

*Approved for tabling*

REPUBLIC OF KENYA



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27/3/18  
Paper laid  
by Leader of  
Majority Party  
Tuesday 27/3/2018  
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THE NATIONAL ASSEMBLY



TWELFTH PARLIAMENT- SECOND SESSION

**SECOND REPORT**  
**OF THE**  
**COMMITTEE ON APPOINTMENTS**  
**ON THE VETTING OF THE NOMINEE FOR THE POSITION OF ATTORNEY- GENERAL**

DIRECTORATE OF COMMITTEE SERVICES  
THE NATIONAL ASSEMBLY  
PARLIAMENT BUILDINGS  
NAIROBI

MARCH, 2018

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## LIST OF ABBREVIATIONS AND ACROYNMS

ACC	Advocates Complaints Commission
A-G	Attorney-General
DPP	Director of Public Prosecutions
DCI	Directorate of Criminal Investigations
EACC	Ethics and Anti-Corruption Commission of Kenya
H.E	His Excellency
HELB	Higher Education Loans Board
IEBC	Independent Electoral and Boundaries Commission
KRA	Kenya Revenue Authority
KSL	Kenya School of Law
Rtd.	Retired

## ANNEXURES

- Annexure 1 Letter of notification from the appointing authority H.E the President
- Annexure 2 Advertisement inviting submissions of memoranda from the public
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- Annexure 4 Invitation letter from the Clerk of the National Assembly to the nominee for the approval hearing
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- Annexure 7 Kenya Revenue Authority (KRA) clearance letter
- Annexure 8 Ethics and Anti-Corruption Commission (EACC) clearance letter
- Annexure 9 Directorate of Criminal Investigations (DCI) clearance letter

## FOREWARD

Pursuant to Article 156 (2) of the Constitution and in accordance with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, No. 33 of 2011, His Excellency the President nominated **Justice (Rtd.) Paul Kihara Kariuki** for the position of Attorney-General. The nomination was conveyed to the Speaker of the National Assembly through a letter Ref. No. OP/CAB.1/40A and dated 12<sup>th</sup> March, 2018. The nominee's Curriculum Vitae and Testimonials were enclosed in the reference letter.

On 13<sup>th</sup> March, 2018 and pursuant to Standing Order 42(1), the Speaker of the National Assembly read the message from H.E. the President communicating the name of the nominee for the position of Attorney-General to the House. Pursuant to section 4 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 204(4), the name of the nominee was referred to the Committee on Appointments for vetting and reporting to the House within fourteen (14) days.

In compliance with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the Clerk of the National Assembly placed an advertisement in the print media on Wednesday, 14<sup>th</sup> March, 2018 (*Annexure 2*) inviting the public to submit memoranda by way of written statements on oath (**affidavit**) on the suitability or otherwise of the nominee in conformity with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011. The advertisement indicated that the submissions were to be received by Wednesday, 21<sup>st</sup> March, 2018 at 5.00 pm. By close of the submissions deadline, the Committee had not received any submission on the suitability of the nominee or otherwise for appointment to the position of Attorney-General.

Further, in fulfilment of the provisions of Article 118 of the Constitution, section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 45(3), the general public was on Wednesday, 14<sup>th</sup> March, 2018 notified in the print media by the Clerk of the National Assembly of the intention of the Committee on Appointments to conduct the vetting and approval hearing of the nominee on Thursday, 22<sup>nd</sup> March, 2018 from 10.00am (*Annexure 3*).

The nominee appeared before the Committee on Thursday, 22<sup>nd</sup> March 2018 for vetting in accordance with the provisions of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the National Assembly Standing Orders on his suitability or otherwise for appointment to the position of Attorney-General.

Following the vetting, the Committee observed that:

- (1) In accordance with the requirements set out in Article 78(1) and (2) of the Constitution, the nominee is a Kenyan citizen born in Kiambu County and does not hold dual citizenship.
- (2) In accordance with the requirements set out in Article 156 (3) of the Constitution read together with Article 166 (2) and (3) of the Constitution, the nominee possesses a Law degree from the University of Nairobi, a recognized University, and is an Advocate of the High Court of Kenya. He possess over forty (40) years experience as a legal practitioner, fifteen (15) of which he has served as a judge of a superior court in Kenya. Prior to his



nomination, he had served as the President of the Court of Appeal for five (5) years and a Judge of the High Court for nine (9) years. His academic credentials, professional training and experience meet the standard required under section 6 (7) of the Public Appointments (Parliamentary Approval) Act, No. 33 of 2011.

- (3) The nominee satisfies the requirements of Chapter 6 of the Constitution on leadership and integrity. The Committee further observed that the DCI, KRA, HELB and EACC had sent clearance letters with respect to the nominee. The nominee has not been charged in a Court of Law in the last three years.
- (4) As stipulated under Article 75(1) of the Constitution, the nominee has no potential conflict of interest between his personal interests and his public or official duties.
- (5) The nominee satisfies the requirements of Article 77(1) of the Constitution in that he does not intend to participate in any other gainful employment if he is appointed as the Attorney-General.
- (6) The nominee does not hold office in any political party and hence satisfies the provisions of Article 77(2) of the Constitution.
- (7) The nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Article 75(1) (conflict of interest), Article 76 (financial probity), Article 77(restriction on activities of State Officers) and Article 78(2) (dual citizenship) of the Constitution and is therefore fit to hold office as the Attorney-General.
- (8) The nominee has exhibited immense knowledge of the law and understanding of the environment in which he is expected to serve as the A-G.

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

On behalf of the Committee on Appointments and pursuant to Article 124 (4) (b) of the Constitution, section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 and the provisions of Standing Order 199(6), it is now my singular duty and privilege to present to the House, this Second Report of the Committee on Appointment on the vetting of the nominee for the position of the Attorney-General of the Republic of Kenya **Justice (Rtd.) Paul Kihara Kariuki**.

**Hon. Justin B. Muturi, E.G.H., M.P**

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

## 1.0 PREFACE

### ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The Committee on Appointments is established under Standing Order 204(1). Standing Order 204(4) provides that the Committee on Appointments shall consider, for approval by the House, appointments under Article 152 of the Constitution (*Cabinet Secretaries*). Article 152 (1) of the Constitution provides that “*the Cabinet consists of the President, the Deputy President, the Attorney-General and not fewer than fourteen and not more than twenty two Cabinet Secretaries*”.

The Constitution of Kenya in Article 156 (1) of the Constitution provides that “*there is established the Office of the Attorney-General*”. Further Article 156 (2) of the Constitution provides that “*the Attorney-General shall be nominated by the President and with the approval of the National Assembly, appointed by the President*”.

The Committee principally vets Members of the Cabinet who fall under Article 152(1) (c) and (d) of the Constitution and consequently the Speaker of the National, in his Communication to the House on Tuesday, 13<sup>th</sup> March, 2018 referred the matter of vetting of the nominee to the position of the Attorney-General to Committee on Appointments.

### MEMBERS OF THE COMMITTEE

The Committee on Appointments was constituted by the House on Thursday, 14<sup>th</sup> December, 2017 and comprises of the following Members:

<b>Chairperson:</b>	Hon. Justin Muturi, E.G.H, MP - Speaker, National Assembly
<b>Members:</b>	Hon. Moses Cheboi, CBS, MP - Deputy Speaker
	Hon. Aden Duale, EGH, MP - Leader of the Majority Party
	Hon. John Mbadi, CBS, MP - Leader of the Minority Party
	Hon. Jimmy Nuru Angwenyi - Deputy Leader of the Majority Party
	Hon. Robert Mbui, MP - Deputy Leader of the Minority Party
	Hon. Benjamin Jomo Washiali, CBS, MP – Majority whip
	Hon. Cecily Mbarire, MGH, MP – Deputy Majority whip
	Hon. (Dr.) Eseli Simiyu, MP
	Hon. Yusuf Hassan Abdi, MP
	Hon. David Losiakou Pkosing, CBS, MP
	Hon. David Gikaria, MP
	Hon. (Dr.) Rachael Nyamai, MP
	Hon. Joyce Emanikor, MP
	Hon. Khatib Abdallah Mwashetani, MP
	Hon. Kimani Ichung'wah, MP
	Hon. Peter Kaluma, MP
	Hon. Sabina Wanjiru Chege, MP

Hon. Sarah Korere, MP  
Hon. Tom Joseph Kajwang, MP  
Hon. David Ole Sankok, MP  
Hon. Esther Muthoni Passaris, MP  
Hon. Getrude Mbeyu, MP  
Hon. Joshua Kimilu, MP  
Hon. Lillian Cheptoo Tomitom, MP  
Hon. Lydia Haika Mizighi, MP  
Hon. Oku Kaunya, MP  
Hon. William Chepkut, MP

#### **SECRETARIAT OF THE COMMITTEE**

- |                          |                                     |
|--------------------------|-------------------------------------|
| 1. Mr. Jeremiah Ndombi   | Senior Deputy Clerk                 |
| 2. Mr. Peter K. Chemweno | Deputy Director, Committee Services |
| 3. Mr. John Mutega       | Principal Clerk Assistant I         |
| 4. Ms. Chelagat Tungo    | Clerk Assistant II                  |
| 5. Mr. Jimale Mohammed   | Clerk Assistant III                 |
| 6. Mr. Dennis Abisai     | Principal Legal Counsel I           |
| 7. Ms. Emma Essendi      | Legal Counsel II                    |
| 8. Ms. Marale Sande      | Senior Research Officer             |



## 2.0 ADOPTION OF THE COMMITTEE REPORT

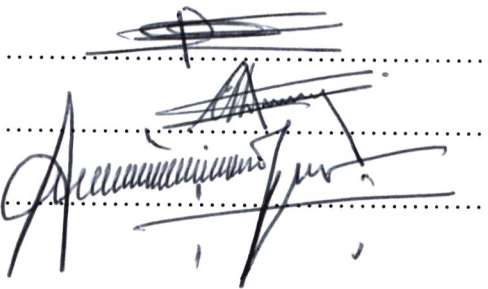
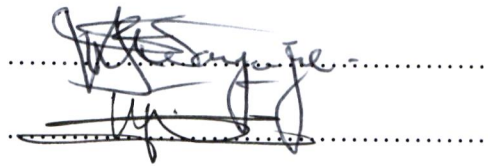
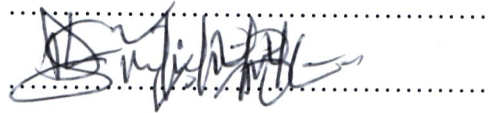
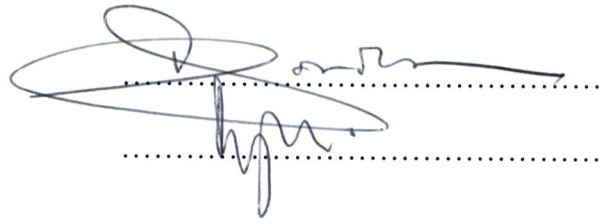
### ADOPTION OF THE COMMITTEE OF APPOINTMENTS REPORT ON THE APPROVAL HEARINGS OF **JUSTICE (RTD.) PAUL KIHARA KARIUKI**, NOMINEE FOR APPOINTMENT TO POSITION OF **ATTORNEY-GENERAL**

The Honourable Members of the Committee of Appointments do hereby affix their signatures to this report on the Approval Hearing of **Justice (Rtd.) Paul Kihara Kariuki**, Nominee for Appointment to the position of Attorney-General, to affirm their approval and confirm its accuracy, validity and authenticity:

1. Hon. Justin Muturi, E.G.H, MP  
**Speaker, National Assembly, Chairperson**
2. Hon. Moses Cheboi, CBS, MP  
**Deputy Speaker**
3. Hon. Aden Duale, EGH, MP  
**Leader of the Majority Party**
4. Hon. John Mbadi, CBS, MP  
**Leader of the Minority Party**
5. Hon. Jimmy Nuru Angwenyi  
**Deputy Leader of the Majority Party**
6. Hon. Robert Mbui, MP  
**Deputy Leader of the Minority Party**
7. Hon. Benjamin Jomo Washiali, CBS, MP  
**Majority whip**
8. Hon. Cecily Mbarire, MGH, MP  
**Deputy Majority whip**
9. Hon. (Dr.) Eseli Simiyu, MP
10. Hon. Yusuf Hassan Abdi, MP
11. Hon. David Losiakou Pkosing, CBS, MP
12. Hon. David Gikaria, MP
13. Hon. (Dr.) Rachael Nyamai, MP
14. Hon. Joyce Emanikor, MP
15. Hon. Khatib Abdallah Mwashetani, MP
16. Hon. Kimani Ichung'wah, MP

The image shows 16 handwritten signatures, each on a dotted line. The signatures are in blue and black ink. The first signature is in blue ink and is the most prominent. The other signatures are in black ink. The signatures are arranged vertically, corresponding to the list of names on the left.

17. Hon. Peter Kaluma, MP
18. Hon. Sabina Chege, MP
19. Hon. Sarah Korere, MP
20. Hon. Tom Joseph Kajwang, MP
21. Hon. David Ole Sankok, MP
22. Hon. Esther Passaris, MP
23. Hon. Getrude Mbeyu, MP
24. Hon. Joshua Kimilu, MP
25. Hon. Lillian Cheptoo Tomitom, MP
26. Hon. Lydia Haika Mizighi, MP
27. Hon. Oku Kaunya, MP
28. Hon. William Chepkut, MP



## 3.0 BACKGROUND

### 3.1 Notification of nomination

In accordance with the provisions of Article 156 (2) of the Constitution and sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011, H.E. the President forwarded to the National Assembly, the notification of nomination, *curriculum vitae* and testimonials of **Justice (Rtd.) Paul Kihara Kariuki**, *vide* a letter dated 12<sup>th</sup> March, 2018 and reference number OP/CAB.1/40A (*Annexure 1*) for approval by the National Assembly before appointment as Attorney-General.

### 3.2 Committal to the Committee on Appointments

The Committee on Appointments principally vets Members of the Cabinet who fall under Article 152(1) (c) and (d) of the Constitution.

Pursuant to Standing Order 42(1), on 13<sup>th</sup> March 2018, the Speaker informed the House of the notification of the nomination of the nominee for the position of Attorney-General. Pursuant to section 4 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 204, the name and curriculum vitae of the nominee: **Justice (Rtd.) Paul Kihara Kariuki** were committed to the Committee on Appointments for vetting. The Committee was required to report to the House within fourteen (14) days.

### 3.3 Notification to the Public

Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011 provides that “*any person may, prior to the approval hearing and by a 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*”.

The Clerk of the National Assembly placed an advertisement in the print media on Wednesday, 14<sup>th</sup> March, 2018 (*Annexure 2*) inviting the public to submit memoranda by way of written statements on oath (**affidavit**) on the suitability or otherwise of the nominee in conformity with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011. The advertisement indicated that the submissions were to be received by Wednesday, 21<sup>st</sup> March, 2018 at 5.00 pm.

Further, pursuant to the provisions of Article 118 of the Constitution, section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 45(3), the general public was on Wednesday, 14<sup>th</sup> March, 2018 notified in the print media by the Clerk of the National Assembly of the intention of the Committee on Appointments to conduct the vetting and approval hearing of the nominee on Thursday, 22<sup>nd</sup> March, 2018 from 10.00am (*Annexure 3*).



### 3.4 Notification to the Nominee

On Wednesday, 14<sup>th</sup> March, 2018, pursuant to sections 4 and 6(3) of the Public Appointments (Parliamentary Approval) Act, 2011, the Clerk in writing invited the nominee for the approval hearing indicating the time and place (*Annexure 4*).

### 3.5 Clearance requirements

In a letter dated 14<sup>th</sup> March, 2018, the Clerk of the National Assembly wrote to the Ethics and Anti-Corruption Commission (EACC), Kenya Revenue Authority (KRA), Directorate of Criminal Investigations (DCI) and the Higher Education Loans Board (HELB), (*Annexure 5*) requesting for reports with respect to the nominee on the following matters:

- (a) ethics and integrity;
- (b) tax compliance; and,
- (c) loan repayments, if any.

Responding to the request, the Higher Education Loans Board confirmed *vide* a letter Ref. No. HELB/RR/112009/V/72 and dated 20<sup>th</sup> March, 2018 (*Annexure 6*), that the nominee, **Justice (Rtd.) Paul Kihara Kariuki**, was a beneficiary of the HELB Loans Scheme and fully paid his loan in April, 1999 and was cleared under certificate number 26322.

With regard to matters on tax compliance, the Kenya Revenue Authority confirmed *vide* a letter Ref. No. CDT/HO/81 and dated 19<sup>th</sup> March, 2018, (*Annexure 7*) that the nominee was tax compliant.

On matters of ethics and integrity, the Ethics and Anti-Corruption Commission *vide* a letter Ref. No. EACC.7/10/5 Vol.V (204) and dated 21<sup>st</sup> March, 2018, (*Annexure 8*) confirmed that there were no outstanding issues or ongoing investigations against the nominee.

The Directorate of Criminal Investigations (DCI) through a letter Ref. No. DCI/CRO/SEC/6/7/2/A/VOL.VI/40 and dated 19<sup>th</sup> March, 2018 (*Annexure 9*) confirmed that the nominee was genuinely issued with the clearance certificate annexed hereto and dated 19<sup>th</sup> March, 2018 (see *Annexure 9*).

### 3.6 Issues for consideration during the Approval Hearing

Section 7 of the Public Appointments (Parliamentary Approval) Act, 2011 provides that the issues for consideration by the relevant House in relation to any nomination shall be:

- (a) the procedure used to arrive at the nominee;
- (b) any constitutional or statutory requirements relating to the office in question; and
- (c) the suitability of the nominee for appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.

Further, section 6 (7) of the Act places focus on a candidate's academic credentials, professional

training and experience, personal integrity and background.

**(a) Procedure used to arrive at the Nominee**

The procedure for appointment of the Attorney-General is outlined under the Constitution and the Public Appointments (Parliamentary Approval) Act, 2011. Article 156 (2) of the Constitution and the Act provide that the nomination of the A-G is a constitutional prerogative of the President as there is no further prescribed procedure in the Constitution or statute law.

**(b) Constitutional and Statutory Requirements**

The Constitution in addition gives guidelines on how to appoint the Attorney-General which include:—

*Provisions relating to the Office of the Attorney-General*

Article 156 of the Constitution provides as follows -

- (1) *There is established the office of Attorney-General.*
- (2) *The Attorney-General shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.*
- (3) *The qualifications for appointment as Attorney-General are the same as for appointment to the office of Chief Justice.*

Article 166 (2) and (3) of the Constitution provide for the qualification of the Chief Justice as follows:

- (2) *Each judge of a superior court shall be appointed from among persons who —*
  - a) *hold a law degree from a recognized university, or are advocates of the High Court of Kenya, or possess an equivalent qualification in a common-law jurisdiction;*
  - b) *possess the experience required under clauses (3) to (6) as applicable, irrespective of whether that experience was gained in Kenya or in another Commonwealth common-law jurisdiction; and*
  - c) *have a high moral character, integrity and impartiality.*
- (3) *The Chief Justice and other judges of the Supreme Court shall be appointed from among persons who have—*
  - a) *at least fifteen years' experience as a superior court judge; or*
  - b) *at least fifteen years' experience as a distinguished academic, judicial officer, legal practitioner or such experience in other relevant legal field; or*
  - c) *held the qualifications specified in paragraphs (a) and (b) for a period amounting, in the aggregate, to fifteen years.*

Upon perusal and consideration of the academic certificates and testimonials submitted by the nominee during the vetting hearing on 22<sup>nd</sup> March, 2018, the Committee was satisfied that the nominee had the qualifications for appointment as Attorney-General as set out in Article 156 (3) of the Constitution read together with Article 166 (2) and (3) of the Constitution. The Committee



noted that the nominee possesses a Law degree from the University of Nairobi, a well-recognized University and is an Advocate of the High Court of Kenya. The Committee further noted that nominee had over forty (40) years' experience as a legal practitioner, fifteen (15) of which he has served as a judge of a superior court in Kenya. Prior to his nomination, he had served as the President of the Court of Appeal for five (5) years and as a Judge of the High Court of Kenya for nine (9) years. The Committee also observed that the nominee had a high moral character, integrity and impartiality as required under Article 166(2) (c) of the Constitution.

### ***Two-third Gender Rule***

Article 27 (8) of the Constitution provides that the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. If the nominee is approved, the Cabinet will comprise of six (6) women and eighteen (18) men. The Committee notes that this is a single office in public service under Article 156 of the Constitution.

### ***Representation of Regional and Ethnic Diversity***

Article 130 (2) of the Constitution provides that the composition of the national executive shall reflect the regional and ethnic diversity of the people of Kenya. The Committee notes that this is a single office in public service under Article 156 of the Constitution.

### ***Persons with Disability***

Article 232 (1) (i) of the Constitution provides that the values and principles of public service include –

- (i) *affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—*
  - (i) *men and women;*
  - (ii) *the members of all ethnic groups; and*
  - (iii) *persons with disabilities.*

Further Article 54 (2) of the Constitution mandates the State to ensure the progressive realization of the principle that at least five percent of members of the public in appointive bodies are persons with disabilities. The Committee notes that this is a single office in public service under Article 156 of the Constitution.

### ***Youth***

Article 260 of the Constitution defines the “youth” *as the collectivity of all individuals in the Republic who —*

- (a) *have attained the age of eighteen years; but*
- (b) *have not attained the age of thirty-five years.*

Further, Article 55 of the Constitution mandates the State to take measures, including affirmative action to ensure that the youth have opportunities to associate, be represented and participate in political, social and economic spheres of life.



The Committee notes that this is a single office in public service under Article 156 of the Constitution. Further, the Committee notes the qualifications of the Attorney-General under the Constitution which requires an aggregate minimum of fifteen years' experience in legal practice. This requirement places the position beyond the reach of the youth. Article 156(3) presupposes that one has to start the practice of law at the age of twenty years or below for the person to qualify as an Attorney-General as a youth.

### ***Leadership and Integrity***

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

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

Of importance is Article 75(1) of the Constitution which states that a State Officer, whether in public or private life must behave in a manner that avoids conflict between personal interest and public official duties. Article 75 (3) of the Constitution further prohibits a State Officer who has been removed from office under this Article from holding any other State Office.

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

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

Section 10 of the Leadership and Integrity Act, 2012 in particular provides that -

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

- (a) carry out the duties of the office efficiently and honestly;*
- (b) carry out the duties in a transparent and accountable manner;*
- (c) keep accurate records and documents relating to the functions of the office; and,*
- (d) report truthfully on all matters of the organization which they represent.*

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

The functions of the Attorney-General are outlined in the Constitution and the Office of the Attorney-General Act, 2012. Article 156 of the Constitution provides as follows –

*(4) The Attorney-General—*

*(a) is the principal legal adviser to the Government;*

*(b) shall represent the national government in court or in any other legal proceedings to which the national government is a party, other than criminal proceedings; and*

*(c) shall perform any other functions conferred on the office by an Act of Parliament or by the President.*

*(5) The Attorney-General shall have authority, with the leave of the court, to appear as a friend of the court in any civil proceedings to which the Government is not a party.*

*(6) The Attorney-General shall promote, protect and uphold the rule of law and defend the public interest.*

Further, section 5 of the Office of the Attorney-General Act, 2012 outlines the functions of the Attorney-General as follows—

*(1) In addition to the functions of the Attorney-General under Article 156 of the Constitution, the Attorney-General shall be responsible for—*

*(a) advising Government Ministries, Departments, Constitutional Commissions and State Corporations on legislative and other legal matters;*

*(b) advising the Government on all matters relating to the Constitution, international law, human rights, consumer protection and legal aid;*

*(c) negotiating, drafting, vetting and interpreting local and international documents, agreements and treaties for and on behalf of the Government and its agencies;*

*(d) coordinating reporting obligations to international human rights treaty bodies to which Kenya is a member or on any matter which member States are required to report;*

*(e) drafting legislative proposals for the Government and advising the Government and its agencies on legislative and other legal matters;*

*(f) reviewing and overseeing legal matters pertaining to the registration of companies, partnerships, business names, societies, adoptions, marriages, charities, chattels, hire purchase and coat of arms;*

*(g) reviewing and overseeing legal matters pertaining to the administration of estates and trusts;*

*(h) in consultation with the Law Society of Kenya, advising the Government on the regulation of the legal profession;*

*(i) representing the national Government in all civil and constitutional matters in accordance with the Government Proceedings Act (Cap. 40);*

*(j) representing the Government in matters before foreign courts and tribunals; and*



- (k) performing any function as may be necessary for the effective discharge of the duties and the exercise of the powers of the Attorney-General.*
- (2) In the execution of the functions conferred by the Constitution and this Act, the Attorney-General shall provide efficient and professional legal services to the Government and the public for the purpose of facilitating, promoting and monitoring the rule of law, the protection of human rights and democracy*

Having considered the above requirements, and pursuant to section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the Committee, through the Clerk of the National Assembly, invited submissions from the public on the suitability or otherwise of the nominee for appointment to the position of Attorney-General.

#### ***Memoranda from members of the public in respect of the nominee for position of Attorney-General***

Pursuant to section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011 which provides that “*any person may, prior to the approval hearing, and by written statement on oath, provide the clerk with evidence contesting the suitability of a candidate to hold office to which the candidate has been nominated*”,

The Clerk of the National Assembly placed an advertisement in the print media on Wednesday, 14<sup>th</sup> March, 2018 (*Annexure 2*) inviting the public to submit memoranda by way of written statements on oath (**affidavit**) on the suitability or otherwise of the nominee in conformity with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011.

By close of business on Wednesday, 21<sup>st</sup> March, 2018 at 5.00 pm the Committee had not received any submissions against the nomination and approval for appointment of Justice (Rtd.) Paul Kihara Kariuki for the position of Attorney-General.

#### **4.0 APPROVAL HEARING OF THE NOMINEE**

The Committee on Appointments held a sitting on Wednesday, 21<sup>st</sup> March, 2018 to deliberate on the approval hearing and the following were highlighted:

- (a) That, by the deadline date and time of Wednesday, 21<sup>st</sup> March, 2018 at 5.00 pm, the Clerk of the National Assembly had not received any submissions against the nomination and approval for appointment of Justice (Rtd.) Paul Kihara Kariuki for the position of Attorney-General.
- (b) That, the nominee had not notified the Clerk of the National Assembly of the withdrawal from the approval process as outlined under section 6(10) of the Public Appointments (Parliamentary Approvals) Act, 2011.



The Committee therefore resolved to undertake the approval hearing as per the schedule that had been advertised by the Clerk of the National Assembly and which was communicated to the members of the public and the nominee. In conducting the approval hearing, the Committee on Appointments examined the nominee against the following criteria, as set out in section 6(8) of the Public Appointments (Parliamentary Approval) Act, 2011 and Article 156(3) of the Constitution among others.

- (a) Gender - compliance with Article 27(8) of the Constitution that requires the State to take measures to ensure that not more than two thirds of members of elective or appointive bodies shall be of the same gender;
- (b) Age - to ascertain whether the youth are represented as provided under Article 55 of the Constitution;
- (c) Place of birth - Article 130(2) of the Constitution contemplates a Cabinet that reflects the regional and ethnic diversity of the people of Kenya;
- (d) Nationality - to ascertain the nationality of the nominee to ensure compliance with Article 78 of the Constitution which provides that State Officers must be Kenyan citizens;
- (e) Educational background;
- (f) Employment record;
- (g) Honours or awards given to the nominee;
- (h) Membership to professional bodies;
- (i) Public office and political affiliations held - to ascertain whether the nominee does not hold office in a political party in compliance with Article 77(2) of the Constitution that prohibits an appointed State Officer from holding an office in a political party;
- (j) Information on whether the nominee has been removed from office under Article 75 of the Constitution which prohibits a State Officer who has been removed from office under this Article from holding any other State Office;
- (k) Nominee's finances;
- (l) External commitments that nominee intends to undertake while in office (if appointed). Article 77(1) of the Constitution prohibits a full time State Officer from participating in any other gainful employment;
- (m) Tax status and net worth;
- (n) Potential conflict of interest - Article 75(1) of the Constitution bars State Officers from engagements or association that may give rise to conflict between official duties and personal interest;
- (o) Whether the nominee has been charged in a court of law in the past three years; and
- (p) Whether the nominee has been adversely mentioned in a report of Parliament or a Commission of inquiry in the past three years.

#### **4.1 Justice (Rtd.) Paul Kihara Kariuki – Nominee for the position of Attorney-General**

Justice (Rtd.) Paul Kihara Kariuki appeared before the Committee on Thursday, 22<sup>nd</sup> March, 2018 at 10.00 am and was interviewed pursuant to the provisions of the Constitution, Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly.

The nominee responded to several questions during the vetting as follows:-

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

He is Kenyan, male citizen, Identity Card Number 3430470, born on 11<sup>th</sup> May, 1954 in Kiambu County.

### **Academic and Professional Qualifications**

- (a) In 1977, he graduated with a Bachelor of Laws (LLB) degree from the University of Nairobi and proceeded to Kenya School of Law for a Postgraduate Diploma in Law between 1977 and 1978.
- (b) Prior to his admission to university, he was a student at Hospital Hill School in Nairobi between 1963 and 1967. Between 1968 and 1973 he pursued his "O" Levels and "A" Levels at Nairobi School. He attended Thimbigua Primary School in Kiambaa for his primary education.

### **Work and professional experience**

- (a) Prior to his nomination, he had served as a Judge of the Court of Appeal since 2012 and the President of the Court of Appeal since 2013. Given his position, he has held other strategic positions like the Chairperson of the Judicial Tender Committee (2006- 2008) and the Vice Chairperson of the Ethics and Governance Subcommittee of the Judiciary (2005-2006).
- (b) In 2009, he was appointed as the Principal / Director of the Judicial Training Institute for five years until 2013. He also served as a Judge of the High Court of Kenya between 2003 and 2011.
- (c) Between May 2003 and October 2003, he held the position of the Principal at the Kenya School of Law. Prior to this appointment, he was the Managing Director, International Controls Ltd between 2001 and 2003. Between 1986 and 2000, he was a partner at Messrs Ndungu Njoroge & Kwach Advocates. He also served as a Partner and Legal Assistant at Messrs Hamilton Harrison & Mathews Advocates from 1981 to 1986 and 1977 to 1981 respectively.

### **Honours and Awards**

He was listed in the International 'Who's Who of Professionals' in 1997. Between 2003 and 2006, he was listed in 'Who's Who in American Law'. He has also been awarded with the Chief of the Burning Spear (CBS).

### **Professional associations**

He is a member of the following professional associations: Law Society of Kenya, Commonwealth Lawyers Association, Lawyers' International Services Agency, USA and the International Bar Association.

### **Other Activities and Membership**

Between 1980 and 2002, the nominee was a Chancellor (Honourary Legal Adviser) for the Anglican Church of Kenya (ACK). He has also been a Commissioner at the Nairobi City Council,



member of the Kenya Anti-Corruption Authority Advisory Board and legal advisor of the Thomas Barnado's House.

### **Published Writing**

The nominee has published and delivered numerous speeches, reports, presentations, lectures and papers both locally and internationally including speeches at the Ugandan Judges Annual Conference and St. Paul's University annual graduation ceremony.

### **Potential Conflict of Interest**

He has no associations that are likely to present potential conflict of interest when he assumes the position.

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

His sources of income during the calendar year preceding his nomination and the current calendar year comprise of salaries and emoluments. His financial net worth is one hundred and sixty six million shillings (Ksh. 166 million).

### **Integrity**

The nominee has not been dismissed or otherwise removed from office for contravening the provisions of Article 75 of the Constitution. He has also not been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties. He has fully complied with the tax obligations to the State for the financial year immediately preceding his nomination for the appointment. He has not been charged in court of law in the last three years or been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years.

## **SECTOR SPECIFIC ISSUES**

### **Suitability for the Position of the Attorney-General**

While responding to the question on his suitability as the seventh Attorney-General of the Republic of Kenya, if approved by Parliament, the nominee stated that the position is an onerous position within the President's Cabinet as he will be the guardian of the Constitution within the Executive. As such the position calls for one to possess in depth knowledge and understanding of the law, the political landscape, micro-economics and social cultural complexities of the society. Further the position calls for values like humility, wisdom and being a good listener.

He attributed the foundation of his career spanning forty one (41) years in the legal profession, as being guided and by the Constitution. Other experiences that shaped his values and career include:

- (i) the fact that he was raised to value truth and justice taking it into consideration that he was raised in a religious background;
- (ii) lessons learnt from his parents as they held positions in church and which he has made his guiding light. They include compassion, conviction, justice, integrity, utmost faith, fear of God and courage;



- (iii) performing theatre which has increased his understanding of communities and cultures and provided clarity on questions of human nature. According to him, this has increased his understanding and appreciation of people thereby making it easy for him to offer solutions to their problems.

Apart from these experiences, the nominee linked his suitability for the position to the immense support he had received over the years and continues to receive from different people including elected leaders, family and colleagues both at the bar and at the bench.

He recognized the enormous task that comes with the Office of the A-G including difficult decisions that he will be required to make amidst the possible disagreements likely to arise between the three arms of Government. However, he acknowledged the existing inbuilt checks and balances provided in the Constitution, the need for inter-dependence between the different arms and role of the A-G.

If appointed to the position, he pledged to lead from the front and by example, guided by the Constitution and the rule of law. He promised to acknowledge the beauty in each individual while leveraging on the strength in diversity for the common good of all Kenyans. He summed up his opening statement by promising to serve with honour, uphold great trust, guided by collegiality and be informed by existing laws and strive to uphold the Constitution.

#### **Views on the position of the A-G**

The nominee appreciated the counsel and concerns from some members of the Committee that the Office of the A-G is of an advisory nature and that he might serve the country better in a different capacity. The nominee stated that the nomination to serve as the A-G is an honourable opportunity especially having been called to serve the public sector over fifteen (15) years ago as the Principal at the Kenya School of Law (KSL). He added that he has answered the call to serve in the position and that he was determined to serve to the best of his knowledge, the underlying pressures notwithstanding. He posited that the public service is in dire need of Kenyans with passion, honesty and dignity and that he was willing to be guided by the Constitution.

He alluded that for him this opportunity is a calling, a path, a vocation that he has chosen to take and considers it an 'act of worship'. He challenged all persons holding public offices to view their positions as positions of privilege, responsibility and accountability and strive to fulfill the mandate of the position in accordance with the Constitution or give up the positions.

#### **Contributions of the Office of the A-G to Vision 2030 and the 'Big Four Agenda'**

Justice (Rtd.) Paul Kihara Kariuki acknowledged that proper socio-economic prosperity of this Country is hinged on the implementation of the Constitution with particular mention of strengthening the public service and the devolved units of governance. He also reiterated the need to have existing laws adequately enforced making reference to the pending corruption cases which he attributed to the uneasy working relationship between the Office of the Director of Public Prosecutor (DPP) and EACC. He highlighted the need to create an enabling environment by



addressing gaps in legislation, encourage co-ordination and interdependence between the three arms of Government.

To guarantee the foregoing and to offer sound legal advice, the nominee intends to address the existing challenges at the State Law Office such as of capacity, inadequate personnel training, professional development and lack of tools of work.

### **Separation of Powers between the Executive, Parliament and the Judiciary**

In addressing the issue of how he intends to uphold the doctrine of 'separation of powers' while ensuring that each arm of the government compliments the other, the nominee acknowledged the continued debate and suspicion between the different arms of Government. He acknowledged that the relationship between the three arms of Government in some instances was unpleasant and unhealthy. However, he indicated that while this sort of tension is healthy for proper checks and balances in a democratic society, it should not allow one arm of Government to disable another arm of Government. He emphasized the need for everyone to obey court orders and to ensure that the Judiciary is guided by the rule of law. He, however, urged that key to all this debate is the need to ensure that services are available to Kenyans in an environment that compliments each other as there exists no absolute 'separation of powers'. He further urged the different arms of Government to dialogue and interact as they strive for interdependence amidst independence.

### **Concerns on ability to inspire confidence in line with Article 73(1) (iv) and (b) of the Constitution**

The nominee acknowledged that there was a pending Petition concerning him before the Judicial Service Commission (JSC) on a matter regarding the appointment of the IEBC returning officers who conducted the repeat presidential election held on 26<sup>th</sup> October, 2017. He reiterated that the powers of the different Presidents of each Court are expressly outlined in the respective statutes. Further, that the mandate of the President of the Court of Appeal is provided for in the Court of Appeal (Organization and Administration) Act, 2015. He assured the Committee that given his background, his values of integrity, honesty and conviction, justice must be served. He is always informed by the rule of law and the Constitution in making decisions. In his fifteen (15) years as a judicial officer, there has been no accusation against him regarding underhand dealings or bribery in delivering judgment or delivering judgment under duress.

### **Relationship between the A-G and Solicitor General**

On possible mistrust and conflict of legal opinion between the Offices of the Attorney-General and Solicitor-General, the nominee considered this mistrust as unfortunate. He indicated that the two offices ought to discharge their different mandates in accordance with the Constitution and other supporting legislation. He agreed that co-operation is key between these two offices for enhanced service delivery. Failure of which there would be no reason for him to hold office in the capacity of the A-G. He promised that, if approved, he will discharge his duties as Attorney-general in accordance with the Constitution and Statutes. He assured the Committee that he will lead by example from the front, be humble, strive to provide the requisite mentorship and treat others with respect.



### **Strengthening the Role of the Office of the A-G in line with Article 156 (4) (b) of the Constitution**

On the issue of representing the national government in court and especially in international disputes and how he will ensure that the Country's interests are taken care of, the nominee regretted that the Government had lost key cases with enormous financial implications. Among the cases and issues highlighted are the Anglo leasing cases and cases on historical injustices among others. He assured the Committee that he intends to make this a priority if confirmed by:

- (a) strengthening the capacity of the Office including facilitating continuous training of counsel, addressing the issue poor remuneration of State Counsel and making available working tools like library, internet and personal computers; and,
- (b) encouraging and facilitating specialized training in contract drafting among other specialized areas to improve competence and exposure.

### **Advocates Complaints Commission (ACC) and Conduct of Advocates**

The nominee acknowledged that over four thousand cases are pending before the Advocates Complaints Commission and that the Commission had failed to deliver on its mandate. He partly blamed this on the tendency to reward persons with public appointments without considering professionalism, competence and zeal. He also attributed the backlog to inadequate capacity of the Commission to deal with the numerous cases before it. He informed the Committee that the number of advocates had increased tremendously and thus the large number of complaints. As such, he proposed the need to address challenges associated with capacity and resources to enable the Commission to discharge its mandate.

Further, he was of the view that there was the need to devolve the structures of the Commission so as to ensure cases are dealt with from their areas of occurrence. As regards the law, the nominee alluded to the need to review legislation concerning the operations of the Commission. He also intends to review all the portfolios within the Office of the A-G with aim of enhancing service delivery.

### **Concerns on Sentencing Policy**

While in agreement that sentencing remains a concern to the Judiciary, the nominee was emphatic that it is always work in progress. He explained that the recommendations of a taskforce comprising various stakeholders are being implemented. He also encouraged dialogue to determine emerging trends likely to inform reviews on the sentencing policy. He appreciated the discretion applied by judges and magistrates while rendering verdicts but reiterated on dialogue to ensure sentences match progress and emerging trends.

### **Misappropriation of Public Resources and Issues of Integrity**

On issues of misappropriation of public resources, the nominee emphasized the need for public officers to be accountable. Further, he indicated that relevant institutions should apply and enforce the laws and regulations by applying sanctions including surcharging individuals where accountability is not upheld. He added that instant decisions and actions are necessary to ensure compliance.



On the relationship between the Office of the DPP and the EACC, as regards the mandate to prosecute cases on integrity, the nominee assured the Committee that if appointed he would encourage the two offices to work together by reviewing the requisite legislation and encouraging dialogue. He also pledged to determine the reasons for the lack of implementation of the recommendation of the various reports as regards asset recovery.

### **Office of the Attorney-General and Legal Education**

The nominee informed the Committee that the concerns regarding massive exam failure at the Kenya School of Law (KSL) are not new. He indicated that a taskforce is in place to investigate the concerns at the KSL and make recommendation for implementation. He however decried the blame game between the Council of Legal Education and the management of the Kenya School of Law. He suggested the need to review the policy on training of advocates, examine the quality of legal education at the universities and post-graduate levels. He also noted that mentorship of young people while choosing careers is paramount to guarantee the quality of students pursuing law as a profession.

### **Asset Recovery Agency and its failure to implement House resolutions**

With regard to perceived or alleged failure by the Assets Recovery Agency to implement House resolutions on assets acquired fraudulently through use of public resources, the nominee informed the Committee that he will find out where the problem was and undertook to address the matter accordingly.

### **Public Service and Service Delivery**

In conclusion, the nominee emphasized that public service jobs like that of the A-G require courage, wisdom, abiding by the Constitution, Bill of rights and the rule of law and personal convictions. He was of the view that there was need for political dialogue in the country. He reiterated the need for everyone to strive to give life to the Constitution with the leaders setting the much needed example from the front. He regretted the tendency for the Government ministries and agencies not to seek advice or seeking advice at the tail end despite the fact that this is a requirement under the Office of the Attorney-General Act, 2012. Nevertheless, he assured the Committee that he will ensure that legal advice is sought and adhered to by the relevant agencies.

## **5.0 COMMITTEE OBSERVATIONS**

The Committee made the following observations having considered the nominee's curriculum vitae, filled questionnaire pursuant to the Schedule to the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 and the oral submissions during the approval hearing:-

1. THAT, in accordance with Article 78(1) and (2) of the Constitution he is a Kenyan citizen born in Kiambu County and does not hold dual citizenship.
2. THAT, in accordance with the requirements set out in Article 156 (3) of the Constitution read together with Article 166 (2) and (3) of the Constitution, the nominee possesses a Law degree from the University of Nairobi, a recognized University and is

an Advocate of the High Court of Kenya. He possess over forty (40) years' experience as a legal practitioner, fifteen (15) of which he has served as a judge of a superior court in Kenya. Prior to his nomination, he had served as the President of the Court of Appeal for five (5) years and a Judge of the High Court for nine (9) years. His academic credentials, professional training and experience thus comply with section 6 (7) of the Public Appointments (Parliamentary Approval) Act, No. 33 of 2011.

3. THAT, he meets the requirements of Chapter 6 of the Constitution on leadership and integrity. The Committee further observed that the DCI, KRA, HELB and EACC had sent clearance letters with respect to the nominee. The nominee has not been charged in a Court of Law in the last three years.
4. THAT, as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest.
5. THAT, he satisfies the requirements of Article 77(1) of the Constitution in that he does not intend to participate in any other gainful employment.
6. THAT, he does not hold office in any political party and hence satisfies the provisions of Article 77(2) of the Constitution.
7. THAT, he has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), Article 76 (financial probity), Article 77(restriction on activities of State Officers) and Article 78(2) (dual citizenship) of the Constitution and is therefore fit to hold office as the Attorney-General.
8. THAT, he has exhibited immense knowledge of the law and understanding of the environment in which he is expected to serve as the A-G.

## 6.0 COMMITTEE RECOMMENDATION

Having conducted the approval hearings for the nominee pursuant to Article 156 (2) of the Constitution, sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 204 (4), **the Committee recommends that this House approves the appointment of Justice (Rtd.) Paul Kihara Kariuki as Attorney-General by His Excellency the President of the Republic of Kenya.**

Signed .....

Date 26/3/18 .....

**Hon. Justin B. Muturi, E.G.H., M.P**

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

# MINUTES



**MINUTES OF THE NINETEENTH (19<sup>TH</sup>) SITTING OF THE COMMITTEE ON APPOINTMENTS HELD ON MONDAY, 26<sup>TH</sup> MARCH 2018, MARA SOUTH ROOM, INTERCONTINENTAL HOTEL, NAIROBI CITY COUNTY AT 2.00 P.M.**

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**PRESENT**

1. Hon. Justin B. Muturi, EGH, MP - **Speaker of National Assembly (Chairperson)**
2. Hon. Moses Cheboi, CBS, MP - **Deputy Speaker of the National Assembly**
3. Hon. Aden Duale, EGH, MP - **Leader of the Majority Party**
4. Hon. John Mbadi, CBS, MP - **Leader of the Minority Party**
5. Hon. Jimmy Nuru Angwenyi, CBS, MP - **Deputy Leader of the Majority Party**
6. Hon. Robert Mbui, MP - **Deputy Leader of the Minority Party**
7. Hon. (Dr.) Eseli Simiyu, MP
8. Hon. Yusuf Hassan Abdi, MP
9. Hon. David Losiakou Pkosing, CBS, MP
10. Hon. Dr. Rachael Nyamai, MP
11. Hon. Joyce Emanikor, MP
12. Hon. Kimani Ichung'wah, MP
13. Hon. Peter Kaluma, MP
14. Hon. Sabina Chege, MP
15. Hon. David Gikaria, MP
16. Hon. David Ole Sankok, MP
17. Hon. Getrude Mbeyu, MP
18. Hon. Joshua Kimilu, MP
19. Hon. Oku Kaunya, MP
20. Hon. Lydia Haika Mizighi, MP
21. Hon. William Chirchir Chepkut, MP

**APOLOGIES**

1. Hon. Benjamin Jomo Washiali, CBS, MP- **Majority Whip**
2. Hon. Cecily Mbarire, MP - **Deputy Majority Whip**
3. Hon. Lilian Cheptoo Tomitom, MP
4. Hon. Khatib Abdallah Mwashetani, MP
5. Hon. Esther Passaris, MP
6. Hon. Tom Joseph Kajwang, MP
7. Hon. Sarah Korere, MP

**IN ATTENDANCE**

1. Mr. Jeremiah Ndombi
2. Mr. Peter Chemweno
3. Mr. John Mutega
4. Ms. Chelagat Tungo
5. Ms. Ruth Mwiwaki
6. Ms. Christine Ndiritu

**NATIONAL ASSEMBLY**

- Senior Deputy Clerk
- Deputy Director, Committee Services
- Principal Clerk Assistant I
- Clerk Assistant II
- Clerk Assistant III
- Clerk Assistant III

7. Ms. Sande Marale - Senior Research Officer  
8. Ms. Emma Essendi - Legal Counsel  
9. Ms. Rahima Manzura - Secretary  
10. Mr. Wilson Angatangoria - Serjeant-At-Arms

**MIN. NO. 68/COA/2018:**                      **PRELIMINARIES**

The meeting was called to order at 12.40 p.m.

**MIN. NO. 69/COA/2018:**                      **PRELIMINARIES**

The minutes of the 15<sup>th</sup> sitting held on 21<sup>st</sup> March, 2018, minutes of the 16<sup>th</sup> and 17<sup>th</sup> sittings held on 22<sup>nd</sup> March, 2018 and minutes of the 18<sup>th</sup> sitting held on 26<sup>th</sup> March, 2018 were confirmed as true records of the deliberations of those meetings and signed by the Chairman after being proposed by Hon. Peter Kaluma, MP and seconded by Hon. David Ole Sankok, MP.

**MIN. NO. 70/COA/2018:**                      **ADOPTION OF THE REPORT**

Having considered the draft report on the vetting of the nominee for appointment as Attorney-General of the Republic of Kenya, the Committee unanimously adopted the said report it was proposed by the Hon. Peter Kaluma, MP and seconded by the Hon. David Ole Sankok, MP.

**MIN. NO. 71/COA/2018:**                      **ADJOURNMENT OF THE MEETING**

**Tabling of the Report**

The Committee called on the secretariat to finalize on the editing of the Report and make the necessary arrangements to have the Report tabled in the House on Tuesday, 27<sup>th</sup> April, 2018.

**MIN. NO. 72/COA/2018:**                      **ADJOURNMENT OF THE MEETING**

The meeting was adjourned at 1.20 p.m. The next meeting shall be convened on notice.

**SIGNED** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**HON. JUSTIN B. MUTURI, EGH, M.P.**  
**SPEAKER OF THE NATIONAL ASSEMBLY**  
**(CHAIRPERSON)**



**MINUTES OF THE EIGHTEENTH (18<sup>TH</sup>) SITTING OF THE COMMITTEE ON APPOINTMENTS HELD ON MONDAY, 26TH MARCH 2018, MARA SOUTH ROOM, INTERCONTINENTAL HOTEL, NAIROBI CITY COUNTY AT 10.00 A.M**

**PRESENT**

1. Hon. Justin B. Muturi, EGH, MP - **Speaker of National Assembly/Chairperson**
2. Hon. Aden Duale, EGH, MP - **Leader of the Majority Party**
3. Hon. John Mbadi, CBS, MP - **Leader of the Minority Party**
4. Hon. Jimmy Nuru Angwenyi, CBS, MP - **Deputy Leader of the Majority Party**
5. Hon. Robert Mbui, MP - **Deputy Leader of the Minority Party**
6. Hon. (Dr.) Eseli Simiyu, MP
7. Hon. Yusuf Hassan Abdi, MP
8. Hon. David Losiakou Pkosing, CBS, MP
9. Hon. (Dr.) Rachael Nyamai, MP
10. Hon. Joyce Emanikor, MP
11. Hon. Kimani Ichung'wah, MP
12. Hon. Peter Kaluma, MP
13. Hon. Sabina Chege, MP
14. Hon. David Gikaria, MP
15. Hon. David Ole Sankok, MP
16. Hon. Getrude Mbeyu, MP
17. Hon. Joshua Kimilu, MP
18. Hon. Oku Kaunya, MP
19. Hon. Lydia Haika Mizighi, MP
20. Hon. William Chirchir Chepkut, MP

**APOLOGIES**

1. Hon. Moses Cheboi, CBS, MP - **Deputy Speaker of the National Assembly**
2. Hon. Benjamin Jomo Washiali, CBS, MP - **Majority Whip**
3. Hon. Cecily Mbarire, MP - **Deputy Majority Whip**
4. Hon. Lilian Cheptoo Tomitom, MP
5. Hon. Khatib Abdallah Mwashetani, MP
6. Hon. Esther Passaris, MP
7. Hon. Tom Joseph Kajwang, MP
8. Hon. Sarah Korere, MP

**IN ATTENDANCE**

1. Mr. Jeremiah Ndombi
2. Mr. Peter Chemweno
3. Mr. John Mutega
4. Ms. Chelagat Tungo
5. Ms. Ruth Mwhaki
6. Ms. Christine Ndiritu
7. Ms. Sande Marale

**NATIONAL ASSEMBLY**

- Senior Deputy Clerk
- Deputy Director, Committee Services
- Principal Clerk Assistant I
- Clerk Assistant II
- Clerk Assistant III
- Clerk Assistant III
- Senior Research Officer

8. Ms. Emma Essendi - Legal Counsel  
9. Mr. Wilson Angatangoria - Serjeant-At-Arms

**MIN. NO. 65/COA/2018: PRELIMINARIES**

The meeting was called to order by the Chairman at 10.30 a.m. Prayers were said the Hon. Aden Duale, EGH, MP.

**MIN. NO. 66/COA/2018 CONSIDERATION OF THE DRAFT REPORT ON THE VETTING OF THE NOMINEE FOR THE POSITION OF ATTORNEY-GENERAL OF THE REPUBLIC OF KENYA**

The Committee considered the draft report on the vetting of the nominee for the appointment to the position of Attorney-General, Justice (Rtd.) Paul Kihara Kariuki and canvassed on the following issues:

**Two-Third Gender Rule:** The Committee deliberated on the two-third gender rule and observed that Article 27 (8) of the Constitution provides that the state shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. However, the Committee noted that this is a single office in public service under Article 156 of the Constitution.

**Representation of Regional and Ethnic Diversity:** The Committee also deliberated on the matter of representation of regional and ethnic diversity and observed that Article 130 (2) of the Constitution provides that the composition of the national executive shall reflect the regional and ethnic diversity of the people of Kenya. The Committee, however, noted that this is a single office in public service under Article 156 of the Constitution.

**Persons with Disability:** The Committee deliberated on the provisions of Article 54 (2) of the Constitution which mandates the State to ensure the progressive realization of the principle that at least five percent of members of the public in appointive bodies are persons with disabilities. The Committee noted that this is a single office in public service under Article 156 of the Constitution.

**Youth:** While discussing whether the Cabinet will have the requisite threshold for youth, the Committee noted that this is a single office in public service under Article 156 of the Constitution. Further, the Committee noted the qualifications of the Attorney-General under the Constitution which requires an aggregate minimum of fifteen years' experience in legal practice. This requirement places the position beyond the reach of the youth. Article 156(3) presupposes that one has to start the practice of law at the age of twenty years or below for the person to qualify as an Attorney-General as a youth.



## **OBSERVATIONS**

Having considered the nominees curriculum vitae, the duly filled questionnaire pursuant to the Schedule to the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 and the oral submissions during the approval hearing, the Committee made the following observations:-

- (a) THAT, in accordance with Article 78(1) and (2) of the Constitution he is a Kenyan citizen born in Kiambu County and does not hold dual citizenship.
- (b) THAT, in accordance with the requirements set out in Article 156 (3) of the Constitution read together with Article 166 (2) and (3) of the Constitution, the nominee possesses a Law degree from the University of Nairobi, a recognized University and is an Advocate of the High Court of Kenya. He possess over forty (40) years' experience as a legal practitioner, fifteen (15) of which he has served as a judge of a superior court in Kenya. Prior to his nomination, he had served as the President of the Court of Appeal for five (5) years and a Judge of the High Court for nine (9) years. His academic credentials, professional training and experience thus comply with section 6 (7) of the Public Appointments (Parliamentary Approval) Act, No. 33 of 2011.
- (c) THAT, he meets the requirements of Chapter 6 of the Constitution on leadership and integrity. The Committee further observed that the DCI, KRA, HELB and EACC had sent clearance letters with respect to the nominee. The nominee has not been charged in a Court of Law in the last three years.
- (d) THAT, as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest.
- (e) THAT, he satisfies the requirements of Article 77(1) of the Constitution in that he does not intend to participate in any other gainful employment.
- (f) THAT, he does not hold office in any political party and hence satisfies the provisions of Article 77(2) of the Constitution.
- (g) THAT, he has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), Article 76 (financial probity), Article 77(restriction on activities of State Officers) and Article 78(2) (dual citizenship) of the Constitution and is therefore fit to hold office as the Attorney-General.
- (h) THAT, he has exhibited immense knowledge of the law and understanding of the environment in which he is expected to serve as the A-G.

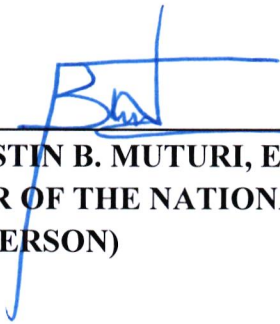
## **RECOMMENDATION**

Arising from the above observations, the Committee recommended that to the House to approve the appointment of Justice (Rtd.) Paul Kihara Kariuki as Attorney-General by His Excellency the President of the Republic of Kenya.

**MIN. NO. 67/COA/2018: ADJOURNMENT OF THE MEETING**

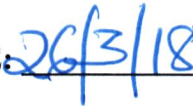
The meeting was adjourned at 12.30 p.m. to reconvene at 12.40 p.m.

SIGNED



**HON. JUSTIN B. MUTURI, EGH, M.P.  
SPEAKER OF THE NATIONAL ASSEMBLY  
(CHAIRPERSON)**

DATE





**MINUTES OF THE SEVENTEENTH (17<sup>TH</sup>) SITTING OF THE COMMITTEE ON APPOINTMENTS HELD ON THURSDAY, 22<sup>ND</sup> MARCH, 2018 IN THE MINI-CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 AM**

---

**PRESENT**

1. Hon. Justin B. Muturi, EGH, MP - Speaker of National Assembly (Chairperson)
2. Hon. Moses Cheboi, CBS, MP - Deputy Speaker
3. Hon. Aden Duale, EGH, MP - Leader of the Majority Party
4. Hon. John Mbadi, CBS, MP - Leader of the Minority Party
5. Hon. Benjamin J. Washiali, CBS, MP
6. Hon. (Dr.) Eseli Simiyu, MP
7. Hon. Yusuf Hassan Abdi, MP
8. Hon. David Gikaria, MP
9. Hon. Kimani Ichung'wah, MP
10. Hon. Sabina W. Chege, MP
11. Hon. Peter Kaluma, MP
12. Hon. Joyce Emanikor, MP
13. Hon. William Kamuren Chepkut, MP
14. Hon. Lydia Haika Mizighi, MP
15. Hon. Lilian Cheptoo Tomitom, MP
16. Hon. David Ole Sankok, MP
17. Hon. Getrude Mbeyu, MP
18. Hon. Oku Kaunya, MP

**APOLOGY**

1. Hon. Jimmy Angwenyi, CBS, MP - Deputy Leader of the Majority Party
2. Hon. Robert Mbui, MP - Deputy Leader of the Minority Party
3. Hon. Tom Joseph Kajwang, MP
4. Hon. Cecily Mbarire, MGH, MP
5. Hon. David Losiakou Pkosing, CBS, MP
6. Hon. (Dr.) Rachael Nyamai, MP
7. Hon. Esther Passaris, MP
8. Hon. Khatib Abdallah Mwashetani, MP
9. Hon. Joshua Kimilu, MP
10. Hon. Sarah Korere, MP

**IN ATTENDANCE**

1. Mr. Jeremiah Ndombi
2. Mr. John Mutega
3. Mr. Denis Abisai
4. Ms. Sande Merale
5. Ms. Chelagat Tungo
6. Ms. Emma Essendi

**NATIONAL ASSEMBLY**

- Senior Deputy Clerk
- Principal Clerk Assistant I
- Principal Legal Counsel I
- Senior Research Officer
- Clerk Assistant II
- Legal Counsel II

7. Mr. Jimale Mohammed - Clerk Assistant III
8. Ms. Christine Ndiritu - Clerk Assistant III
9. Ms. Farida Ngasura - Head, Audio Recording
10. Mr. Wilson Angatangoria - Serjeant- at- Arms

**MIN. NO. 61/COA/2018:**

**PRELIMINARIES**

The meeting was called to order by the Chairman at 10.00a.m. the Chairman welcomed the nominee and asked Members of the Committee present to introduce themselves.

**MIN. NO.62/COA/2018:**

**VETTING OF JUSTICE (RTD.) PAUL KIHARA KARIUKI**

Justice (Rtd.) Paul Kihara Kariuki, the nominee for the position of Attorney General, gave oral submissions pursuant to the provisions of the Constitution of Kenya, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly.

The Committee posed several questions to the nominee on his knowledge of the suitability to hold the office of the Attorney General. The nominee responded as follows:-

- (a) His suitability to be the 7<sup>th</sup> Attorney General of the Republic of Kenya and his contribution towards the realization of the Economic Blue print under the Big 4 Agenda; Manufacturing, Universal Healthcare, Affordable Housing and Food Security.**

He began by making a personal statement on what motivates him. The nominee underscored the strong family values instilled in him from his childhood, noting that he is from a Christian background. He informed the Committee that in his 41 years of service in various capacities, including as a Judge of the High Court of Kenya and as the President of the Supreme Court of Kenya, he has consistently sought guidance from the Constitution of Kenya as the Supreme Law of the Country alongside other laws enacted by Parliament over the years.

He acknowledged that the intended socio-economic transformation is hinged on the implementation of the Constitution with particular mention of strengthening the public service and the devolved units of governance. He reiterated the need to have existing laws adequately enforced making reference to the pending corruption cases which he attributed to the uneasy working relationship between the Office of the Director of Public Prosecutor (DPP) and EACC. He highlighted the need to create an enabling environment by addressing gaps in legislation, encourage co-ordination and interdependence between the three arms of Government.

He undertook to offer sound legal advice to the Government as well addressing the existing challenges at the State Law Office such as of capacity, inadequate personnel training, professional development and lack of tools of work.



**(b) His Strategy of Ensuring that the three (3) arms of Government complement each other while maintaining the spirit of separation of powers**

The nominee informed the Committee that there is no such thing as absolute independence of an institution and that it would be incumbent on him to ensure that the three arms of Government would work interdependently while upholding the Constitution. He further informed the Committee that he would ensure that Parliament, Executive and the Judiciary will work in harmony to determine the suitability of the current laws in place and the effectiveness of them in realizing Vision 2030. The nominee, however, acknowledged that the continued debate and suspicion between the different arms of Government was unpleasant and unhealthy. He emphasized the need for everyone to obey court orders and that the Judiciary should be guided by the rule of law. He informed the Committee he would encourage dialogue between the three arms of government.

**(c) His comments on the current Petition against him alongside two (2) other judges as relates to his role in appointing a bench to handle the matter of the illegal appointment of Returning Officers by the Independent Electoral and Boundaries Commission**

The nominee informed the Committee that the Court of Appeal has branches in various parts of the country. He underscored that, at the time of constitution of the bench to handle the case, the Courts in Malindi and Nyeri were not in session given the unfavorable atmosphere in the country caused by the political unrest. As a result, the Judges at the respective Courts were in Nairobi. One member of the bench, was, however, not traceable and therefore it was incumbent on the nominee to find a replacement in order to allow for the bench to embark on the task ahead. He however, noted that he would not comment further on the issue as the matter was before the Judicial Service Commission whose verdict he would respect.

**(d) The nominee's thoughts on whether Members elected to form the Judicial Service Commission (JSC) should appear before Parliament for vetting before their appointment**

The nominee replied that Articles 248 and 250 (2) of the Constitution should be read together in order to appreciate that the mode of election of members of the Judicial Service Commission is a process in itself. He was of the view that the representatives of the Law Society of Kenya (LSK), the High Court and the Court of Appeal should all be subject to parliamentary approval.

**(e) How he will work with the Solicitor-General Granted that there is perceived an unharmonious working relationship between his predecessor, and the immediate former Solicitor-General**

The nominee maintained that he would be guided by the Constitution of Kenya and the rule of law, but declined to comment on the performance of his predecessor, Prof. Githu Muigai. On

possible mistrust and conflict of legal opinion between the Offices of the Attorney-General and Solicitor-General, the nominee argued that the two offices should discharge their different mandates in accordance with the Constitution and other supporting legislations. He undertook to consult and work together with the Solicitor General for enhanced service delivery.

**(f) Why the nominee was interested in the appointment as the 7<sup>th</sup> Attorney General of the Republic of Kenya yet his current position as the President of the Supreme Court of Kenya guaranteed him security of tenure**

The nominee affirmed to the Committee that he had deeply and consciously considered his appointment to the Office of the Attorney General and arrived at the realization that it was time for him to leave his comfort zone to provide leadership and make an indelible mark through his service to Kenya. He stated that he had endured pressure in the course of his career as a judicial officer and it was an opportunity for him to serve the Nation in a different capacity, while honouring a call to serve with honesty and integrity.

He challenged all persons holding public offices to view their positions as positions of privilege, responsibility and accountability and strive to fulfill the mandate of the position in accordance with the Constitution or give up the positions.

**(g) Safeguarding of Kenya's position in International and Local Courts, thus avoiding the huge losses by the Government as a result of losing numerous cases against it**

The nominee noted with concern that the country had in the past had to pay colossal figures as a result of losing court cases at the regional or international courts. In his response, and as a way of safeguarding the country's interests internationally, he committed to enhance the capacity of advocates at the State Law office by ensuring that the State Counsel representing the State in such cases received relevant training to enable them argue the cases before them favourably.

He, however, noted that there were problems with remuneration of officers serving at the AG's Office, a matter that had seen some State Counsel leave the AG Chambers for better terms of service. He committed to address the issue as a matter of priority.

Further, he noted with great concern that various Ministries and Government Agencies did not seek professional legal advice from the State Law office. A factor contributing to the huge penalties the Government has had to bear as a result of poorly argued cases. He noted that it was time for the Executive Arm of the Government to seek legal advice when faced with a matter and follow the legal advice rendered by the Office of the Attorney General to the letter.



**(h) Massive failures by law graduate candidates undertaking the Advocates Training Programme (ATP) and pre-bar exams at the Kenya School of Law**

The nominee informed the Committee that the concerns regarding massive exam failure at the Kenya School of Law (KSL) are not new. He however decried the blame game between the Council of Legal Education and the management of the Kenya School of Law. He suggested the need to review the policy on training of advocates, examine the quality of legal education at the universities and post-graduate levels.

**(i) His Views on the cause of a myriad of cases pending before the Advocates Complaints Commission**

The nominee acknowledged that over four thousand cases are pending before the Advocates Complaints Commission and that the Commission had failed to deliver on its mandate. He partly blamed this on the tendency to reward persons with public appointments without considering professionalism, competence and zeal. He also attributed the backlog to inadequate capacity of the Commission to deal with the numerous cases before it. He informed the Committee that the number of advocates had increased tremendously and thus the large number of complaints. As such, he proposed the need to address challenges associated with capacity and resources to enable the Commission to discharge its mandate. He called for the devolution of the structures of the Commission so as to ensure cases are dealt with from their areas of occurrence.

**(j) His Views on Sentencing Policy**

The nominee was of the view that this is work in progress and that the recommendations of a taskforce comprising various stakeholders are being implemented. He also encouraged dialogue to determine emerging trends likely to inform reviews on the sentencing policy. He reiterated on the need for dialogue to ensure sentences match progress and emerging trends.

**(k) His View in Addressing Misappropriation of Public Resources**

The nominee emphasized the need for relevant institutions applying and enforcing the laws and regulations unselectively.

**(l) Asset Recovery Agency and its failure to implement House Resolutions**

With regard to perceived or alleged failure by the Assets Recovery Agency to implement House Resolutions on assets acquired fraudulently through use of public resources, the nominee informed the Committee that he will find out where the problem is and undertook to address the matter accordingly.

MIN. NO.63/COA/2018:

ANY OTHER BUSINESS

**Report Writing Retreat of the Committee.**

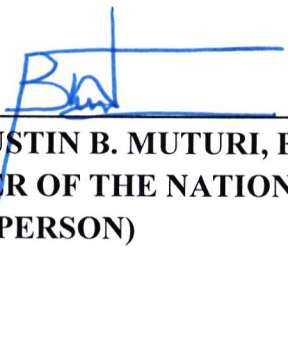
The Committee resolved to undertake a report writing retreat on Monday, 26<sup>th</sup> March, 2018 from 10.00a.m. within Nairobi City County.

MIN. NO.64/COA/2018:

ADJOURNMENT OF THE MEETING AND DATE  
OF THE NEXT MEETING

The meeting was adjourned at 1.10p.m. The next meeting was scheduled for Monday, 26<sup>th</sup> March, 2018 at 10.00 am.

SIGNED \_\_\_\_\_



**HON. JUSTIN B. MUTURI, EGH, M.P.  
SPEAKER OF THE NATIONAL ASSEMBLY  
(CHAIRPERSON)**

DATE: \_\_\_\_\_

26/3/18



**MINUTES OF THE SIXTEENTH (16<sup>TH</sup>) SITTING OF THE COMMITTEE ON APPOINTMENTS HELD ON THURSDAY, 22<sup>ND</sup> MARCH, 2018 IN THE MINI-CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS AT 9.30 AM**

---

**PRESENT**

1. Hon. Justin B. Muturi, EGH, MP - Speaker of National Assembly (Chairperson)
2. Hon. Moses Cheboi, CBS, MP - Deputy Speaker
3. Hon. Aden Duale, EGH, MP - Leader of the Majority Party
4. Hon. John Mbadi, CBS, MP - Leader of the Minority Party
5. Hon. Benjamin J. Washiali, CBS, MP
6. Hon. (Dr.) Eseli Simiyu, MP
7. Hon. Yusuf Hassan Abdi, MP
8. Hon. David Gikaria, MP
9. Hon. Kimani Ichung'wah, MP
10. Hon. Sabina W. Chege, MP
11. Hon. Peter Kaluma, MP
12. Hon. Joyce Emanikor, MP
13. Hon. William Kamuren Chepkut, MP
14. Hon. Lydia Haika Mizighi, MP
15. Hon. Lilian Cheptoo Tomitom, MP
16. Hon. David Ole Sankok, MP
17. Hon. Getrude Mbeyu, MP
18. Hon. Oku Kaunya, MP

**APOLOGY**

1. Hon. Jimmy Angwenyi, CBS, MP - Deputy Leader of the Majority Party
2. Hon. Robert Mbui, MP - Deputy Leader of the Minority Party
3. Hon. Tom Joseph Kajwang, MP
4. Hon. Cecily Mbarire, MGH, MP
5. Hon. David Losiakou Pkosing, CBS, MP
6. Hon. Dr. Rachael Nyamai, MP
7. Hon. Esther Passaris, MP
8. Hon. Khatib Abdallah Mwashetani, MP
9. Hon. Joshua Kimilu, MP
10. Hon. Sarah Korere, MP

**IN ATTENDANCE**

1. Mr. Jeremiah Ndombi
2. Mr. John Mutega
3. Mr. Denis Abisai
4. Ms. Sande Merale
5. Ms. Chelagat Tungo

**NATIONAL ASSEMBLY**

- Senior Deputy Clerk
- Principal Clerk Assistant I
- Principal Legal Counsel I
- Senior Research Officer
- Clerk Assistant II

- |                             |                         |
|-----------------------------|-------------------------|
| 6. Ms. Emma Essendi         | - Legal Counsel II      |
| 7. Mr. Jimale Mohammed      | - Clerk Assistant III   |
| 8. Ms. Christine Ndiritu    | - Clerk Assistant III   |
| 9. Ms. Farida Ngasura       | - Head, Audio Recording |
| 10. Mr. Wilson Angatangoria | - Serjeant- at- Arms    |

**MIN. NO. 58/COA/2018:**

**PRELIMINARIES**

The meeting was called to order by the Chairman at 9.30a.m. Opening prayers were said by the Hon. John Mbandi, MP. The Chairman welcomed the members present.

**MIN. NO.59/COA/2018:**

**VETTING OF JUSTICE (RTD.) PAUL KIHARA KARIUKI**

Justice (Rtd.) Paul Kihara Kariuki, the nominee for the position of Attorney General appeared before the Committee. He gave oral submissions pursuant to the provisions of the Constitution of Kenya, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly. He presented to the Committee his Curriculum Vitae and Testimonials.

Upon perusal of these documents, the Committee observed that:

- (a) he is a Kenyan, male citizen, Identity Card Number 3430470, born on 11th May, 1954 in Kiambu County;
- (b) he has a Bachelor of Laws (LLB) degree from the University of Nairobi and holds a Postgraduate Diploma in Law from Kenya School of Law;
- (c) immediately prior to his nomination, he served as the President of the Court of Appeal since 2013 to date;
- (d) he has also served as a Judge of the Court of Appeal since 2012 where he has held other strategic positions like the Chairperson of the Judicial Tender Committee (2006- 2008) and the Vice-Chairperson of the Ethics and Governance Subcommittee of the Judiciary (2005-2006);
- (e) in 2009, he was appointed as the Principal / Director of the Judicial Training Institute for five years until 2013;
- (f) between 2003 and 2011, he served as a Judge of the High Court of Kenya;
- (g) between May 2003 and October 2003, he held the position of the Principal at the Kenya School of Law;
- (h) between 2001 and 2003, he was the Managing Director, International Controls Ltd;
- (i) between 1986 and 2000, he was a partner at Messrs Ndungu Njoroge & Kwach Advocates;
- (j) between 1981 to 1986, he served as a Partner at Messrs Hamilton Harrison & Mathews Advocates;
- (k) he has been awarded with the Chief of the Burning Spear (CBS);
- (l) he is a member of the Law Society of Kenya, Commonwealth Lawyers Association, Lawyers' International Services Agency, USA and the International Bar Association.
- (m) between 1980 and 2002, he was a Chancellor (Honourary Legal Adviser) for the Anglican Church of Kenya (ACK);



- (n) he has published and delivered numerous speeches, reports, presentations, lectures, papers both locally and internationally including speeches at the Ugandan Judges Annual Conference and St. Paul's University annual graduation ceremony;
- (o) he had indicated that he has no associations that are likely to present potential conflict of interest when he assumes the position; and,
- (p) his financial net worth is one hundred and sixty six million shillings (Kshs. 166 million).

The Committee also observed that:-

- (a) the nominee was a beneficiary of the HELB Loans Scheme which he fully paid and cleared under certificate number 26322.
- (b) the nominee was tax compliant; and,
- (c) there were no outstanding issues or ongoing investigations against the nominee from the Ethics and Anti-Corruption Commission or the Directorate of Criminal Investigations.

The Chairman asked the nominee for the position of Attorney-General, Justice (Rtd.) Paul Kihara Kariuki to appear before them. Introductions ensued.

**MIN. NO.60/COA/2018:**

**ADJOURNMENT OF THE MEETING**

The meeting was adjourned at 9.55am to reconvene at 10.00am.

SIGNED \_\_\_\_\_

  
**HON. JUSTIN B. MUTURI, EGH, M.P.**  
**SPEAKER OF THE NATIONAL ASSEMBLY**  
**(CHAIRPERSON)**

DATE: \_\_\_\_\_

26/3/18

**MINUTES OF THE FIFTEENTH (15<sup>TH</sup>) SITTING OF THE COMMITTEE ON APPOINTMENTS HELD ON WEDNESDAY, 21<sup>ST</sup> MARCH, 2018, IN COMMITTEE ROOM NO. 9, MAIN PARLIAMENT BUILDINGS, AT 5.00 P.M**

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**MEMBERS PRESENT**

1. Hon. Justin B. Muturi, EGH, MP - Speaker of National Assembly (Chairperson)
2. Hon. Moses Cheboi, CBS, MP - Deputy Speaker
3. Hon. Aden Duale, EGH, MP - Leader of the Majority Party
4. Hon. John Mbadi, CBS, MP - Leader of the Minority Party
5. Hon. Robert Mbui, MP - Deputy Leader of the Minority Party
6. Hon. Benjamin Jomo Washiali, CBS, MP
7. Hon. (Dr.) Eseli Simiyu, MP
8. Hon. Yusuf Hassan Abdi, MP
9. Hon. David Gikaria, MP
10. Hon. Kimani Ichung'wah, MP
11. Hon. Sabina Chege, MP
12. Hon. Peter Kaluma, MP
13. Hon. Joyce Emanikor, MP
14. Hon. William Kamuren Chepkut, MP
15. Hon. Lydia Haika Mizighi, MP
16. Hon. Lilian Cheptoo Tomitom, MP
17. Hon. David Ole Sankok, MP
18. Hon. Getrude Mbeyu, MP
19. Hon. Oku Kaunya, MP

**ABSENT WITH APOLOGY**

1. Hon. Jimmy Angwenyi, CBS, MP - Deputy Leader of the Majority Party
2. Hon. Tom Joseph Kajwang, MP
3. Hon. Cecily Mbarire, MGH, MP
4. Hon. David Losiakou Pkosing, CBS, MP
5. Hon. (Dr.) Rachael Nyamai, MP
6. Hon. Esther Passaris, MP
7. Hon. Khatib Abdallah Mwashetani, MP
8. Hon. Joshua Kimilu, MP
9. Hon. Sarah Korere, MP

**IN-ATTENDANCE**

1. Mr. Jeremiah Ndombi
2. Mr. John Mutega
3. Mr. Denis Abisai
4. Ms. Chelagat Tungo
5. Ms. Sande Merale
6. Ms. Emma Essendi
7. Mr. Jimale Mohammed

**NATIONAL ASSEMBLY**

- Senior Deputy Clerk
- Principal Clerk Assistant I
- Principal Legal Counsel I
- Clerk Assistant II
- Senior Research Officer
- Legal Counsel II
- Clerk Assistant III



8. Ms. Ruth Mwhaki - Clerk Assistant III  
9. Mr. Jumanne Shangarai - Senior Sergeant-At-Arms

**MIN.NO./054/COA/2018:**                      **PRELIMINARIES**

The Chairman called the meeting to order at 5.05p.m. Prayers were said by the Hon. Hon. Lilian Tomitom, MP.

The Committee was informed of the receipt of the nomination from H.E the President on 12<sup>th</sup> March, 2018 and subsequently committed to the Committee on Appointments which is mandated to vet and consider the suitability of the nominee for appointment and submit its report to the House for approval.

The Chairperson advised that the vetting process should be as open and transparent as possible, while ensuring the integrity of the process.

The Committee was further informed that the rules of procedure provided in the Standing Orders of the House will apply to the proceedings of the Committee.

**MIN. NO. 55/COA/2018:**                      **REMARKS BY THE SENIOR DEPUTY CLERK OF THE NATIONAL ASSEMBLY**

The Senior Deputy Clerk briefed the Committee on the following: -

- (a) The Committee was constituted by the House on Thursday, 14th December, 2017 pursuant to the provisions of Standing Order 204;
- (b) The Committee draws its mandate from Standing Order 204(4);
- (c) Through a letter dated 12<sup>th</sup> March, 2018, H.E. the President conveyed to the Speaker of the National Assembly the nominee for the position of Attorney-General;
- (d) The Committee had fourteen (14) days within which to complete the entire exercise;
- (e) The Committee secretariat had so far invited memoranda from the public, analyzed the nominee's curriculum vitae and invited the nominee for the approval hearing;
- (f) The press advertisement for invitation of public memoranda had been prepared and published in the daily newspapers on Wednesday, 14<sup>th</sup> March, 2018;
- (g) The period for the submission of Memoranda/representations on the suitability or otherwise of the nominees is seven (7) days from the date of the advertisement; and,
- (h) the Committee will undertake the vetting on Thursday 22<sup>nd</sup> March, 2018 at 10.00a.m. at the Mini-Chamber, County Hall.

**MIN. NO.56/COA/2018:**                      **VETTING OF THE NOMINEE**

The Committee noted that:

- (a) the vetting would be undertaken on Thursday, 22<sup>nd</sup> March 2018 and would start at 10.00 a.m.
- (b) The public and the nominee had been notified of the time and venue through press advertisement on Wednesday, 14<sup>th</sup> March, 2018;

- (c) There was need to develop questions focusing on the nominee's competence, leadership, strengths and weaknesses. In developing the questions, the secretariat should be guided by the criteria set out in the schedule attached to the Public Appointments (Parliamentary Approval) Act, 2011;
- (d) The approval hearing was estimated to take approximately two hours; and
- (e) Members were requested to observe punctuality for the meeting.

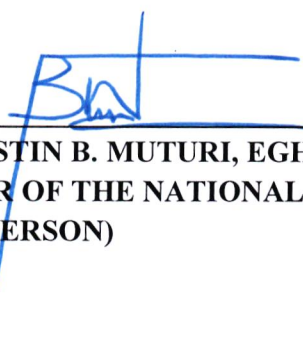
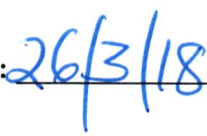
**Way-forward**

The Committee resolved that:

- (a) A briefing of the Committee will be held on Thursday, 22<sup>nd</sup> March, 2018 at 9.30 a.m. before vetting process commences;
- (b) The report of the Committee on vetting of the nominee will be considered within Nairobi City County on Monday, 26<sup>th</sup> March, 2018 from 10.00 a.m. The secretariat was instructed to make the necessary arrangements to facilitate the exercise.

**MIN. NO.57/COA/2018: ADJOURNMENT AND DATE OF THE NEXT MEETING**

The meeting was adjourned at 6.20p.m. The Committee resolved to re-convene on Thursday, 22<sup>nd</sup> March 2018 at 9.30 a.m. in the Mini-Chamber, County Hall.

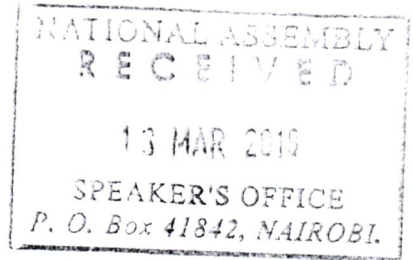
SIGNED  DATE: 

**HON. JUSTIN B. MUTURI, EGH, M.P.  
SPEAKER OF THE NATIONAL ASSEMBLY  
(CHAIRPERSON)**



# **Annexure I**

**Letter on Notification from the  
Appointing Authority (His Excellency  
the President)**



CNA 2/3/18  
THE PRESIDENCY

EXECUTIVE OFFICE OF THE PRESIDENT  
HEAD OF THE PUBLIC SERVICE

Telegraphic Address  
Telephone: +254-20-2227436  
When replying please quote

STATE HOUSE  
P.O. Box 40530-00100  
Nairobi, Kenya

Ref. No. **OP/CAB.1/40A**  
and date

**12<sup>th</sup> March, 2018**

**Hon. Justin B. Muturi, EGH**  
Speaker  
The National Assembly  
Parliament Building,  
Parliament Road  
**NAIROBI**

Noted. CNA to process the communication.  
SWA  
13/3/18

Dear *Hon Muturi*

**RE: PARLIAMENTARY APPROVAL FOR THE NOMINEE FOR THE POSITION OF ATTORNEY-GENERAL**

We refer to the above subject matter.

In full discharge of the Constitutional and statutory requirements, I humbly convey to the National Assembly His Excellency the President's nominee for the position of Attorney-General.

The nominations and transmittal to the National Assembly are made pursuant to Article 156(2) of the Constitution as read together with Sections 3 and 5 of the Parliamentary Appointments (Parliamentary Approval) Act [Act No. 33 of 2011].

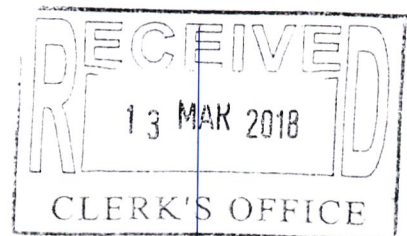
The particulars of the nomination are summarized hereinafter as follows:

STATE OFFICE	ENABLING LAW	NOMINEE
Attorney-General	Art. 156 (2) of the Constitution	Justice (Rtd.) Paul Kihara Kariuki

Enclosed herewith is the Nominee's Curriculum Vitae and Testimonials, to aid the House in the approval process.

Yours *Sincerely*  
*JK*

**JOSEPH K. KINYUA, EGH**  
**HEAD OF THE PUBLIC SERVICE**





**Copy to:** **Mr. Michael Sialai, CBS**  
Clerk of the National Assembly  
The National Assembly  
Parliament Building,  
Parliament Road  
**NAIROBI**

## **Annexure 2**

# **Advertisement inviting Submissions of Memorandum from the Public**



REPUBLIC OF KENYA



## NATIONAL ASSEMBLY TWELFTH PARLIAMENT - SECOND SESSION

In the Matter of Approval by the National Assembly of the person nominated for appointment to the position of Attorney-General

### NOTIFICATION FOR VETTING BY THE COMMITTEE ON APPOINTMENTS FOR A PERSON NOMINATED FOR APPOINTMENT TO THE POSITION OF ATTORNEY-GENERAL

Pursuant to the provisions of Article 156(2) of the Constitution of Kenya as read together with Sections 3 and 5 of the Parliamentary Appointments (Parliamentary Approval) Act, 2011, His Excellency the President has nominated **Justice (Rtd.) Paul Kihara Kariuki** for approval for appointment to the position of **Attorney-General**.

Pursuant to provisions of Article 118 of the Constitution of Kenya and Section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011, the general public is hereby notified that the **Committee on Appointments** shall conduct the vetting of the said nominee on **Thursday, 22<sup>nd</sup> March, 2018 at 10.00 a.m. in the Mini Chamber on 1<sup>st</sup> Floor, County Hall, Parliament Buildings**.

The nominee should appear before the Committee with originals of his identity card, academic and professional certificates, clearance/compliance certificates from:-

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

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

REPUBLIC OF KENYA



## NATIONAL ASSEMBLY TWELFTH PARLIAMENT - SECOND SESSION

In the Matter of Approval by the National Assembly of the person nominated for appointment to the position of Attorney-General

### SUBMISSION OF MEMORANDA

Pursuant to the provisions of Article 156(2) of the Constitution of Kenya as read together with Sections 3 and 5 of the Parliamentary Appointments (Parliamentary Approval) Act, 2011, His Excellency the President has nominated **Justice (Rtd.) Paul Kihara Kariuki** for approval for appointment to the position of the **Attorney-General**.

Following the receipt of the nomination, the **Committee on Appointments** is mandated to vet and consider the suitability of the said nominee for appointment as the **Attorney-General**.

Pursuant to Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the Committee on Appointments 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 nominee for appointment to the position of **Attorney-General**. 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 **Wednesday 21<sup>st</sup> March, 2018 at 5.00pm**.

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

ANNEXURE 2

## **Annexure 3**

# **Advertisement notifying the Public of the Approval Hearing**



REPUBLIC OF KENYA



**NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT - SECOND SESSION**

In the Matter of Approval by the National Assembly of the person nominated for appointment to the position of Attorney-General

**NOTIFICATION FOR VETTING BY THE COMMITTEE ON APPOINTMENTS FOR A PERSON NOMINATED FOR APPOINTMENT TO THE POSITION OF ATTORNEY-GENERAL**

Pursuant to the provisions of Article 156(2) of the Constitution of Kenya as read together with Sections 3 and 5 of the Parliamentary Appointments (Parliamentary Approval) Act, 2011, His Excellency the President has nominated **Justice (Rtd.) Paul Kihara Kariuki** for approval for appointment to the position of **Attorney-General**.

Pursuant to provisions of Article 118 of the Constitution of Kenya and Section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011, the general public is hereby notified that the **Committee on Appointments** shall conduct the vetting of the said nominee on **Thursday, 22<sup>nd</sup> March, 2018 at 10.00 a.m. in the Mini Chamber on 1<sup>st</sup> Floor, County Hall, Parliament Buildings.**

The nominee should appear before the Committee with originals of his identity card, academic and professional certificates, clearance/compliance certificates from:-

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

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

REPUBLIC OF KENYA



**NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT - SECOND SESSION**

In the Matter of Approval by the National Assembly of the person nominated for appointment to the position of Attorney-General

**SUBMISSION OF MEMORANDA**

Pursuant to the provisions of Article 156(2) of the Constitution of Kenya as read together with Sections 3 and 5 of the Parliamentary Appointments (Parliamentary Approval) Act, 2011, His Excellency the President has nominated **Justice (Rtd.) Paul Kihara Kariuki** for approval for appointment to the position of the **Attorney-General**.

Following the receipt of the nomination, the **Committee on Appointments** is mandated to vet and consider the suitability of the said nominee for appointment as the **Attorney-General**.

Pursuant to Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the Committee on Appointments 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 nominee for appointment to the position of **Attorney-General**. 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 Wednesday 21<sup>st</sup> March, 2018 at 5:00pm**.

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

ANNEXURE 3

## **Annexure 4**

# **Invitation Letter from the Clerk of the National Assembly to the Nominee for Approval Hearing**



## REPUBLIC OF KENYA

Telegraphic Address  
'Bunge', Nairobi  
Telephone 2221291/2848000  
Fax: 2243694  
E-mail: clerk@parliament.go.ke



CLERK'S CHAMBERS  
National Assembly  
Parliament Buildings  
P O Box 41842-00100  
NAIROBI, Kenya

## THE NATIONAL ASSEMBLY

*When replying. Please quote*  
NA/DCS/CoA/CORR/2018/019

14<sup>th</sup> March, 2018

Justice (Rtd.) Paul Kihara Kariuki  
P.O. Box 55687, 00100 City Square,  
E-Mail: [kiharakariuki@kenyalaw.org](mailto:kiharakariuki@kenyalaw.org)  
**NAIROBI**

Dear Justice Kariuki:

**RE: INVITATION FOR VETTING BY THE COMMITTEE ON APPOINTMENTS**

Having been nominated by H.E. the President for the position of **Attorney General**, the Committee on Appointments of the National Assembly, pursuant to Article 152(2) of the Constitution and Section 6(3) of the Public Appointments (Parliamentary Approval) Act, 2011, invites you for vetting at the Mini Chamber, County Hall, on **Thursday, 22<sup>nd</sup> March, 2018 at 10.00 a.m.**

Kindly fill the attached Questionnaire as required under the Public Appointments (Parliamentary Approval) Act, 2011 and return it to the undersigned on or before **Monday 19<sup>th</sup> March, 2018** together with the following documents: -

1. Certificate of Good Conduct;
2. Kenya Revenue Authority Tax compliance Certificate; and
3. Certificate from the Higher Education Loans Board.

You are also required to bring with you originals and certified copies of your identity card, academic and professional certificates and any other supporting documents and testimonials.

Yours

A handwritten signature in black ink, appearing to be 'J. Ndombi'.

**JEREMIAH NDOMBI**  
**FOR: CLERK OF THE NATIONAL ASSEMBLY**

## **Annexure 5**

**Letter from the Clerk of the National  
Assembly to the various Government  
Agencies requesting for reports on the  
Nominee**



## REPUBLIC OF KENYA



## THE NATIONAL ASSEMBLY

Telegraphic Address  
'Bunge', Nairobi  
Telephone 2221291/2848000  
Fax: 2243694  
E-mail: clerk@parliament.go.ke

CLERK'S CHAMBERS  
National Assembly  
Parliament Buildings  
P O Box 41842 00100  
NAIROBI, Kenya

When replying, Please quote  
NA/DCS/CoA/CORR/2018/018

14<sup>th</sup> March, 2018

**Charles M Ringera**  
Chief Executive  
Higher Education Loans Board  
Anniversary Towers, 18<sup>th</sup> Floor,  
University Way  
P.O. Box 69489-00100  
**NAIROBI**

Dear *M. Ringera*

**RE: VETTING OF JUSTICE (RTD.) PAUL KIHARA KARIUKI TO THE POSITION OF ATTORNEY GENERAL BY THE COMMITTEE ON APPOINTMENTS**

The Committee on Appointments was established pursuant to the Provisions of Standing Order 204. It is mandated to consider, for approval by the House, appointments of nominees under Articles 152(2) of the Constitution.

The Committee will be conducting vetting of **Justice (Rtd.) Paul Kihara Kariuki** on **Thursday 22<sup>nd</sup> March, 2018**, at 10.00 a.m. in the Mini Chamber on 1<sup>st</sup> Floor, County Hall, Parliament Buildings.

This is to request you to provide a report on re-payments of any loans that may have been advanced by the Commission to the nominee. Such information will assist the Committee undertake its mandate more effectively.

We will appreciate if the information is received on or before **Wednesday, 21<sup>st</sup> March, 2018**.

Yours

A handwritten signature in black ink, appearing to be 'J. Ndombi'.

**JEREMIAH NDOMBI**  
**FOR: CLERK OF THE NATIONAL ASSEMBLY**

REPUBLIC OF KENYA

Telegraphic Address  
'Bunge', Nairobi  
Telephone 2221291/2848000  
Fax: 2243694  
E-mail: clerk@parliament.go.ke



CLERK'S CHAMBERS  
National Assembly  
Parliament Buildings  
P O Box 41842-00100  
NAIROBI, Kenya

THE NATIONAL ASSEMBLY

When replying, Please quote  
NA/DCS/CoA/CORR/2018/016

14<sup>th</sup> March, 2018

**Mr. John Njiraini, MBS**  
Commissioner General, Kenya Revenue Authority  
Times Tower, 30<sup>th</sup> Floor,  
Haile Sellasie Avenue,  
P. O. Box 48240 -00100 GPO  
**NAIROBI.**

Dear *M. Njiraini*

**RE: VETTING OF JUSTICE (RTD.) PAUL KIHARA KARIUKI TO THE POSITION OF ATTORNEY GENERAL BY THE COMMITTEE ON APPOINTMENTS**

The Committee on Appointments was established pursuant to the Provisions of Standing Order 204. It is mandated to consider, for approval by the House, appointments of nominees under Articles 152(2) of the Constitution.

The Committee will be conducting vetting of **Justice (Rtd.) Paul Kihara Kariuki** on **Thursday 22<sup>nd</sup> March, 2018**, at 10.00 a.m. in the Mini Chamber on 1<sup>st</sup> Floor, County Hall, Parliament Buildings.

This is to request you to provide a report on tax compliance by the nominee. Such information will assist the Committee undertake its mandate more effectively.

We will appreciate if the information is received on or before **Wednesday, 21<sup>st</sup> March, 2018.**

Yours

**JEREMIAH NDOMBI**  
**FOR: CLERK OF THE NATIONAL ASSEMBLY**



## REPUBLIC OF KENYA



Telegraphic Address  
 'Bunge', Nairobi  
 Telephone 2221291/2848000  
 Fax: 2243694  
 E-mail: clerk@parliament.go.ke

CLERK'S CHAMBERS  
 National Assembly  
 Parliament Buildings  
 P O Box 41842-00100  
 NAIROBI, Kenya

## THE NATIONAL ASSEMBLY

*When replying. Please quote*  
**NA/DCS/CoA/CORR/2018/015**

14<sup>th</sup> March, 2018

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

Dear Mr Waqo

**RE: VETTING OF JUSTICE (RTD.) PAUL KIHARA KARIUKI TO THE POSITION OF ATTORNEY GENERAL BY THE COMMITTEE ON APPOINTMENTS**

The Committee on Appointments was established pursuant to the Provisions of Standing Order 204. It is mandated to consider, for approval by the House, appointments of nominees under Articles 152(2) of the Constitution.

The Committee will be conducting vetting of **Justice (Rtd.) Paul Kihara Kariuki** on **Thursday 22<sup>nd</sup> March, 2018**, at 10.00 a.m. in the Mini Chamber on 1<sup>st</sup> Floor, County Hall, Parliament Buildings.

Pursuant to section 6(7) of the Public Appointments (Parliamentary Approvals) Act, the Committee is required to consider, among other issues, the personal integrity and background of the nominee in terms of compliance with the principles of leadership and integrity as set out in Chapter six of the Constitution.

As the Constitutional body mandated to oversee the implementation of the provisions of chapter six of the Constitution, this is to request you to provide any **adverse** information touching on the integrity of the nominee that may be in possession of the Commission. Such information will assist the Committee undertake its mandate more effectively.

We will appreciate if the information is received on or before **Wednesday, 21<sup>st</sup> March 2018**.

Yours

A handwritten signature in black ink, consisting of a stylized, circular shape with a horizontal line extending to the right.

**JEREMIAH NDOMBI**  
**FOR: CLERK OF THE NATIONAL ASSEMBLY**



## REPUBLIC OF KENYA

Telegraphic Address  
'Bunge', Nairobi  
Telephone 2221291/2848000  
Fax: 2243694  
E-mail: clerk@parliament.go.ke



CLERK'S CHAMBERS  
National Assembly  
Parliament Buildings  
P O Box 41842-00100  
NAIROBI, Kenya

## THE NATIONAL ASSEMBLY

*When replying, Please quote*  
NA/DCS/CoA/CORR/2018/017

14<sup>th</sup> March, 2018

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

Dear *George Kinoti*:

**RE: VETTING OF JUSTICE (RTD.) PAUL KIHARA KARIUKI TO THE POSITION OF ATTORNEY GENERAL BY THE COMMITTEE ON APPOINTMENTS**

The Committee on Appointments was established pursuant to the Provisions of Standing Order 204. It is mandated to consider, for approval by the House, appointments of nominees under Articles 152(2) of the Constitution.

The Committee will be conducting vetting of **Justice (Rtd.) Paul Kihara Kariuki** on **Thursday 22<sup>nd</sup> March, 2018**, at 10.00 a.m. in the Mini Chamber on 1<sup>st</sup> Floor, County Hall, Parliament Buildings.

This is to request you to provide the Committee with information on whether the nominee has been adversely mentioned in any active investigation(s) carried out by the DCI in the course of discharging its mandate. Such information will assist the Committee undertake its mandate more effectively.

We will appreciate if the information is received on or before **Wednesday, 21<sup>st</sup> March, 2018**.

Yours

A handwritten signature in black ink, appearing to be 'J. Ndombi'.

**JEREMIAH NDOMBI**  
**FOR: CLERK OF THE NATIONAL ASSEMBLY**

## **Annexure 6**

# **Higher Education Loans Board Letter (HELB) Clearance Letter**



ANNEXURE 6  
MS Tongo  
Also placed in file  
2/10/18

## HIGHER EDUCATION LOANS BOARD

Tel: 0711052000  
E-mail: contactcentre@helb.co.ke  
Website: www.helb.co.ke

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

HELB/RR/112009/V/72

20<sup>th</sup> March, 2018

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

Dear Michael,

### **VETTING OF JUSTICE (RTD.) PAUL KIHARA KARIUKI TO THE POSITION OF ATTORNEY GENERAL BY THE COMMITTEE ON APPOINTMENTS**

We acknowledge with thanks the receipt of your letter dated 14<sup>th</sup> March 2018 regarding the vetting of Justice (RTD.) Paul Kihara Kariuki for appointment to the position of Attorney General by the Committee on Appointments.

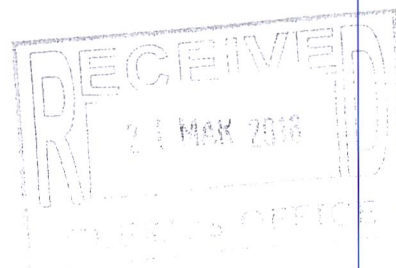
The Higher Education Loans Board wishes to inform you that **Justice (RTD.) Paul Kihara Kariuki (ID No. 3430470; Pin No. AC00124808A)** was a beneficiary of the GOK/HELB Loans Scheme and fully repaid his loan on April 1999 and was issued with Certificate Number 26322.

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,

**GEOFFREY MONARI**  
**CHIEF OPERATIONS OFFICER**  
**FOR: CHIEF EXECUTIVE OFFICER & BOARD SECRETARY**







## LOAN STATEMENT

Reference/IDNO: 3430470 Account No: 10183829  
 Names: PAUL KARIUKI KIHARA Loan: 20,400.00  
 Category: UG Interest Rate: 2.00  
 Last Pay Point: NDUNGU NJOROGI & KWACH ADVOCATES Accruals: 9,863.30

Month	Starting Bal.	Charges	Interest	Repayment	Balance
May-1997	30,263.30	0.00	0.00	1,295.00	28,968.30
Jun-1997	0.00	0.00	45.80	1,295.00	27,721.10
Jul-1997	0.00	0.00	43.70	1,295.00	26,471.90
Aug-1997	0.00	0.00	41.70	1,295.00	25,220.60
Sep-1997	0.00	0.00	39.60	1,295.00	23,967.30
Oct-1997	0.00	0.00	37.50	1,295.00	22,711.90
Nov-1997	0.00	0.00	35.40	1,295.00	21,454.40
Dec-1997	0.00	0.00	33.40	1,295.00	20,194.80
Jan-1998	0.00	0.00	31.30	1,295.00	18,933.20
Feb-1998	0.00	0.00	29.20	1,295.00	17,669.50
Mar-1998	0.00	0.00	27.10	1,295.00	16,403.70
Apr-1998	0.00	0.00	25.00	1,295.00	15,135.80
May-1998	0.00	0.00	22.90	1,295.00	13,865.80
Jun-1998	0.00	0.00	20.80	1,295.00	12,593.70
Jul-1998	0.00	0.00	18.70	1,295.00	11,319.50
Aug-1998	0.00	0.00	16.60	1,295.00	10,043.20
Sep-1998	0.00	0.00	14.50	1,295.00	8,764.80
Oct-1998	0.00	0.00	12.40	1,295.00	7,484.30
Nov-1998	0.00	0.00	10.20	1,295.00	6,201.70
Dec-1998	0.00	0.00	8.10	1,295.00	4,916.90
Jan-1999	0.00	0.00	6.00	1,295.00	3,630.00
Feb-1999	0.00	0.00	3.90	1,295.00	2,341.00
Mar-1999	0.00	0.00	1.70	1,295.00	1,049.90
Apr-1999	0.00	0.00	0.00	1,295.00	-243.40
May-2015	0.00	243.40	0.00	0.00	0.00

HIGHER EDUCATION LOANS BOARD  
 P.O. BOX 69489 - 00400,  
 NAIROBI

# **Annexure 7**

**Kenya Revenue Authority (KRA)**

**Clearance Letter**



**KENYA REVENUE  
AUTHORITY**

**Our Ref: CDT/HO/81**

*(1) D/Committees  
20/3/18*

**Your Ref: NA/DCS/CoA/CORR/2018/016**

*(2) Ms. Tungo, CA  
Be note and bring to  
the attention of the  
Committee*

19<sup>th</sup> March 2018

**The Clerk of the National Assembly  
Clerk's Chambers  
P. O. Box 41842-00100  
NAIROBI**



*Mutega  
20/3/18*

*Attn: Jeremiah Ndombi*

Dear Sir,

**VETTING OF JUSTICE (RTD.) PAUL KIHARA KARIUKI TO THE POSITION  
OF ATTORNEY GENERAL BY THE COMMITTEE ON APPOINTMENTS**

We refer to your letter dated 19<sup>th</sup> March 2018 in reference to the subject matter herein.

The tax compliance status of the nominee is as follows:-

**Name: Paul Kihara Kariuki  
PIN: A00124808A  
Tax Status: Compliant**

Yours faithfully,

**E. Meyo (Mrs)  
For: Commissioner of Domestic Taxes**

*Tulipe Ushuru Tujitegemee!*





## **Annexure 8**

# **Ethics and Anti-Corruption Commission (EACC) Clearance Letter**



ANNEXURE 8  
Mj Tongo  
Pise P...  
J...  
21/09

## 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 883881/2/3  
Fax: 254 (020) 2717473 Email: [eacc@integrity.go.ke](mailto:eacc@integrity.go.ke) Website: [www.eacc.go.ke](http://www.eacc.go.ke)

When replying please quote:

Our Ref: EACC.7/10/5 VOL.V (204)

21<sup>st</sup> March 2018

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

URGENT

Dear Sir

**RE: VETTING OF JUSTICE (RTD.) PAUL KIHARA KARIUKI TO THE POSITION OF ATTORNEY GENERAL BY THE COMMITTEE ON APPOINTMENTS**

Your letter referenced NA/DCS/CoA/CORR/2018/015 dated 14<sup>th</sup> March, 2018 on the above subject matter, refers.

We wish to confirm that we have not undertaken any investigations where **Justice (Rtd.) Paul Kihara Kariuki** has been found culpable.

The information provided is based on records available as at 21<sup>st</sup> March 2018.

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

Yours faithfully

**ABDI A. MOHAMUD, MBS**  
**DIRECTOR, INVESTIGATION**  
**FOR: SECRETARY/CHIEF EXECUTIVE OFFICER**

LCK/tmm

# **Annexure 9**

**Director of Criminal Investigations**

**(DCI) Clearance Letter**



*P.D. Mutesa*  
*29/3/18*

# NATIONAL POLICE SERVICE

Telegrams: "IDENT CRIMINAL" Nairobi  
Telephone: 020-8512089/98  
Fax: 020-2606149  
E-mail: [identsnbi@gmail.com](mailto:identsnbi@gmail.com)  
When replying please quote ref No. and date



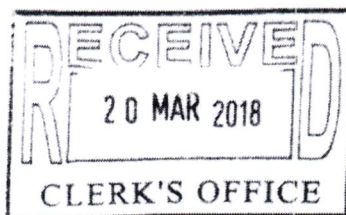
CRIMINAL RECORDS OFFICE.  
P.O. Box 30460 - 00100 GPO,  
NAIROBI

## DIRECTORATE OF CRIMINAL INVESTIGATIONS

DCI/CRO/SEC/6/7/2/A/VOL.VI/40

19 MARCH, 2018

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



*Ms. Tunyo, CA*  
*Pls bring to the*  
*attention of the*  
*Committee*  
*Muteya*  
*20/3/18*

**Attn:** Jeremiah Ndombi

**SUBJECT: VETTING OF JUSTICE (RTD) PAUL KIHARA KARIUKI TO THE POSITION OF ATTORNEY GENERAL BY THE COMMITTEE ON APPOINTMENTS**

Your correspondence Ref. No. NA/DCS/CoA/CORRR/2018/017 dated 14<sup>th</sup> March, 2018 refers.

This office confirms that the below mentioned applied for Police Clearance Certificate and was **genuinely** issued with a certificate by this office today 19<sup>th</sup> March, 2018.

S/NO.	NAME	IDENTITY NO.
1.	PAUL KIHARA KARIUKI	3430470

Kind regards.

P. NDUNDA

**FOR: DIRECTOR OF CRIMINAL INVESTIGATIONS**

**Copy to: DCI**

**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.**



NATIONAL POLICE SERVICE

C. 24A



DIRECTORATE OF CRIMINAL INVESTIGATIONS

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

Ref. No. PCC-AAADZDL2

Date. 19 March 2018

**POLICE CLEARANCE CERTIFICATE**

I hereby certify that the fingerprints recorded from

**PAUL KIHARA KARIUKI**

holder of ID No. **3430470** 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: NIL**

**DATE: NIL**

*This Certificate has been issued without any alteration or any erasure*

(P.M. Ndunda)

For: Director, Directorate of Criminal Investigations  
(P.T.O)

**NOTE:** This is a computer generated certificate, to verify the authenticity of this document, send DCI to 21546

**REMARKS**

1.

Offence(s):

Result of Trial:

Date:

2.

Offence(s):

Result of Trial:

Date:

3.

Offence(s):

Result of Trial:

Date:

4.

Offence(s):

Result of Trial:

Date:

5.

Offence(s):

Result of Trial:

Date:

6.

Offence(s):

Result of Trial:

Date: