM FOR APPOINTMENT.

PREAMBLE

③

First, *Thirdway Alliance Kenya* (hereinafter "*Thirdway*"), a political party duly registered under our laws and which participated in the 2017 General Elections, welcomes the decision of President Uhuru Kenyatta to propose a Cabinet after such a long wait.

Secondly, we appreciate that Parliament is set to begin this long-awaited cabinet. Therefore, and pursuant to **Section 6(9)** of the *Public Appointments (Parliamentary Approval) Act 2011* and further to the provisions of **Article 119** of our 2010 Constitution, *Thirdway* shares below our party's perspective on the proposed nominees for Cabinet Secretaries (CSs), Permanent Secretaries (PSs), Ambassadors, and a newly created post of Chief Administrative Secretary (CAS). Even as we share our views herein, we, however, note that the Cabinet remains incomplete. We hope that Parliament would urge President Uhuru to finalize on his nominees. Any further delay, continues to create anxiety and delayed service delivery to Kenyans.

As Parliament now sits to vet these names, we provide our perspective as follows:

1. Role of the National Assembly

- a. We see the role of the National Assembly, as not just being about vetting the nominees, but also pointing the Executive to the right direction in as far as some national concerns are. We have documented those concerns in this memorandum. To this extent, parliament would be playing its oversight role over the Executive. We urge you not to look at party politics; rather what is in the best interest of Kenyans; it is the responsibility of the National Assembly to guide the president on the best public servants to serve Kenyans.

③ COMMITTEE CLERKS
 Pls bring to the attention of your respective committees

The need to observe chapter 6 of our Constitution & justification for appointments.

- a. Ch.6 of our Constitution speaks to "responsibilities of leadership", and that in selecting such State Officers, regard shall be had to their "competence and suitability", and in the particular instance, to perform a function as a CS, PS, and Ambassadors, amongst others.
- b. **On suitability & competence:** To use two examples in order to illustrate this issue, we do not see a clear justification for the transfer of a CS like Amb. Amina Mohammed to the Education Ministry. Her long, painstaking experience as CS Foreign Affairs will be a great loss to Kenya in terms of experience, skill and

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SPEAKERS OFFICE
 P. O. Box 41842, NAIROBI



resources. This is because she will have to learn how to manage a new Education docket. Assuming, the transfer was occasioned by her non-performance at the Foreign Affairs docket, why transfer her to the very crucial Education ministry where she has had no experience at all? Similarly, there is no clear justification for the appointment of Dr. Matiang'i as CS for Interior. This is because, he has arguably done an exemplary job as CS Education. At the same time, he has also received wide criticism both locally and internationally for his alleged contribution to the violation of human rights, including recent failure to obey court orders, and shutdown of media houses without compliance with *Article 24* of our Constitution.

- c. ***Underperformance:*** We urge your Committee to consider the performance, as well as underperformance by some CSs, PSs, who are now either transferred to a new docket or proposed for Ambassadorial appointment. You may want to interrogate the performance track record of each nominee. If on a balance of probability, a CS/PS never performed to expectation, you should reject such a name (*see also issue of integrity & corruption below*). We believe there are many Kenyans with skill, expertise, competence and who are suitable to serve in our public service.
- d. ***On qualifications:*** It is not clear what justification was used by the President to propose some nominees into Cabinet. Our proposal is that each of the nominees should produce before you, at least, a certified degree certificate from a recognized university. Kenya has so many learned and qualified individuals. We cannot appoint people into our public service, especially at such level as CS, PS and Ambassadors with questionable education credentials.
- e. ***Integrity & corruption:*** Our reading of the *Auditor General Reports* worryingly indicates that over 20 government departments could not account for public funds; neither could they demonstrate value for money. As you vet some of the returnee CSs and PSs, as well as those nominated for Ambassadorial appointments, it would be prudent to consider the findings of the *Auditor General* in the Ministries/departments they held prior to their now nomination for yet another appointment. For instance, the *Auditor General Reports* for the years 2013/14 and 2014/15 show that various ministries incurred unsupported Expenditure of **KES 66,782,697,987** and **KES 7,321,277,260** respectively. Additionally, various ministries incurred expenditure amounting to **KES 14,435,690,489** whose value for money could not be established. We insist that accounting of public money is paramount, and any nominee whose previous ministry or department could not account for funds must be rejected with recommendation that such individuals be investigated and prosecuted; and money to be recovered.

3. The Gender Rule.

- a. We have observed that President Uhuru Kenyatta overlooked the obligation in our Constitution to ensure the gender rule (1/3 or 2/3) in all key government appointments is met. So far, only 6 women have been appointed to CS positions out of the available 22 slots as well as Ambassadorial positions. This is below the threshold minimum of 30% required in our Constitution. This vetting Committee would agree that continued relegation of women in public appointments fuels inequality and disunity with a majority of Kenyan population who are women and

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youth. A progressive government would ensure that it has equal representation of capable women and men for a more harmonious and balanced leadership. Continual denial of the rights of women is no longer tolerable. For the sake of Wanjiku and Atieno, *Thirdway* proposes that there be inclusion of many more capable women into the Cabinet and parliament using all resources under the government's power and control.

4. **The Youth Factor.**

- a. The obvious and rather glaring omission of the youth, 35 years old and below is unfortunate and unacceptable. It must be remembered that our population is more than 70% youth. Young people are excelling in various fields such as IT, communication, Sports, trade and others placing Kenya on the map in many areas including scientific inventions. The Jubilee government must create space for more young and brilliant minds to manage high level government portfolios with introduction of electronic and modern technology to improve public participation.

5. **Special Interest Groups (SIG).**

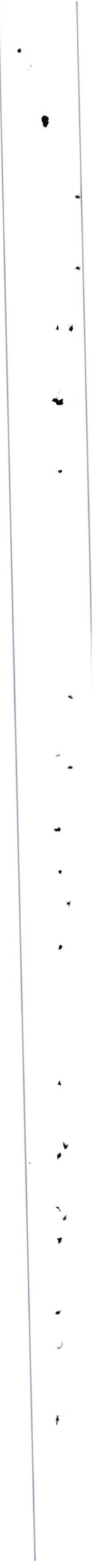
- a. It is our observation that SIGs (persons living with disabilities, extreme minorities, etc.,) have been left out of the list of nominees. The obvious omission of people living with disability is a key area of concern as this group of people deserve to head one or two cabinet positions. We know that disability is not inability and many people are actually victims, for example, of health and transportation failures. Therefore, it would benefit this country to appoint them into cabinet and other sectors where they can contribute lasting solutions. Their continued under-representation is a culture we can no longer be proud of, as a country.

6. **Observance of Art. 130 of the Constitution.**

- a. The Cabinet, being the National Executive of our Republic, is required to meet the provisions of our Constitution in **Article 130** that *"the composition of the national executive shall reflect the regional and ethnic diversity of the people of Kenya"*.
- b. The diversity and inclusivity clause in our Constitution has not been overlooked. At first glance, and without necessarily going into detail, it is clear that the list is ethnically imbalanced and overly generous to members of one or two communities whilst completely omitting and ignoring others. With the current political temperatures and divisive politics that is polarizing communities in our country (principally because of exclusion from government), it only good for our Country to ensure ethnic balancing is achieved in these appointments. We do not expect the government to increase the number of positions to fulfil this requirement; however, an effort must be evident to ensure inclusivity and representativeness of all groups of Kenyans as far as possible.
- c. ***Thirdway formula on ethnic and regional balancing:*** We propose that the President nominates his first 22 nominees for CS positions from 22 different ethnic groups of Kenya; then his second 22 nominees for PS positions from another 22 different ethnic groups of Kenya. That way, the President would have fulfilled both the ethnic and regional diversity of the people of Kenya. His Cabinet would be the true face of Kenya. We believe this would help President Kenyatta build a better legacy and good precedent for future presidents.



7. **“Recycling” of certain names in public service.**
 - a. “Recycling” or “rewinding” of personalities makes for a retrogressive society devoid of new ideas, ways of approaching important issues and problem-solving. We must make space for new faces and personalities who should be carefully selected based on their professional experience and less on their political influence, which is a role best left to MPs to deliver. If someone is today not deemed to have done a better job at Cabinet level, why transfer them to an ambassadorial position?
8. **Incomplete Cabinet list.**
 - a. We observe that the Cabinet remains incomplete. Our view is that this opens up space for unnecessary speculation and negative competition, which following a five-month long wait is clearly unhealthy for the country. All positions should be announced simultaneously and in good time, so as to minimize opportunities for canvassing and irregular appointments due to the need to pay political debts.
9. **Creation of Chief Administrative Secretary ignored need for transparency & a public consultation process.**
 - a. **Funding and void CAS is to fill:** We have asked ourselves these questions: which constitutional bodies gave their approval and advised the president to create the CAS category and for what specific reason? How does government plan to fund this role? Which void does the post of CAS fill in the current public service?
 - b. **Non-compliance with Procedure & consultation under Article 132:** While we appreciate that it is the right of the President in *Article 132* to create a new position in the public service, we also believe that the right and constitutional procedure in creating this new position was overlooked. This makes the position of CAS unconstitutional. The creation of the CAS post ought to have been preceded by a recommendation from the Public Service Commission (PSC). It is only then that the President can create a position in the public service.
 - c. **Public participation:** In addition to the foregoing, it also means that the principle of public participation was overlooked. The Kenyan general public ought to have been given the chance to give views whether this post is necessary under the circumstances; or not.
 - d. **Increased wage bill:** Kenyans are currently unhappy with the huge bill in our public sector including in devolved counties. We believe that the position of CAS is already going to come with another wage bill at a time when we are concerned about cost cutting.
 - e. **Replication of & conflict over duties:** In fact, we believe that the CAS position would replicate the Assistant Minister position that was scrapped in previous regimes. In fact, this post is already introducing an additional bureaucracy through yet another middle level/tier of management. We also see this post as a recipe for conflict between the CS and CAS on the one hand, and CAS and PS on the other. It is worth noting that efficient companies and governments around the world are currently obliterating the “middleman/woman” role due to high costs and



unnecessary bureaucracy, which affects service delivery. Our position is that it is an unnecessary addition to an already bloated government. Kenyans cannot sustainably carry this additional expense with our already highly indebted country. We are an already overburdened citizenry. The CAS positions must, therefore, be rejected with no additional names presented in this category until it is properly justified and resources identified to sustain it. Retaining this post will actually prompt high taxes on an already heavily taxed Kenyan worker.

10. Need for a Lean Government.

- a. Our party holds the view that a lean government in all its levels, is economically desirable for Kenya including, but not limited, to our current over representation in Parliament. A large government is a huge wage bill to the taxpayer. This huge wage bill robs Kenyans of development money (e.g., to ensure adequate water, healthcare, food, security, roads, education, electricity, etc.). Kenyans have expressed support for this view and we will continue to push for consultations and conversations with the Jubilee administration, as well as with Parliament at all levels, on how best to reduce the burden of government on Kenyans. Rather, government must work to create opportunities and support efforts of citizens while conserving funds for essential needs and releasing funds for development and for service provision to the Kenyan people guaranteeing our future prosperity and growth.

Conclusion: Lastly, we thank the Vetting Committee for the opportunity to share our party's views on this important national exercise. We remain optimistic that Parliament will take these views into consideration. We also take this early chance to urge parliament to steer the country towards constructive political conversation. Parliament may want to consider our proposed National Conversation with a 14-point agenda.

FOR: THIRDWAY ALLIANCE KENYA



Ekuru Aukot.
Party Leader

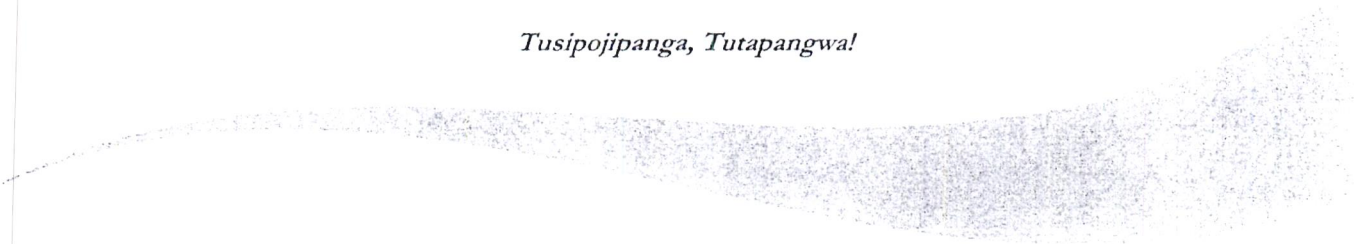


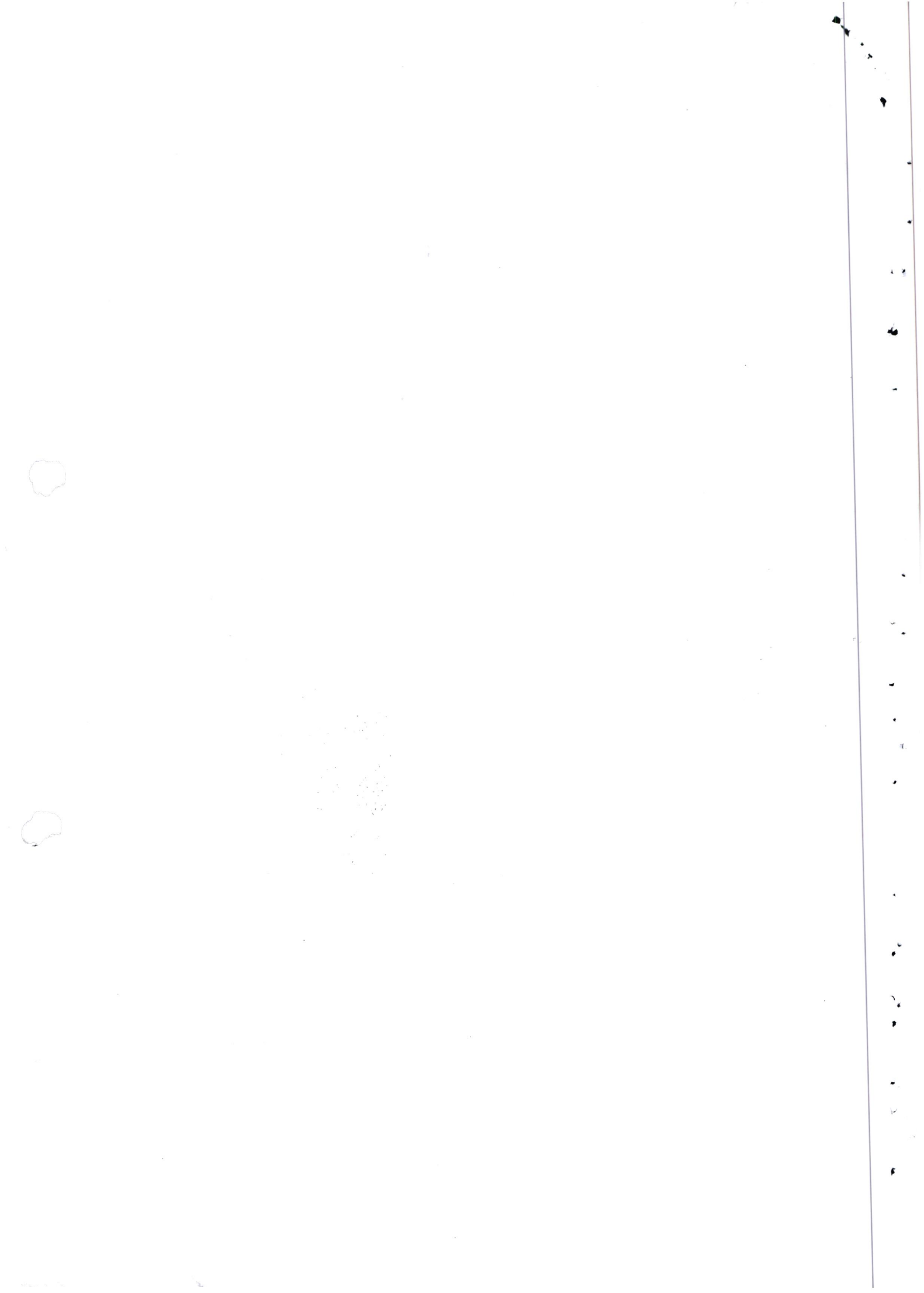
CPA Miruru Waweru
National Party Chairman



Frederick T. Okango
Secretary General

Tusipojipanga, Tutapangwa!







Kenya National Commission on Human Rights

CVS Plaza, 1st Floor, Lenana Rd, P.O. Box 74359 - 00200 Nairobi - Kenya. Tel: +254-020-3969000
Mobile: 0733 780 000; 0736 780 000; 0724 256 448; 0726 610 159 SMS: 22359

Website: www.knchr.org Email: info@knchr.org Complaints: complaint@knchr.org

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Off Haile Selassie Road
P.O. Box 90171 - 80100, Mombasa
Tel: 041- 2220468/2220584
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North Eastern Regional Office - Wajir
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Tel: 048 - 4421512
Email: nothernkenya@knchr.org
Twitter: @KNCHRWajir

Our: KNCHR/OTC/AB/02/Vol.1
20th February 2018

The Clerk of the National Assembly
P.O. Box 41842-00100
Nairobi

Dear Sir,

Re: Nomination of Dr Gordon Kihalangwa as Principal Secretary

The Kenya National Commission on Human Rights (the Commission or KNCHR) is an independent National Human Rights Institution (NHRI) established under Article 59 of the Constitution of Kenya, 2010 and the KNCHR Act, 2011 (Revised in 2012). The Commission's mandate is the promotion and protection of human rights in Kenya.

We refer to your Newspaper Advert on 14th February 2018 calling for submission of memoranda in the matter of approval by the National Assembly of persons nominated for appointment to various state offices including Principal Secretaries.

We write in regard to the nomination of Maj.Gen (Rtd) Dr. Gordon Kihalangwa as the Principal Secretary for the State Department - Immigration, Border Control & Registration of Persons. Dr Kihalangwa is currently the Director of Immigration having been appointed in August 2014.

The nominee was recently found culpable by the High Court in Misc. Criminal Application No.57 of 2018 for impunity and violation of the law. In its ruling (attached hereto), the High Court found that the Director of Immigration acted together with the Inspector General of Police and the Director of Criminal Investigations to defeat the orders of the court that required the applicant Mr Miguna Miguna to be produced in court so that he could be dealt with in accordance with the law. The unlawful actions by the three State Officers resulted in gross violation of the fundamental rights of the applicant provided by the Constitution of Kenya. They include his right to dignity (Art. 28); freedom and the security of the person (Art. 29); property (Art.40); socio-economic (Art. 43); family (art. 45) rights of a detained person, arrested and persons held in custody (Art.51). The Commission emphasizes that some of the rights that were breached are non-derogable as per Art. 25 of the Constitution. They include the right to fair trial and freedom from torture and cruel, inhuman or degrading treatment or punishment.

THE NATIONAL ASSEMBLY
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21 FEB 2018

DIRECTOR COMMITTEE SERVICES

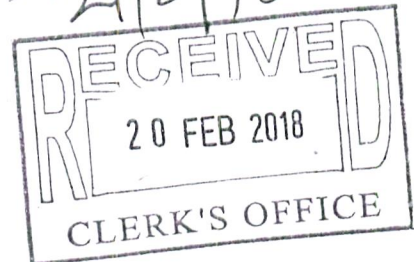
Time: 5:00 Pm

Accredited "A" Status National Human Rights Institution

Chairperson: Kagwiria Mbogori, Vice Chair: George Morara Monyoncho

Commissioners: Jedidah Wakonyo Waruhiu, Shatikha S. Chivusia

Commission Secretary / CEO: Dr. Bernard Mogesa, PhD, CPM



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Article 3(1) of the Constitution provides that: "Every person has an obligation to respect, uphold and defend the Constitution."

Art. 10. (1) provides that the national values and principles of governance in this Article bind all State organs, State officers, public officers and all persons. The national values and principles of governance include-

- (a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
- (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;
- (c) good governance, integrity, transparency and accountability;

Article 21(1) states that it "is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights."

The Leadership and Integrity Act Section 7 on the Rule of law provides that;

- (1) A State officer shall respect and abide by the Constitution and the law.
- (2) A State officer shall carry out the duties of the office in accordance with the law.
- (3) In carrying out the duties of the office, a State officer shall not violate the rights and fundamental freedoms of any person unless otherwise expressly provided for in the law and in accordance with Article 24 of the Constitution.

The Kenya Citizenship and Immigration Act, 2011 Section 4(2) requires that "The Director and all immigration officers under his or her charge shall perform their duties in accordance with the values and principles prescribed in the Constitution".

Based on the foregoing, the Commission urges parliament to disapprove the nominee for gross breach of Art. 10, sections of Chapter 6 of the Constitution, rule of law and the fundamental human rights of the applicant in the case above. The Commission is available to provide any clarification that may be required by the vetting committee.

We call on Parliament as a vital oversight organ of the State to safeguard the Constitution and the rule of law in the country and send a strong message against the rising impunity by State and Public Officers.

Yours faithfully,

THE CHAIR
KENYA NATIONAL COMMISSION
ON HUMAN RIGHTS
P. O. Box 74359 - 00200
NAIROBI

KAGWIRIA MBOGORI
CHAIRPERSON



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION
MISC. CRIMINAL APPLICATION NO.57 OF 2018

MIGUNA MIGUNA.....APPLICANT

-VERSUS-

THE DIRECTOR OF PUBLIC PROSECUTIONS.....1ST RESPONDENT

THE DIRECTOR OF CRIMINAL INVESTIGATIONS.....2ND RESPONDENT

THE INSPECTOR GENERAL OF POLICE.....3RD RESPONDENT

RULING

The Applicant, Miguna Miguna was arrested on 2nd February 2018 by the Police. On the same day, he filed an application before this court seeking his release on anticipatory bail pending his production before court. This court (Wakiaga J), upon certifying the application urgent, ordered that the Applicant be released on anticipatory bail upon paying a cash bail of Kshs.50,000/-. If the Applicant was released as ordered by the court, he was required to appear in person before the court on 5th February 2018. The court made the following further order:

“In the alternative, should the Respondents intend to charge the Applicant with any known offence, then the same is to appear before the said court as soon as required if it is to be before his appearance before this court.”

The court further ordered the 2nd Respondent to be personally served with the order. From the court record, it was apparent that the Respondents were served as ordered by the court.

The Applicant was not released as ordered by the court. When the parties appeared before this court on 5th February 2018, it became apparent that, in compliance with the above order, the Applicant had not been produced before the court. This court reiterated the orders that were issued by the court on 2nd February 2018 and directed that the Applicant be produced before the court by the 2nd and 3rd Respondents. The court required personal attendance of the 2nd and 3rd Respondents in court to give an explanation why the Applicant had not been presented before court so that he could be dealt with in accordance with the law. The court listed the application for hearing on 6th February 2018. This court stated the following in its Ruling:

“It is apparent that the Inspector General of Police and the Director of Criminal Investigation are

in contempt of the orders of this court. Article 49(1) of the Constitution sets out certain non-derogable rights in relation to an arrested person. That right includes the right for an arrested person to be produced in court within 24 hours of his arrest to be charged or in the alternatively he be released.

The court further stated thus:

“In the circumstances therefore, to remedy the situation, this court orders the Inspector General of Police, Mr. Joseph Boinnet and the Director of Criminal Investigation, Mr. George Kinoti to appear before this court personally to show cause why they should not be punished for being in contempt of the orders of this court. They are further ordered to personally produce the Applicant, Miguna Miguna before this court so that he can be dealt with in accordance with the law. This appearance shall be made on 6th February 2018 at 9.00 a.m. The Director of Public Prosecution to serve the order of this court. It is so ordered.”

When the parties appeared before court on 6th February 2018, the court was informed by Mr. Mutuku, the Deputy Director of Public Prosecutions that the 2nd and 3rd Respondents had been duly served as ordered by the court. They had sent two representatives to represent them in court. More importantly, the court was informed that the Applicant was scheduled to appear before the Chief Magistrate's Court at Kajiado. A copy of the draft charge sheet was presented to court. The Applicant's counsel and the counsel for the Law Society of Kenya were not impressed by the failure of the 2nd and 3rd Respondents to produce the Applicant before court. This court sought to confirm that indeed the Applicant had been presented to court. The court adjourned its session to 12.30 p.m. to confirm that the Applicant had been presented before that court. At that time, Mr. Mutuku told the court that the Applicant had been presented before Hon. Edwin Mulochi, Resident Magistrate. At the time, parties were making presentations before that court on whether the Applicant should take plea in view of the order that had earlier been issued by this court to the effect that the Applicant be presented before it. Meanwhile, this court reserved the delivery of its Ruling on the submission that had earlier been made before it for 2.30 p.m., on the same day.

After hearing the parties, Hon. Edwin Mulochi rendered his Ruling in the following terms:

“1. The Police do produce the accused/suspect before the High Court at Nairobi before 3 p.m. today.

2. Once the issue pending are conclusively thrashed out by the High Court, the accused can be brought to this court for plea on 14th February 2018.”

Pursuant to this order, the Applicant was required to be produced before this court by 3.00 p.m. This court rendered its second Ruling in this matter at about 3.30 p.m. At that time, the court orderlies informed the court that indeed the Applicant had been brought to the holding cells within the court precincts. This court ordered the Applicant to be released on the basis of the cash bail of Kshs.50,000/- that he had paid on 2nd February 2018. Concern was raised by counsel for the Applicant that there was possibility that the 2nd and 3rd Respondents may not comply with the orders of this court by producing the Applicant before court. This court assured the parties that it would not leave the court premises until it had been confirmed that the Applicant had been released.

As is now common knowledge, this court waited within the court premises until 6.50 p.m. when it became apparent that the 2nd and 3rd Respondents would not produce the Applicant. Mr. Ondimu for the State told the court the following:

"I got information from the Director CID. He is out of town. He was unable to reach them through their mobile phones. He has not been able to tell us where the Applicant is. I have not got in touch with O/C Flying Squad. I have (been) trying to call him to confirm if the Applicant has been brought. He has not responded. We have no information as to the whereabouts of the Applicant."

On the basis of this information, this court wrote the third Ruling in the matter. It made the following order:

"It is apparent that the 2nd and 3rd Respondent are in contempt of the orders of this court. They have refused or failed to surrender the Applicant to this court so that he can be released in terms of the orders issued today. It is clear that unless this court takes appropriate remedial action, the 2nd and 3rd Respondents will continue to treat the orders of this court with impunity."

The court directed the Applicant to be produced to this court by 11.00 a.m. on 7th February 2018. The court also suspended any criminal proceedings against the Applicant pending his presentation before court. The 3rd Respondent and Mr. Said, the Officer In-charge Flying Squad were ordered to personally present the Applicant before court.

On 7th February 2018, Mr. Mutuku, the Deputy Director of Public Prosecution told the court that the Applicant had been deported from the country the previous night pursuant to a declaration issued by Fred Matiang'i, the Cabinet Secretary for Interior and Coordination of National Government pursuant to **Sections 43 and 33(1) of the Kenya Citizenship and Immigration Act 2011**. The copies of the declaration were presented to court as evidence that the Applicant was no longer within the jurisdiction of the court. The declarations were dated 6th February 2018. It was clear from the submission made by Mr. Mutuku that the Applicant was deported upon receipt of a letter written to the Ministry of Foreign Affairs by the Canadian High Commission.

The letter was received on the same 6th February 2018. In the letter, the High Commission requests the Kenya Government to allow its officers access to see the Applicant in view of the fact that the Applicant was a Canadian Citizen. The High Commission was concerned that they were unable to verify or confirm the wellbeing of the Applicant due to fact that he was being kept incommunicado. The Applicant's counsel urged the court to take appropriate action to uphold the authority of the court in light of the fact that it was obvious that the 2nd and 3rd Respondents had breached the orders of this court requiring them to produce the Applicant before the court.

In its fourth Ruling in this matter, this court directed the 2nd and 3rd Respondents and the Director of Immigration Major Gen. (Rtd) Gordon O. Kihalangwa to swear affidavits to indicate the circumstances under which the 2nd and 3rd Respondents removed the Applicant from the custody of the court and handed him over to the Director of Immigration. The court further made the following orders:

"The 2nd Respondent, Mr. George Kinoti and the 3rd Respondent, Mr. Joseph Boinnet must further swear affidavits to show cause why they should not be punished in accordance with the Contempt of Court Act for disobeying the orders of this court. They are required to appear before this court in person on 15th February 2018 at 9.00 a.m. to show cause."

The proceedings were adjourned to today when the 2nd and 3rd Respondents are required to be present before court. Meanwhile, this court did receive the affidavits sworn by Joseph Kipchirchir Boinnet, the Inspector General of Police, George Kinoti, the Director of Criminal Investigations and Maj. Gen (Rtd) Dr. Gordon Kihalangwa, the Director of Immigration.

In the said affidavits, it was clear to this court that the 2nd and 3rd Respondents, though stating that they had no intention or had never had the intention to disobey the orders of this court, that they had indeed deliberately disobeyed the orders of this court by creatively interpreting the orders to avoid liability for contempt of court. The 2nd Respondent swore as follows:

“12. THAT by the time I was made aware of the existence of the 3rd Ruling, I had already been informed by the DCI that he had given instructions that the Applicant be released pursuant to the directions issued by this Honourable Court directing his release on a Kshs.50,000/- cash bail.”

The 3rd Respondent George Kinoti swore the following paragraphs in his affidavit:

“13. THAT by the time I was being made aware of the existence of the 3rd Ruling, I had already given instructions that the Applicant be released by the officers who had escorted him to Kajado Chief Magistrate’s Court pursuant to the directions issued by this Hon. Court for his release on a Kshs.50,000/- cash bail. I am aware that the Applicant was released at about 18.00 hours as per the attached OB.

14. THAT I was informed by my officers that the Applicant was released vide OB/6/2/18 at the Inland Container Depot (ICD) Police Station pursuant to the orders issued by this court.”

In his affidavit, Maj. Gen. (Rtd) Gordon Kihalangwa told the court that he brought to the attention of the Cabinet Secretary the fact that the Applicant was a Canadian citizen at the time he applied to be granted a Kenyan Passport. This is what he said:

“5. THAT the Cabinet Secretary In-charge of Immigration matters on the 6th day of February 2018 issued a declaration under Section 33(1) and 43 of the Kenya Citizenship and Immigration Act 2011 (refer to a copy of the declaration herewith attached and marked as annexure “GK6 and GK7”).

6. THAT pursuant to the orders referred to in paragraph 6, I instructed my officers on the 6th of February 2018 to ensure that the orders be effected.

8. THAT on 6th February 2018 the Applicant herein was arrested within the precincts of Inland Container Depot – Embakasi and taken to Jomo Kenyatta International Airport for purposes of deportation and did board KLM Airline Flight Number KLO566 to Toronto Canada via Amsterdam (refer to a copy of the boarding pass herein attached and marked as an annexure “GK8”)

...

10. THAT the Department of Immigration was not party to this application, consequently, we were not aware of the orders of this honourable court as none had been served on the Department. Moreover, if any orders had been brought to the attention of the Department, we will definitely have complied.”

It is clear from the affidavits of the 2nd Respondent, 3rd Respondent and the Director of Immigration that if there was any doubt that the 2nd and 3rd Respondents were in contempt of the orders of this court that doubt was absolutely removed by their admission of the action that took. That the 2nd and 3rd Respondents were aware of the orders of this court that required them to produce the Applicant before this court to be dealt with in accordance with the law is confirmed by the averments in their affidavits. The 2nd and 3rd Respondents were aware that pursuant to the orders issued by Hon. Edwin Mulochi at

Kajiado Chief Magistrate's Court, the police were required to present the Applicant before this court on 6th February 2018 by 3.00 p.m. The 2nd and 3rd Rulings delivered by this court were categorical that the Applicant was to be presented before the court. In any event, the Office of the Director of Public Prosecutions was represented in court and communicated to the 2nd and 3rd Respondents the orders that this court had issued.

For the 2nd and 3rd Respondents to claim that they had complied with the orders of this court when, instead of producing the Applicant before this court before or at 3.00 p.m., they released him at the Inland Container Depot Police Station at Embakasi at 6.00 p.m. is disingenuous. This court had clearly indicated that the Applicant be produced before this court so that he could be dealt with in accordance with the law. If there was any doubt as to what were the orders in regard to the production of the Applicant before this court, the same was reiterated by Hon. Edwin Mulochi (RM) at Kajiado Chief Magistrate's Court who ordered the police to produce the Applicant before this court for his release on bail. The 2nd and 3rd Respondents acted in contempt of the clear orders of this court and this court so finds.

As public officers, the 2nd and 3rd Respondents are mandated under **Article 232** of the **Constitution** to uphold, *inter alia*, the following values and principles: high standards of professional ethics, being responsive, prompt, effective, impartial and equitable in the provisions of service to the public. There are also required to be accountable for the administrative actions that they direct in the course of their duties. The 2nd and 3rd Respondents are also bound by the national values and principles of governance as espoused in **Article 10(2)** of the **Constitution** that requires the 2nd and 3rd Respondents, in the course of their duties, to respect human dignity, equity, social justice, inclusiveness, equality and respect for human rights. **Article 3(1)** of the **Constitution** provides thus:

“Every person has an obligation to respect, uphold and defend the Constitution.”

As regards the implementation of the rights and fundamental freedoms as provided by the Bill of Rights, **Article 21(1)** of the **Constitution** provides that:

“It is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfill the rights and fundamental freedoms in the Bill of Rights.”

Article 243 of the **Constitution** establishes the **National Police Service** to which the 2nd and 3rd Respondents are members. **Article 244** of the **Constitution** set out the objects and functions of the National Police Service. It includes under **sub-article (b)** the prevention of corruption and promotion and practice of transparency and accountability. Under **sub-article (3)**, the Police are required to comply with constitutional standards of human rights and fundamental freedoms and under **sub-article (d)** they are required to respect human rights and fundamental freedoms and human dignity. The National Police Service is further guided by the principles of National Security which includes, as provided under **Article 238(2)(b)** of the **Constitution**, the pursuit:

“...in compliance with the law and with utmost respect for the rule of law, democracy, human rights and fundamental freedoms.”

When the Applicant filed the application to be released on anticipatory bail, he was exercising his constitutional right to secure his liberty as provided under **Article 29(a)** of the **Constitution** that grants him the right to freedom and security of person and the right not to be deprived of his freedom arbitrarily or without just course. The Applicant was enforcing his right pursuant to **Article 22(1)** of the **Constitution** that provides that:

“Every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened” (underlining mine).

The basis of the jurisdiction of the court to grant anticipatory bail is provided by the **Constitution**. As was held by the court in **W’Njuguna v Republic [2004] 1 KLR 520** at Page 532:

“When a person is constantly subjected to harassment or is in fear of being unjustifiably arrested, he has a right to recourse to the protection of the Constitution through the High Court where its enforcement is provided for by the Constitution. It would indeed be a tragedy, if the Constitution did not provide a remedy to a citizen whose fundamental rights have been breached...For the Respondent to say that a person in such a situation should do nothing because there is no law providing for such a person to seek remedy in court will completely be the antithesis of the spirit of the Constitution which provides for the protection of the fundamental rights and freedoms in the bill of rights. We are further of the humble opinion that the right for anticipatory bail has to be called out when there are circumstances of serious breaches by an organ of the state of a citizen’s fundamental right.”

The above decision was rendered before the promulgation of the **Constitution** in 2010. Unlike then, the **Constitution** as cited above grants a citizen the right to approach the court for appropriate remedy when his right, as provided under the Bill of Rights, is threatened to be infringed. The reasoning in the above case, applies to the Applicant in this case.

Upon his arrest, pursuant to **Article 49(1)(f)** of the **Constitution**, the Applicant had the right:

“to be brought before a court as soon as reasonably possible, but not later than –

i. Twenty-four hours after being arrested; or

ii. If the twenty-four hours ends outside ordinary court hours, or on a day that is not ordinary court day, the end of the next court day.”

The Applicant was arrested on 2nd February 2018. This court issued an order releasing him on anticipatory bail on the same day with directions that he presents himself before court on 5th February 2018. 2nd February 2018 was a Friday. The 2nd and 3rd Respondents were required to release the Applicant on that 2nd February 2018. They did not. Since they were served, they ought to have released him on 3rd February 2018 or 4th February 2018. They did not.

When the matter was mentioned before this court on 5th February 2018, the 2nd and 3rd Respondents did not present the Applicant before court as required under **Article 49(1)(f)** of the **Constitution**. That is the reason why the court directed the 2nd and 3rd Respondent to appear before the court on 6th February 2018 and present the Applicant to the court so that he could be dealt with in accordance with the law. On 6th February 2018, despite of the order issued by this court, twice during the same day, the 2nd and 3rd Respondents did not present the Applicant before court so that he could be released in accordance with the orders of the court.

In its second Ruling delivered on 6th February 2018, this court observed the following at Page 5:

“It was clear to this court that the 2nd and 3rd Respondents acted in clear breach of the orders of this court issued on 2nd February 2018 that required them to release the Applicant from their

custody pending further orders of the court on 5th February 2018. It is not for the Respondents to interpret the legality or the veracity of the order issued by this court. It is not open for the Respondents to choose whether or not to comply with the orders issued by this court. As public officers, the 2nd and 3rd Respondents are required to lead by example by obeying orders issued by this court. The 2nd and 3rd Respondents cannot purport to enforce the law by breaking the law. They acted clearly in contempt of the orders of this court by detaining the Applicant in breach of the orders issued by this court.”

This court finds that the 2nd and 3rd Respondents are in contempt of the orders of this court.

Section 4(1)(a) of the Contempt of Court Act 2016 provides as follows:

“Contempt of Court includes civil contempt which means willful disobedience of any judgment, decree, direction, order or other process of a court or willful breach of an undertaking given to a court.”

Section 4(2) of the Act states that:

“In any case not related to civil or criminal proceedings as contemplated under subsection (1), an act that is willfully committed to interfere, obstruct or interrupt the due process of the administration of justice in relation to any court, or to lower the authority of a court, or to scandalize a judge, judicial officer in relation to any proceedings before the court, or on any other manner constitutes contempt of court.”

In the legal treatise **“Arlidge, Eady & Smith on Contempt”** 3rd Edition published by **Thomson Sweet and Maxwell** at Page 144, the authors had this to say in respect of the distinction between civil and criminal contempt of court:

“Thus, although “civil contempt” is concerned with breaches of court orders or undertakings in civil litigation, which were originally for the benefit of one or other of the parties, the court may wish in such cases to coerce parties into compliance with its orders; or alternatively, even in the context, it may be primarily concerned to punish disobedience (where the time for compliance has passed). In such circumstances as these, deterrence clearly has a role to play. It is therefore possible, in many examples of civil contempt, to discern these various policy considerations in operation alongside one another.

This was explained by Cross J., for example, in Phonographic Performance Ltd v Amusement Caterers. A company and its directors were restrained by injunction from playing certain gramophone records on its juke boxes. The records continued to be played. The judge took the view that the directors of the company were deliberately defying the court:

“Where there has been willful disobedience to an order of the court and a measure of contumacy on the part of the defendants, then civil contempt, what is called ‘contempt of procedure’, bears a twofold character implying as between the parties to proceedings merely a right to exercise and a liability to submit to a form of civil execution, but as between the party in default and the State, a penal or disciplinary jurisdiction to be exercised by the court in the public interest”

Similarly, in Jennison v Baker Salmon L. J. made the important point that:

“The public at large no less than the individual litigant have an interest and a very real interest in

justice being effectively administered”.

So too the duality was emphasized by Megarry J. in Re Grantham Wholesale Fruit, Vegetable and Potato Merchants Ltd:

“In this type of case a motion for committal is, of course, a means of putting pressure on the contemnor to obey the order, but it is not this alone: it is also a means of imposing any penalty thought proper in respect of the contempt that has already been committed.”

In the context of a breach of interdict Lord President Clyde in Johnson v Grant drew a similar distinction:

“...not only has no one the power to purge himself of a deliberate offence by saying he is sorry, but the mere circumstance that he presents a belated expression of contrition has, with regard to the public aspect of the matter, almost no importance at all... The appeal is simply to the clemency of the Court; there is no palliative of the offence at all; and the idea must not be harboured that a person who has willfully committed a breach of interdict can obtain remission of sentence by coming to court and saying, ‘I realize my transgression and apologise for it’ – however sincerely such an apology may be made.”

In Katsuri Limited v Kapurchand Depar Shah [2016] eKLR in defining contempt of court held:

“According to Black’s Law Dictionary,

(14) “Contempt is a disregard if, disobedience to, the rules, or orders of a legislative or judicial body, or an interruption of its proceedings by disorderly behavior or insolent language, in its presence or so near thereto as to disturb the proceedings or to impair the respect due to such a body.”

In *Halsbury’s Laws of England* it is stated:

“It was the plain and unqualified obligation of every person against or in respect of whom an order was made by a court of competent jurisdiction to obey it unless and until it was discharged and disobedience of such an order would as a general rule result in the person disobeying it being in contempt and punishable by committal or attachment....an application to court by him not being entertained until he had purged his contempt”

In book *The Law of Contempt (15)* learned authors *Nigel Lowe & Brenda Sufrin* state as follows:-

“Coercive orders made by the courts should be obeyed and undertakings formally given to the courts should be honoured unless and until they are set aside. Furthermore it is generally no answer to an action for contempt that the order disobeyed or the undertaking broken should not have been made or accepted in the first place. The proper course if it is sought to challenge the order or undertaking is to apply to have it set aside.”

In Econet Wireless Kenya Ltd vs Minister for Information & Communication of Kenya & Another(16) Ibrahim J (as he then was) stated as follows:-

“It is essential for the maintenance of the Rule of Law and order that the authority and the dignity of our Courts are upheld at all times. The Court will not condone deliberate disobedience of its

orders and will not shy away from its responsibility to deal firmly with proved contemnors. It is the plain and unqualified obligation of every person against or in respect of whom, an order is made by Court of competent jurisdiction, to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or void."

The Court of Appeal in ***A.B. & Another v R.B. [2016] eKLR*** cited with approval the Constitutional Court of South Africa's decision in *Burchell v. Burchell* Case No.364 of 2005 where it was held:

"Compliance with court orders is an issue of fundamental concern for a society that seeks to base itself on the rule of law. The Constitution states that the rule of law and supremacy of the Constitution are foundational values of our society. It vests the judicial authority of the state in the court and requires other organs of the state to assist and protect the court. It gives everyone the right to have legal disputes resolved in the courts or other independent and impartial tribunals. Failure to enforce court orders effectively have the potential to undermine confidence in recourse to law as an instrument to resolve civil disputes and may thus impact negatively on the rule of law."

It is clear from the above narrative that contempt of court proceedings are necessary for the rule of law and administration of justice to be effective and efficacious in securing compliance with the orders of the court.

What are the consequences where the court makes a finding that a party has been in contempt of the orders of the court"

In the present case, this court found the 2nd and 3rd Respondents in contempt of the orders of the court on 7th February 2018. To understand why the 2nd and 3rd Respondents, being the seniormost officers in the Police Service acted in blatant breach of the orders issued by this court to produce the Applicant before it, the court required the 2nd and 3rd Respondents to swear affidavits to give an explanation how custody of the Applicant was, firstly, removed from the court, and secondly, how the custody of the Applicant was handed over to the Director of Immigration. The Director of Immigration was also required to explain in an affidavit how he took custody of the Applicant when he was under the custody of the court. In compliance with the order of this court, the said affidavits were duly filed.

The 2nd and 3rd Respondents were further required to personally appear before the court to show cause why they acted in contempt of the orders of the court and why they should not be punished for being so in contempt. The court requested the presence of 2nd and 3rd Respondents to fulfill the legal obligation placed upon it to require any person who is supposed to face penal sanctions to extenuate to the court before the court gives its verdict. It is the choice of the 2nd and 3rd Respondents to appear before court and make such presentation before the court makes its final orders. If the 2nd and 3rd Respondents choose not to appear before court and give their extenuating circumstances, the court would have fulfilled its legal obligation of giving the 2nd and 3rd Respondents a chance and a hearing before giving its final verdict.

As top police officers, the 2nd and 3rd Respondents are required to be at the forefront in respecting summons issued to them to appear before court. The entire criminal justice system would collapse if bonded witnesses fail to appear before court to give evidence just because they are of the view that they can choose to or not to present themselves before court. The 2nd and 3rd Respondents' work as law enforcers would be much more difficult if bonded witnesses did not appear before court. Since the court has fulfilled its legal obligation to give the 2nd and 3rd Respondents a chance to be heard before its final

orders, it would proceed at set out the options available to it after making the finding that there was contempt of the orders of court.

Section 28 of the **Contempt of Court Act**, sets out the punishment that should be meted in the event that a person is convicted for contempt of the orders of the

court. It provides thus:

“(1) Save as otherwise expressly provided in this Act or in any other written law, a person who is convicted of contempt of court is liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(2) Without prejudice to subsection (1), the court may order that the accused person be detained in police custody until the rising of the court.

(3) A court may at any time revoke an order of committal made under subsection (2) and, if the offender is in custody, order his discharge.

(4) Subject to subsection (1), the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court.

(5) Notwithstanding anything contained in any law for the time being in force, no court shall impose a sentence in excess of that specified in subsection (1) for any contempt either in respect of that court or of a court subordinate to it.

(6) Notwithstanding anything contained in this section, where a person is found guilty of civil contempt, the court may if it considers that the fine will not meet the ends of justice and that imprisonment is necessary direct that the person be detained in civil jail for such period not exceeding six months as the court may deem fit.”

Under the above **Act**, the court has the option of either imposing a fine or give a custodial sentence or both.

The court has other options to secure the respect of court orders and meet the ends of justice. The court may direct the contemnors to take positive action to purge the contempt. In the circumstance of this case, this court will exercise the third option as imposing a fine or committing the 2nd and 3rd Respondents to prison may not serve the ends of justice in the particular circumstances of this case. In that regard, this court will not convict the 2nd and 3rd Respondents but will give them an opportunity to assist the court in purging the contempt of the orders of the court that they have been found by this court to have committed.

Earlier in this Ruling, this gave a narration of the events that transpired since the arrest of the Applicant to his deportation on 6th February 2018. It was evident that the 2nd and 3rd Respondents illegally held the Applicant in custody from the 2nd February 2018 to 6th February 2018 when, contrary to the specific orders of this court, they handed the custody of the Applicant to the Director of Immigration. In his affidavit, Maj. Gen. (Rtd) Dr. Gordon Kihalangwa deponed that he did not act in breach of the orders of this court because he was not party to these proceedings, and further, that he was not aware of the orders that had been issued by this court. This court's evaluation of the facts before this court clearly leads it to make the following findings:

I. The National Police Service and the Directorate of Immigration are both under the Ministry of Interior and Coordination of National Government.

II. The event that triggered the Applicant's deportation was the letter written by the Canadian High Commission to the Ministry of Foreign Affairs raising concern of the Applicant's detention and the fact that he was not being treated in accordance with the law.

III. The letter was received by the Ministry of Foreign Affairs on 6th February 2018. It is instructive that this letter was produced before this court by the Director of Immigration on 7th February 2018 in a bid to justify the action that he had taken to have the Applicant deported.

IV. The Director of Immigration in his affidavit swore that he gave advice to the Cabinet Secretary In-charge of Immigration (Ministry of Interior and Coordination of National Government) to have the Applicant declared a prohibited immigrant, and further, to withdraw his citizenship and consequently his Kenyan passport.

V. It was clear to this court that the Director of Immigration would not have had the custody of the Applicant if the 2nd and 3rd Respondents had not facilitated it.

VI. The Director of Immigration, being aware of the contents of the letter written by the Canadian High Commission, was aware that at the time i.e. 6th February 2018, the Applicant was under the custody of the 2nd and 3rd Respondents who had been directed to produce the Applicant before court.

VII. The Director of Immigration cannot therefore claim he was not aware of the orders of this court or that he was not aware that the Applicant was required to be produced before this court to be dealt with in accordance with the law.

VIII. It was clear from the affidavits sworn by the 2nd and 3rd Respondents and the Director of Immigration that the three officers acted in concert and in a coordinated manner to defeat the ends of justice.

XI. The court reached this finding on the following basis:

(a) The 2nd and 3rd Respondents were already in contempt of the orders of this court when they retained custody of the Applicant on 6th February 2018.

(b) When the officers under the 2nd and 3rd Respondents command took the Applicant to Kajjido Chief Magistrate's Court, Hon. Edwin Mulochi (RM) directed the officers to produce the Applicant before this court by 3.00 p.m. on the said 6th February 2018 so that he could be dealt with in accordance with the law.

(c) That order was specific: the police officers under the command of the 2nd and 3rd Respondents were at that time holding the Applicant as a ward of the court. The Applicant was no longer under the custody of the Police since the Applicant had already been produced before court.

(d) The said police officers were at that time bound by the order issued by Hon. Edwin Mulochi (RM) to produce the Applicant before this court.

(e) When this court held its session at about 3.00 p.m. on 6th February 2018, it was informed that the police officers in question were on the way bringing the Applicant to be presented before this court as ordered by Hon. Edwin Mulochi (RM). In fact, the court was told that the Applicant was already in the

court precinct.

(f) The 2nd and 3rd Respondents, as already earlier stated, acted in contempt of the orders of this court by failing to produce the Applicant before this court for the purposes of the Applicant being dealt with in accordance with the law.

(g) That the 2nd and 3rd Respondents were acting in coordination with the Director of Immigration.

(h) The decision by the 2nd and 3rd Respondents to take the Applicant to the Inland Container Depot Police Station at Embakasi instead of producing him before the court was with a view to facilitating the Director of Immigration to have his custody.

(i) It was not fortuitous or by chance that officers under the Director of Immigration "**found**" the Applicant at the precinct of the said Inland Container Depot Police Station. This was planned. It was also in contempt of the orders of this court.

It appeared that the Director of Immigration was labouring under the illusion that since he was not a party to these proceedings, and further since he purported not to be "**aware**" of the orders of the court, then he would act with impunity and take custody of the Applicant. As stated earlier in this Ruling, both the Directorate of Immigration and the National Police Service are under the Cabinet Secretary, Ministry of Interior and Coordination of National Government. The Director of Immigration got access to copy of the letter written by the Canadian High Commission to the Ministry of Foreign Affairs. He got access to the letter the same day that it was received because he is working for government which he has collective responsibility for its action. He acted upon it even when he knew that the Applicant was under the custody of this court.

This court has power to hold accountable third parties who, in furtherance of contempt of the orders of court, assist the primary contemnors to commit contempt. In **Eliud Muturi Mwangi (Practising) in the name and style of Muturi & Company Advocates) v LSG Lufthansa Services Europa/Africa GMBH & another [2015] eKLR**, the court held thus:

"[18] The law is that any person who has committed an act of contempt of court is liable for indictment. Therefore, even third parties who are not parties in a suit may be committed for contempt of court and classic examples are contempt on the face of the court, contempt by officers of a company or corporation, contempt by persons who are claiming under the title of a party in a suit or as assigns or successors in title."

The court of Appeal in **Shimmers Plaza Limited v National Bank of Kenya Limited [2015] eKLR** reiterated the importance of respect for orders of the court and the obligation by both parties to the suit and third parties who may be beneficiaries of acts undertaken in contempt of orders of the court. In that case, the court held that the orders earlier issued stopping the transfer of a property to a third party still held even though the property may have been transferred to third parties who may not have been aware of the court order.

In the present case, it is clear that the 2nd and 3rd Respondents acted together with the Director of Immigration to defeat the orders of this court that required the 2nd and 3rd Respondents to produce the Applicant before this court so that he could be dealt with in accordance with the law. It is trite that any action done in contempt of the orders of the court is illegal and has no capacity of being given recognition in the eyes of the law. It is evident that the action taken by the Director of Immigration in furtherance of the contempt of the orders of this court is illegal, null and void and cannot have any legal

effect.

As at 3.00 p.m. on 6th February 2018, the Applicant was required to be presented before this court. In fact, at that time, although the Applicant was under the custody of the Police, he was a ward of this court pursuant to the order issued by Hon. Edwin Mulochi (RM) at Kajiado Chief Magistrate's Court. This court is of the view that to remedy with the contempt of the orders of this court, it shall give orders that shall give the 2nd and 3rd Respondents and the Director of Immigration the opportunity to purge the contempt, and in the process, assert the authority of this court. The only way that the 2nd and 3rd Respondents and the Director of Immigration can purge the contempt of the orders of this court is by restoring the *status quo* as it existed as at 3.00 p.m. on 6th February 2018.

Mrs. Alice Chege is my daughter's favourite teacher at Alliance Girl's High School. When the performance of a student who normally performed well drops, she usually makes the following statement: we must restore the factory settings. This is in allusion to a mobile phone whose software has been corrupted and for it to function again, its setting must be restored to the factory setting. In Mrs. Alice Chege's situation, it means that the student must strive to improve her performance to be as it was before. In the circumstances of this case, to purge the contempt of the orders of this court, the *status quo ante* must be restored.

These are the orders that this court shall make to give the opportunity to the 2nd and 3rd Respondents to purge the contempt of the orders of this court:

(1) The declaration dated 6th February 2018 issued by Fred Matiang'i, Cabinet Secretary, Ministry of Interior and Coordination of National Government, in respect of the Applicant, on the advice of the Director of Immigration, under **Section 33(1)** of the Kenya **Citizen and Immigration Act 2011** is hereby declared null and void and of no legal effect because it was issued in contempt of the orders of this court.

(2) The declaration dated 6th February 2018 issued by Fred Matiang'i, Cabinet Secretary, Ministry of Interior and Coordination of National Government in respect of the Applicant, on the advice of the Director of Immigration, under **Section 43** of the Kenya **Citizen and Immigration Act 2011** is hereby declared null and void and of no legal effect because it was issued in contempt of the orders of this court.

(3) The valid Kenyan Passport of the Applicant shall be surrendered to the Deputy Registrar of this court by the Director of Immigration within seven (7) days of this Ruling. That Passport shall be dealt with by the court with jurisdiction in accordance with the law. ✓

(4) The 2nd and 3rd Respondents shall personally give a written undertaking to this court that they shall comply and give effect to the orders of this court. The undertakings shall be presented to this court within seven (7) days of this Ruling.

(5) For avoidance of doubt, upon compliance with the orders of this court, the 2nd and 3rd Respondents and the Director of Immigration are at liberty to defend the validity of their action before a court of competent jurisdiction.

(6) Leave is granted to the 2nd and 3rd Respondents and any aggrieved party to appeal against the decision of this court.

It is so ordered.

DATED AT NAIROBI THIS 15TH DAY OF FEBRUARY 2018

L. KIMARU

JUDGE



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