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THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT- SECOND SESSION



FIRST REPORT
OF THE
COMMITTEE ON APPOINTMENTS

ON THE VETTING OF NINE CABINET SECRETARY NOMINEES
FOR APPOINTMENT TO POSITION OF CABINET SECRETARY

VOLUME I

DIRECTORATE OF COMMITTEE SERVICES
THE NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY, 2018

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LIST OF ABBEVIATIONS

AMISOM	- AU Mission in Somalia
APK	- Alliance Party of Kenya
AU	- African Union
CBS	- Chief of the Order of the Burning Spear
CEC	- County Executive Committee Member
CDF	- Constituency Development Fund
DCI	- Directorate of Criminal Investigations
EGH	- Elder of the Order of the Golden Heart
ID	- Identity Card
MGH	- Moran of the Order of the Golden Heart
MP	- Member of Parliament
KRA	- Kenya Revenue Authority
EACC	- Ethics and Anti-Corruption Commission
HELB	- Higher Education Loans Board
RPP	- Registrar of Political Parties
H. E.	- His Excellency
PNU	- Party of National Unity
KU	- Kenyatta University
UoN	- University of Nairobi
PWD	- People living with disability
KNEC	- Kenya National Examination Council
KSTC	- Kenya Science and Technical College
KIA	- Kenya Institute of Administration
CHE	- Commission for Higher Education
KSG	- Kenya School of Government
UN	- United Nations
CEPA	- Committee of Experts in Public Administration
JSC	- Judiciary Service Commission
DCJ	- Deputy Chief Justice
IGAD	- Inter-Governmental Authority on Development
OGW	- Order of the Golden Warrior
NACC	- National Aids Control Council
ICT	- Information, Communication and Technology
CARP	- Capacity Assessment & Rationalization of Public Service
TVET	- Technical & Vocational Education and Training
UNESCO	- United Nations Education Scientific and Cultural Organization
UNECA	- United Nations Economic Commission for Africa
PAP	- Pan African Parliament
UNDP	- United Nations Development Programme
MFA	- Ministry of Foreign Affairs
SGR	- Standard Gauge Railway
EAC	- East African Community
LAPSET	- Lamu Port-Southern Sudan-Ethiopia Transport
KCPE	- Kenya Certificate of Primary Education
KCSE	- Kenya Certificate of Secondary Education

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FOREWARD

Pursuant to Article 152(2) of the Constitution and section 5 of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, H.E. the President, forwarded to the Clerk of the National Assembly, a notification of appointment containing the names and Curricula Vitae of nine (9) Cabinet Secretary nominees on 29th January 2018. This was for vetting by the Committee on Appointments and consideration for approval by the National Assembly for appointment as Cabinet Secretaries of the respective Ministries.

Pursuant to Standing Order 256 and subsequently following the procedural motion moved by the Leader of the Majority on 14th December 2017 to exempt this Business from the provisions of Standing Order 42(1), the House resolved *That, notwithstanding the provisions of Standing Order 42 relating to reading and laying of Messages from the President, and in furtherance to the provisions of Articles 152(2) and 156(2) of the Constitution, this House resolves that during the period before commencement of the second Session of the Twelfth Parliament, upon receipt of names of persons nominated for appointment to State offices from the President, the Speaker shall forthwith refer the Messages containing the names to the relevant Committee for consideration.*

On 31st January 2018 the notification of nominations was therefore referred to the Committee on Appointments for vetting and reporting to the House within fourteen (14) days.

On behalf of the Members of the Committee on Appointments and pursuant to the provisions of Standing Order 199, it is my pleasure and duty to present to the House, the Committee's Report on the approval hearings of the following Cabinet Secretary nominees;

- a. **Prof. Margaret Kobia** - Ministry of Public Service, Youth and Gender Affairs
- b. **Hon. John Munyes** - Ministry of Petroleum and Mining.
- c. **Amb. (Dr.) Monica Juma**- Ministry of Foreign Affairs and International Trade.
- d. **Ms. Farida Karoney** - Ministry of Lands and Physical Planning.
- e. **Hon. Peter Munya**- Ministry of East African Community and Northern Corridor Development;
- f. **Mr. Keriako Tobiko** - Ministry of Environment and Forestry;
- g. **Mr. Simon Chelugui** - Ministry of Water and Sanitation;
- h. **Hon. Ukur Yatani** - Ministry of Labour and Social Protection; and
- i. **Mr. Rashid Echesa Muhamed** - Ministry of Sports and Heritage.

The Committee held Fourteen (14) sittings. The nominees appeared before it on 8th February, 2018 and 9th February, 2018 and were vetted in accordance with the provisions of the Constitution, the Public Appointments (Parliamentary Approval) Act, No. 33 of 2011 and the National Assembly Standing Orders on their suitability or otherwise for appointment as Cabinet Secretaries.

May I take this opportunity to thank all Members of the Committee for their input and valuable contributions 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. The Committee also appreciates the role played by the media following its coverage of the proceedings, thus enhancing accountability, transparency and ensuring the participation of the public.

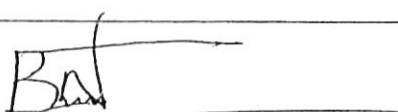
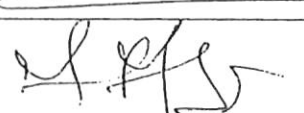
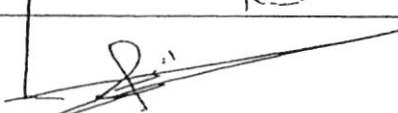
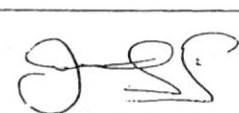
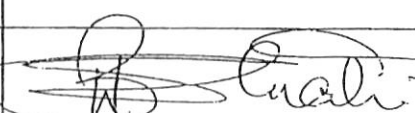
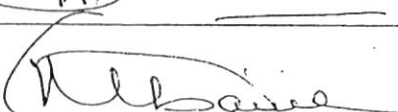

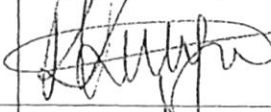
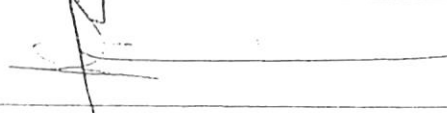

On behalf of the Committee on Appointments and pursuant to Article 124(4) (b) of the Constitution, Section 8(1) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, and the provisions of Standing Order 199(6), it is my pleasure and duty to present to the House, the Committee's report on the approval hearings of the nine (9) nominees for appointment as Cabinet Secretaries.


Hon. Justin B. Muturi, EGH., M.P

Speaker of the National Assembly/Chairperson, Committee on Appointments

**ADOPTION OF THE FIRST REPORT OF THE COMMITTEE ON APPOINTMENTS
ON THE VETTING OF NINE (9) CABINET SECRETARY NOMINEES FOR
APPOINTMENT TO POSITION OF CABINET SECRETARY**

We, the Honorable Members of the Committee on Appointments, today 11th February, 2018 do hereby affix our signatures to this REPORT ON THE VETTING OF NINE (9) NOMINEES FOR APPOINTMENT TO THE POSITION OF CABINET SECRETARY to affirm our approval and confirm its accuracy, validity and authenticity:-

S/NO.	HON. MEMBER	SIGNATURE
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. David Losiakou Pkosing, CBS, MP	
10.	Hon. Dr. Rachael Nyamai, MP	
11.	Hon. David Gikaria, MP	
12.	Hon. Joyce Emanikor, MP	

13.	Hon. Khatib Abdallah Mwashetani, MP	
14.	Hon. Kimani Ichung'wah, MP	
15.	Hon. Sabina Chege, MP	
16.	Hon. Sarah Korere, MP	
17.	Hon. Yusuf Hassan Abdi, MP	
18.	Hon. William Kamuren Chepkut, MP	
19.	Hon. Lilian Cheptoo Tomitom, MP	
20.	Hon. David Ole Sankok, MP	
21.	Hon. Lydia Haika Mizighi, MP	

1.0 PREFACE

1.1 Mandate of the Committee

The Committee on Appointments is established under Standing Order 204(1) and its mandate is set out under Standing Order 204(4), which provides that, *the Committee on Appointments shall consider, for approval by the House, appointments under Article (152(2) of the Constitution (Cabinet Secretaries).*

The Constitution of Kenya in Article 152(2) provides that *the President shall nominate and, with approval of the National Assembly, appoint Cabinet Secretaries.*

1.2 Members of the Committee

The Committee on Appointments was constituted by the House on Thursday 14th December 2017 comprising of the following Members:-

Chairperson	Hon. Justin Muturi, EGH, MP - Speaker, National Assembly
Members	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, MP - 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. David Losiakou Pkosing, CBS, MP
	Hon. Dr. Rachael Nyamai, MP
	Hon. David Gikaria, MP
	Hon. Joyce Emanikor, MP
	Hon. Khatib Abdallah Mwashetani, MP
	Hon. Kimani Ichung'wah, MP
	Hon. Sabina Chege, MP
	Hon. Sarah Korere, MP
	Hon. Yusuf Hassan Abdi, MP
	Hon. William Kamuren Chepkut, MP
	Hon. Lilian Cheptoo Tomitom, MP
	Hon. David Ole Sankok, MP
	Hon. Lydia Haika Mizighi, MP

1.2 COMMITTEE SECRETARIAT

- | | | |
|----------------------------|---|-------------------------------------|
| 1. Mr. Michael Sialai, EBS | - | Clerk of the National Assembly |
| 2. Mr. Nicholas Emejen | - | Deputy Director, Committee Services |
| 3. Mr. John Mutega | - | Principal Clerk Assistant I (HOD) |
| 4. Ms. Chelagat Tungo | - | Clerk Assistant II |
| 5. Mr. Jimale Mohammed | - | Clerk Assistant III |
| 6. Mr. Philip Lekarkar | - | Clerk Assistant III |
| 7. Mr. Douglas Katho | - | Clerk Assistant III |
| 8. Mr. Denis Abisai | - | Principal Legal Counsel |
| 9. Ms. Doreen Karani | - | Legal Counsel |
| 10. Ms. Emma Essendi | - | Legal Counsel |
| 11. Ms. Sande Marale | - | Senior Research Officer |
| 12. Mr. Charles Atamba | - | Research Officer |

2.0 BACKGROUND

2.1 Establishment of the Committee

The Committee on Appointments is established under Standing Order 204(1) with the mandate to consider for approval by the House, appointments of Cabinet Secretaries pursuant to Article 152(2) of the Constitution. The Article requires H.E. the President to nominate and with the approval of the National Assembly, appoint Cabinet Secretaries. Section 10 of the Public Appointments (Parliamentary Approval) Act provides that *where the nomination of a candidate is rejected by Parliament, the appointing authority may submit to the relevant House the name of another candidate, and the procedure for approval specified in this Act shall apply accordingly.*

2.2 Notification of nomination

In accordance with the provisions of Article 152(2) of the Constitution and section 5 of the Public Appointments (Parliamentary Approvals) Act, H.E. the President vide a letter dated 29th January, 2018 under reference number OP.CAB.14.1 (*Annexure 1*) and a subsequent letter dated 30th January 2018 under reference number OP.CAB.14.1A (*Annexure 2*) forwarded to the National Assembly, for consideration and approval, the notification of nomination of the following nine (9) individuals nominated for appointment as Cabinet Secretaries to the respective Ministries indicated-

- (a) Prof. Margaret Kobia - Ministry of Public Service, Youth and Gender Affairs;
- (b) Hon. John Munyes - Ministry of Petroleum and Mining;
- (c) Amb. (Dr.) Monica Juma - Ministry of Foreign Affairs and International Trade;
- (d) Ms. Farida Karoney- Ministry of Lands and Physical Planning;
- (e) Hon. Peter Munya - Ministry of East African Community and Northern Corridor Development;
- (f) Mr. Keriako Tobiko- Ministry of Environment and Forestry;
- (g) Mr. Simon Chelugui – Ministry of Water and Sanitation;
- (h) Hon. Ukur Yatani- Ministry of Labour and Social Protection; and
- (i) Mr. Rashid Echesa Muhamed- Ministry of Sports and Heritage.

2.3 Committal to the Committee on Appointments

Pursuant to Standing Order 42(1) and subsequently following the procedural motion moved by the Leader of the Majority on 14th December 2017 to exempt Business from the provisions of the Standing Order 42(1), in which the House resolved *That, notwithstanding the*

provisions of Standing Order 42 relating to reading and laying of Messages from President, and in furtherance to the provisions of Articles 152(2) and 156(2) of Constitution, this House resolves that during the period before commencement of the session of the Twelfth Parliament, upon receipt of names of persons nominated for appointment to state offices from the President, the Speaker shall forthwith refer Messages containing the names to the relevant Committee for consideration", (Annexure 3). The Speaker on 31st January 2018, referred the names and curricula vitae of the nominees to the Committee on Appointments for vetting and reporting to the House within fourteen days.

2.4 Notification to the public

Section 6(9) of the Public Appointments (Parliamentary Approval) Act provides that "a 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, 31st January, 2018 and Thursday, 1st February, 2018 (*Annexure 4*) inviting the public to submit memoranda by way of written statements on oath (affidavits) on the suitability or otherwise of the nominees in conformity with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011. The advertisements indicated that submissions were to be received by Wednesday, 7th January, 2018 at 5.00 pm.

Pursuant to the provisions of Article 118 of the Constitution, Section 6(4) of the Public Appointments (Parliamentary Approval) Act and Standing Order 45(3), the general public was on Wednesday, 31st January, 2018 and Thursday, 1st February, 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 of the nominees on Thursday, 8th February, 2018 and Friday, 9th February, 2018 (*Annexure 5*).

2.5 Notification to the nominees

Additionally, on Wednesday, 31st January, 2018, pursuant to Section 6(3) of the Public Appointments (Parliamentary Approval) Act, the Clerk in writing invited each of the nominees for the vetting hearings indicating the time and place for holding the approval hearings (*Annexure 6*).

2.6 Clearance requirements

On Wednesday, 31st January, 2018 the Clerk of the National Assembly wrote to the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigation (DCI), the Higher Education Loans Board (HELB) and the Registrar of Political Parties (RPP) (*Annexure 7*) requesting for reports with respect to the nominees on the following:-

- (a) matters touching on integrity;
- (b) tax compliance;
- (c) political affiliations; and
- (d) loan repayments.

Responding to the request, the HELB confirmed vide a letter under ref. HELB/RR/112009/V/64 dated 1st February, 2018 that the following nominees were beneficiaries of the HELB Loans Scheme and were cleared by the board on the dates indicated and issued with certificates of clearance (*Annexure 8*).

Name of Nominee	Clearance Date	Certificate No.
Prof. Margaret Kobia	13 th July, 2012	38153
Amb. (Dr). Monica Juma	25 th February, 2012	45144
Ms. Farida Karoney	13 th May, 2017	48093
Hon. Peter Munya	22 nd May, 2017	2313
Mr. Keriako Tobiko	2 nd October, 2014	74406
Mr. Simon Chelugui	21 st May, 2012	36568
Hon. Ukur Yatani	3 rd January, 2017	02120

The following nominees were not beneficiaries of the HELB loan scheme:

- (a) Hon. John Munyes; and
- (b) Mr. Rashid Echesa Muhamed

The Kenya Revenue Authority confirmed vide a letter under Ref. CDT/HO/81 (*Annexure 9*) that ALL the nominees were tax compliant.

The Ethics and Anti-Corruption Commission vide a letter dated 6th February, 2018 under ref. EACC 7/10/5 VOL.V (74) (*Annexure 10*) confirmed that there were no outstanding issues or ongoing investigations against the following nominees:-

- (a) Prof. Margaret Kobia:

- (b) Hon. John Munyes;
- (c) Amb. (Dr.) Monica Juma;
- (d) Ms. Farida Karoney;
- (e) Mr. Keriako Tobiko;
- (f) Mr. Simon Chelugui; and
- (g) Mr. Rashid Echesa

However, the Commission indicated that they had received allegations against Hon. Peter Munya who is nominated as the Cabinet Secretary in the Ministry of East African Community and Northern Corridor Development and Hon. Ukur Yatani, nominated as the Cabinet Secretary in the Ministry of Labour and Social Protection. The Commission further indicated that investigations so far had not implicated the two or found them culpable.

The Office of the Registrar of Political Parties vide a letter dated 5th February, 2018 under Ref No. RPP/ORG/34 Vol II (11) (*Annexure 11*) confirmed that according to the records held by the office as at 5th February 2018, the nine (9) nominees were not officials of a registered political party.

2.7 Issues for consideration during the approval hearings

The Committee observed that the issues for consideration in relation to the nomination and approval exercise are as provided under section 7 of the Public Appointments (Parliamentary Approvals) Act, as follows-

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

(a) Procedure used to arrive at the nominee

The procedure for appointment of Cabinet Secretaries is outlined under the Constitution and the Public Appointments (Parliamentary Approval) Act, 2011.

The Committee observed that Article 152(2) of the Constitution and the Public Appointments (Parliamentary Approvals) Act provides that nomination of Cabinet Secretaries is a constitutional prerogative of the President as there is no further procedure prescribed in the Constitution or statute law.

(b) Constitutional and Statutory requirements

The Constitution, in addition, sets out certain requirements regarding the appointment of persons to public office which include -

(i) Two-thirds Gender Principle

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.

The Committee considered the list of nominees received by the National Assembly from the appointing authority, H.E the President, and in light of its mandate under Standing Order 204(4), which is, to consider for approval by the House, appointments under Article 152(2) of the Constitution, observed that -

- 1) in the notification of nomination received from the nominating and appointing authority, the House had received names of nine persons nominated to be appointed as Cabinet Secretaries;
- 2) three of the nominees are women while six are men;
- 3) if a mathematical formula is applied, the result is that two-thirds of nine is six while one-third of nine is three; and
- 4) as such the list forwarded to the House for consideration therefore meets the two-thirds threshold as set out under Article 27(8) of the Constitution.

(ii) 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 considered the list of nominees received by the National Assembly from the appointing authority, H.E the President, and in light of its mandate under Standing Order 204(4), which is, to consider for approval by the House, appointments under Article 152(2) of the Constitution, observed that -

- 1) the nominees hail from the different regions of the Country;
- 2) the persons were from diverse ethnic groups;
- 3) the Constitution contemplates a maximum of twenty-two Cabinet Secretaries whereas the country is comprised of forty-seven Counties in terms of Article 6(1) as read with the First Schedule to the Constitution:

- 4) in view of the limited numbers, it would not be possible to have Cabinet Secretaries who hail from every County; and
- 5) as such, the list forwarded to the House for consideration therefore meets the requirements of Article 130(2) of the Constitution.

(iii) Persons with Disability

Article 232 (1) (i) of the Constitution provides that the values and principles of public service include 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 considered the list of nominees received by the National Assembly from the appointing authority, H.E the President, and in light of its mandate under Standing Order 204(4), which is, to consider for approval by the House, appointments under Article 152(2) of the Constitution and observed that –

- 1) the principle relating to persons with disabilities is an aspiration that requires more time in order to be fully achieved;
- 2) the Constitution contemplates progressive implementation of that principle; and
- 3) in this regard, the threshold of five percent would be met gradually through future appointments.

(iv) Youth

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.

Article 260 of the Constitution defines a “youth” as a person who has attained the age of eighteen years but has not attained the age of thirty-five years.

The Committee considered the list of nominees received by the National Assembly from the appointing authority, H.E the President, and in light of its mandate under Standing Order 204(4), which is, to consider for approval by the House, appointments under Article 152(2) of the Constitution and observed –

- 1) that the nominee for Sports and Heritage is the youngest among the nine nominees and the most dynamic;
- 2) whereas the Constitution requires the State to take affirmative action measures to ensure that the youth have opportunities to associate, be represented and participate in political, social and economic spheres of life, it does not stipulate the threshold to be met with respect to the number of youth in appointive bodies. This should be an issue to be considered in future appointments.

(v) Leadership and Integrity

The Committee, in determining the suitability of the nominees, took into consideration the provisions on leadership and integrity as outlined under Chapter Six of the Constitution. In particular, the Committee took cognizance of the following provisions-

- i. Article 73 (2) of the Constitution which 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, favoritism, other improper motives or corrupt practices;
 - (c) selfless service based solely on the public interest, demonstrated by –
 - (i) honesty in the execution of public duties; and
 - (ii) the declaration of any personal interest that may conflict with public duties;
 - (d) accountability to the public for decisions and actions; and
 - (e) discipline and commitment in service to the people.
- ii. Article 75(1) of the Constitution that requires a State Officer, whether in public or private life to behave in a manner that avoids conflict between personal interest and public official duties and Article 75(3) of the Constitution that prohibits a State Officer who has been removed from office under that Article from holding any other State Office.

- iii. Article 77(1) of the Constitution that prohibits a full time State Officer from participating in any other gainful employment.
- iv. Article 77(2) of the Constitution that prohibits an appointed State officer from holding office in a political party.
- v. Article 78 of the Constitution that disqualifies persons who are not Kenyan Citizens and persons holding dual citizenship from appointment as State Officers.

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 Committee observed that suitability of the nominee should be evaluated holistically taking into account the nominee's academic credentials, professional training, experience, background and personal qualities as well as the performance of the nominee during the approval hearing.

The Committee's observations and resolutions as per the specific nominees are contained in the respective parts relating to those nominees in this report.

2.8 Memoranda from members of the public in respect of Cabinet Secretary nominees

Section 6(9) of the Public Appointments (Parliamentary Approvals) Act, 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 31st January, 2018 inviting the public to submit memoranda by way of written statements on oath (affidavits) on the suitability or otherwise of the nominees in conformity with section 6(9) of the Public Appointments (Parliamentary Approval) Act.

By close of business on Wednesday 7th January, 2018 at 5.00 p.m., the Committee had not received any written statements on oath in respect of –

- i. Prof. Margaret Kobia – nominee for the Ministry of Public Service, Youth and Gender Affairs:

- ii. Hon. John Munyes Kiyong'a - nominee for the Ministry of Petroleum and Mining;
- iii. Hon. Ukur Yatani – nominee for the Ministry of Labour and Social Protection;
- iv. Ms. Farida Karoney – nominee for the Ministry of Lands and Physical Planning; and
- v. Amb. (Dr.) Monica Juma – nominee for the Ministry of Foreign Affairs and International Trade.

The Committee received several memoranda and other submissions from members of the public and organizations, some of which did not meet the provisions of Section 6(9) of the Public Appointments (Parliamentary Approvals) Act as advised in the press advertisements inviting the public to submit written statements on oath.

Out of the memoranda and submissions received, only five (5) were written statements on oath as required under Section 6(9) of the Public Appointments (Parliamentary Approvals) Act. These were against the appointment of –

- i. Mr. Peter Munya nominee for East African Community and Northern Corridor Development (two affidavits) (*Annexures 12 (a & b)*);
- ii. Mr. Keriako Tobiko – nominee for Ministry of Environment and Forestry (one affidavit) (*Annexures 13*);
- iii. Mr. Simon Chelugui – nominee for the Ministry of Water and Sanitation (one affidavit) (*Annexure 14*); and
- iv. Mr. Rashid Echesa Muhamed – nominee for the Ministry of Sports and Heritage (one affidavit) (*Annexure 15*).

The details of the written statements on oath are as follows:-

Written statements on oath received in respect of Hon. Peter Munya

1. The Committee received a written statement in the form of an affidavit sworn by Mr. Alphonse Mbinda Musyoki contesting the nomination of Mr. Peter Munya as the Cabinet Secretary for East Africa Community and Northern Corridor Development. Mr. Musyoki objected to the nomination of the nominee on the grounds that-

- (a) the nominee was a member of both the Alliance Party of Kenya (APK) and the Party of National Unity (PNU) which is contrary to the provisions of the Political Parties Act; and
- (b) the resignation of the nominee as the Leader of the Party of National Unity on 31st January, 2018 has no legal effect unless and until the nominee withdraws the proceedings in the Political Parties Disputes Tribunal Case No. 14 of 2017 Alphonse Mbinda Musyoki versus John Okemwa Anunda & Party of National Unity.
2. The Committee received an affidavit sworn by Mr. Kennedy Echesa Lubengu contesting the suitability of Hon. Peter Munya to be appointed as a Cabinet Secretary on the grounds that-
- (a) the nominee was adversely named in the EACC Report tabled in Parliament by H. E. the President on Tuesday, 26th March, 2015 disclosing the names of 175 individuals under investigation for corruption;
- (b) the nominee failed to dismiss the County Executive Committee Member for Finance in Meru County who had been adversely mentioned in the report of the Office of the Auditor- General on the financial statements of the County for the year ended 30th June, 2016.

A written statement on oath received in respect of Mr. Keriako Tobiko

The Committee received an affidavit sworn by Ms. Elizabeth Wambui Kamichar contesting the appointment of Mr. Keriako Tobiko as a Cabinet Secretary. Ms. Kamichar opposed the approval of the nominee on the ground that Mr. Keriako Tobiko instigated her arraignment in Court in Thika Criminal Case No. 5143 of 2017 for the offence of obtaining registration by false pretense, despite her having been acquitted of previous similar charges in respect of the same property.

A written statement on oath received in respect of Mr. Rashid Echesa Muhamed

The Committee received an affidavit by Ms. Esther Kabura contesting the suitability of Mr. Rashid Echesa Muhamed to serve as the Cabinet Secretary for Sports and Heritage. Ms. Kabura deponed that the nominee had unlawfully taken over some of her property after the demise of her husband in the year 2016.

A written statement on oath received in respect Mr Simon Chelugui

The Committee received an affidavit sworn by Ms. Anne Wado. Ms Wado averred that the nominee is unsuitable for the appointment on the ground of lack of integrity as required under Chapter Six of the Constitution. Ms. Wado deponed that the nominee was contracted by her School, St Elizabeth Academy, Karen, to drill a borehole and was paid a deposit of Kenya Shillings Five Hundred Thousand only (KES 500, 000.00) but the school has since been unable to trace the nominee to perform his contractual obligations. Ms. Wado stated that as a result of the nominee's non-performance of the contract, the school has incurred financial losses.

3.0 APPROVAL HEARINGS OF THE CABINET SECRETARY NOMINEES

The Committee on Appointments held a sitting on Wednesday, 7th February, 2018 to deliberate on the approval hearings and the following were highlighted:-

- (a) That, by the deadline date of 7th January, 2018 the Clerk of the National Assembly had received five (5) written statements on oath from the public. These were in respect to the appointment of the following nominees;
 - i. Hon. Peter Munya
 - ii. Mr. Keriako Tobiko
 - iii. Mr. Simon Chelugui
 - iv. Mr. Rashid Echesa Muhamed
- (b) That, none of the nominees had notified the Clerk of the National Assembly of withdrawal from the approval process as outlined under Section 6(10) of the Public Appointments (Parliamentary Approvals) Act.

The Committee resolved to undertake the approval hearings 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 nominees.

In conducting the approval hearings, the Committee on Appointments examined the nominees against the following criteria as set out in the Public Appointments (Parliamentary Approval) Act -

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

3.1 *PROF. MARGARET KOBIA - CABINET SECRETARY NOMINEE, MINISTRY OF PUBLIC SERVICE, YOUTH AND GENDER AFFAIRS.*

Prof. Margaret Kobia appeared before the Committee on Thursday, 8th February, 2018 at 9.30 am and was interviewed pursuant to the provisions of the Constitution. Public Appointments

(Parliamentary Approvals) Act 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

1. She is Kenyan citizen Identity card (ID) number 3463169 and was born in 1956 in Meru County.

Academic and Professional Qualifications

2. She attended Alliance Girls High School for both 'O' and 'A' Levels. She holds a Bachelor degree in Education from the University of Nairobi (UoN), 1981 and Master's degree in Education from Kenyatta University (KU), 1991. She also holds a Doctor of Philosophy (PhD) in Human Resource Education from the University of Illinois and is an Associate Professor of Management and Entrepreneurship.

Work Experience and Professional Leadership

3. She possesses vast experience in Strategic Leadership on Policy related to Human Resource Management and Development in Public Service. She worked as a graduate Research Officer at the Kenya National Examination Council (KNEC) in 1987 and as a Senior Lecturer in Education at the Kenya Science Teachers College (KSTC). In 1996, she was appointed the Acting Deputy Registrar and Director of Students Welfare at KU and thereafter served as the Assistant Commission Secretary at the Commission for Higher Education (CHE) in 2002.
4. In 2003 she was appointed as a Senior Lecturer in Management, Entrepreneurship and Research Methodology at Strathmore University and later in 2005 as the Chief Executive Officer at the Kenya Institute of Administration (KIA). Subsequently in 2012, she became the founding Director General of the Kenya School of Government (KSG) following its transformation from KIA. She is currently the Chairperson of the Public Service Commission (PSC), a position she has held since 2013.
5. She has served in the following committees, panels and boards-
 - i. Committee of Experts in Public Administration (CEPA);
 - ii. Economic and Social Council at the United Nations (UN);
 - iii. Transforming the Kenya Accountants and Secretaries National Examination Board;
 - iv. University of Nairobi Visitation Panel;
 - v. Advisory Committee for Heads of Public Services and Ministers of Public Services in African Countries;

- vi. Institutional collaboration on Master of Public Administration Program; and
 - vii. The Examination Board Leadership.
6. The nominee informed the Committee that she led the modernization of KIA and its transformation to KSG. She also instituted reforms at the Public Service Commission and most recently chaired the Judicial Service Commission (JSC) panel for the recruitment of the Chief Justice (CJ) and the President of the Supreme Court of Kenya, the Deputy Chief Justice (DCJ) and Judges of the Supreme Court.

Academic Publications, Research, Consultancy and Papers Presented

7. She has undertaken extensive research and prepared academic publications and presentations with focus on the following areas: Public Service Efficiency and Effectiveness and Improvement, Ethics and Good Governance in Public Service, Human Resource Management in Devolved System of Governance, Performance contracting, Political and Managerial leadership. She has presented the following papers and academic publications:

- (a) *Public Service Efficiency and Effectiveness Improvement Initiative: The Huduma Kenya Programme (2015)*
- (b) *Entrenching Ethics and Good Governance Culture in the Public Service (2014)*
- (c) *Public Service Transformation through Constitution Review (2014)*
- (d) *Mainstreaming Values and Principles of the Public Service in the Management of County Human Resource (2014)*
- (e) *Strategic Management: Enhancing Service Delivery through accountable, responsible public service (2013)*
- (f) *From the Glass Ceilings to Open Skies (2016)*
- (g) *Enhancing Public Service Performance through Competency Based Training and Development (2014a)*
- (h) *Managing Human Resource in the Public Service under the Devolved System of Government in Kenya (2014b)*
- (i) *Performance Contracting and performance practices in Africa (2009)*
- (j) *Capacity required for implementing of the African Charter on Values and principles of public service and administration (2011)*
- (k) *Establishing the impact of training on the job performance: A study of Administrative officers in Kenya (2009)*

Honors and Awards

8. She was awarded the following honors:

- i. The Order of Grand Warrior (OGW), 2007;

- ii. First Class Order of CM of CD

- iii. Research Grant on initiatives to support the Growth of Medium Scale and Medium Enterprises in Kenya (2011)
- iv. Africa's most influential Women in Business and Government (2014); and
- v. Moran of Golden Heart (MGH), 2016;

Professional Associations and Affiliations

9. She is affiliated to the following professional associations in the capacities indicated:- Fellow at KIM, Fellow at Institute of Certified Public Accountants of Kenya (ICPAK), Executive Secretary of the Kenya Association of Public Administrators and Managers (KAPAM), Member of the African Association for Public Administration (AAPAM) and is the Vice President Commonwealth Association for Public Administration (CAPAM).

Potential Conflict of Interest

10. The nominee indicated that she will not engage in activities that will result in a conflict of interest between personal interests and public official duties or compromise any public interest in favour of personal interest.

Net worth

11. She informed the Committee that her net worth is approximately KES 165,000,000.00 comprising expected future benefits from service gratuity and investments in real estate.

Political Activities and Affiliations

12. She informed the Committee that she has not held any position in a political party and is not affiliated to any political party.

Integrity

13. She has never been dismissed or otherwise removed from office under Article 75 of the Constitution. The nominee has not been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties.
14. She had neither been charged in a court of law in the last three years nor adversely mentioned in any investigatory report of Parliament or any other commission of inquiry.
15. The nominee has paid taxes due as provided by law.

GENERAL AND SECTOR SPECIFIC ISSUES

The Committee posed questions to the nominee relating to past experience and knowledge in the sector. The nominee responded as follows:

Preparedness for the position

16. She indicated that her PhD in Human Resources Education coupled with her vast experience in the public service has equipped her with the skills necessary to provide the

strategic leadership required for the position of Cabinet Secretary in the Ministry of Public Service, Youth and Gender Affairs.

Nominee Strengths

17. She prides herself of building organizations, strengthening institutions, systems, and processes and thereby ensuring that institutions continue to expand and grow beyond her presence. She is a structured person and result oriented

Past Achievements

18. She informed the Committee that one of her past achievements include leading a team in modernizing the Kenya Institute of Administration and its transition to Kenya School of Government. While serving with the PSC specifically, she instituted reforms which included re-engineering business process, introduced new structures at the Commission for operational efficiency and effectiveness. While at the helm of the Commission, she was part of the team that facilitated the establishment of an independent Commission from the mainstream Civil service. Other achievements include the development and launch of Human resource policies and guidelines and the development of the Public Service Act 2017, which has ensured that the PSC has well established systems, structures for prosperity. If appointed, she sees opportunities in fast tracking the requisite regulations to operationalize the PSC Act.

19. At the KIA, she constituted staff teams to overhaul the KIA curriculum in line with the public sector organizations so as to leverage on increased enrolment, engaging the staffing towards a futuristic vision development for the school. She led the team to translate the vision to a transformational strategy that was owned by staff and subsequently became a reality.

Employment, Regional Balance and Retirement Age at PSC

20. She confirmed that indeed the report of the Capacity Assessment and Rationalization of the Public Service (CARPS) showed that six communities hold at least 86.2 percent of the public service jobs. However, the Commission is making deliberate effort to address the non-representation of other communities. She underscored the importance of affirmative action to give the marginalized groups a higher stake in the Public Service while ensuring adherence to merit.

21. She pointed out that the implementation of austerity measures instituted across all the Ministries has affected the recruitment process and the implementation of the affirmative action policy is being actualized progressively as opportunities arise.

22. On whether the retirement age of civil servant should be lowered from sixty (60) years to allow for young people to find employment opportunities, she informed the Committee

that a thriving, efficient and effective Public Service is the solution as this will provide a conducive environment for economic growth and creation of job opportunities. She will champion the Ministry to address youth challenges if approved and appointed.

23. As to whether there is need to retain staff beyond retirement age, she was of the view that some staff members with rare technical, science based and medical skills may be retained beyond their retirement age to allow for transfer of the skills.

Youth Job Preferences

24. She noted the need for adequate data to validate certain conclusions like the argument that youth prefer white-collar jobs to self-employment. She cited parents, the youth and elected leaders as useful in disseminating information and ensuring attitude change towards technical and vocational training. If approved and appointed she will champion and encourage parents and youth to embrace technical education offered at Technical and Vocational Education and Training (TVET).

Sustainability of the Youth and Women Funds

25. The nominee was emphatic that the Youth Enterprise Development Fund and Women Enterprise Fund programs are key to the empowerment of the youth, the emancipation of women and hence contribute to the 'Big Four Agenda'. According to her, women are key players in economic development and prosperity since their contribution in manufacturing, value addition and farming must be validated. She however informed the Committee that she is in the process of studying and understanding how the two programs operate, their implementation and challenges including the low uptake with an aim of addressing the gaps. She acknowledged that marginalization breeds radicalization of youth and as such there is need to develop targeted programs for the youth and engage them.
26. In terms of safeguarding the Youth Enterprise Development Fund and deterring misappropriation of funds, the nominee proposed strong controls and accountability mechanisms. She proposed the need to competitively employ qualified people with integrity.

Gender Mainstreaming

27. On the two-thirds gender principle, the nominee lauded both the Judiciary and the Executive as having made milestones at achieving the targets at forty-one percent (41%) and twenty eight percent (28%) respectively. She however noted that Parliament is yet to make significant achievements. She acknowledged that the realization of the two-thirds gender principle will require further negotiations and dialogue with all stakeholders

including political parties. Even then, any proposed legislations will require thorough consultation, compromise and agreements as well as ownership for sustainability.

Committee observations on suitability of Prof. Margaret Kobia to serve as Cabinet Secretary Ministry of Public Service, Youth and Gender Affairs

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

- a) the nominee exhibited vast knowledge and experience having served in various capacities in the Public Service and her performance in the sector was exemplary;
- b) the nominee was not categorical on the skills that merit the extension of service after the mandatory retirement age of sixty years;
- c) her knowledge on the issues relating to the youth and persons with disabilities was insufficient;
- d) no affidavit had been received against the approval of the nominee;
- e) in accordance with Article 78(1) (2) of the Constitution she is a Kenyan citizen and does not hold dual citizenship and is therefore fit to hold office as a Cabinet Secretary;
- f) her academic credentials, and professional training and experience are impressive and in compliance with Section 6(7) of the Public Appointments (Parliamentary Approval) Act;
- g) she satisfies the requirements of Chapter 6 of the Constitution on leadership and integrity having been cleared by the DCI, KRA on tax compliance, HELB, RPP and the EACC;
- h) she has never been charged in a Court of Law;
- i) as stipulated in Article 75(1) of the Constitution, she has no potential conflict of interest;
- j) the nominee satisfies the requirements of Article 77(1) of the Constitution in that she does not intend to participate in any other gainful employment;
- k) she does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- l) she has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), 76(financial

probity), 77(restriction of State Officers) and 78(2) (dual citizenship) the Constitution and is therefore fit to hold office as a Cabinet Secretary; and
m) the nominee exhibited impressive knowledge of topical issues.

3.2 HON. JOHN MUNYES KIYONG'A - CABINET SECRETARY NOMINEE, MINISTRY OF PETROLEUM AND MINING

The Hon. John Munyes appeared before the Committee on Thursday 8th February, 2018 at 11.28 a.m. The nominee was orally interviewed by the Committee and responded to questions during the vetting as follows-

Citizenship, Date and Place of Birth

1. The Hon. John Munyes Kiyong'a is a Kenyan citizen, ID number 8587192, and was born in 1966 in Lokitaung, Turkana County

Educational and Professional Qualifications

2. He holds a Bachelor's degree in Arts with specialty in Sociology and Political Science from the University of Nairobi, 2010.
3. He holds a Diploma in Community Rural Development/Social Science from Premese African Development Institute and a Certificate in Range management, 1991 and Animal Health and Industry Training Institute (Kabete).

Employment Records, Work and Professional Experience

4. His political achievements span twenty (20) years where he has continuously represented Turkana North Constituency in Parliament since 1997 and in 2013 as a Senator representing Turkana County.
5. He has served the public as a Minister between 2003 and 2013 in various Ministries, first in the Ministry of Water in 2003 as an Assistant Minister and again in 2005 as a Minister, Ministry of State in the Office of the President in charge of Special Programmes and Arid Lands in 2004 and finally the Ministry of Labour in 2006.
6. The nominee worked with the United Nations Education Scientific and Cultural Organization (UNESCO) in 1991 as the Assistant Project Coordinator and with Oxford Famine Relief Great Britain (Oxfam) between 1992 and 1996.

Professional Participation and Community Activities

7. He is a member of Turkana District Peace Initiative and participates in the Turkana professional Group undertaking mentorship of students in primary and secondary

schools within the County. He Champions peaceful co-existence between pastoral communities while at the same time promoting environmental protection and waste management at community and national level.

Honors and Awards

8. He is a beneficiary of the following awards and honors-
 - a) Elder of the Golden Heart (EGH) (2007);
 - b) Recognition by the International Labour Organization on the new labour laws in Kenya; and
 - c) Recognition by the African Commission on Human and Peoples /rights on the establishment of the best strategic plan on Acquired Immune Deficiency Syndrome (AIDS) control by Kenya.

Political Activities and Affiliations

9. He informed the Committee that he was a Member of the National Steering Committee in Jubilee Party, National Chairman of the Ford Kenya Party and Secretary General of the Ford Kenya Party.

Integrity

10. He has never been dismissed or otherwise removed from office under Article 75 of the Constitution. The nominee has not been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties.
11. He had neither been charged in a court of law in the last three years nor adversely mentioned in any investigatory report of Parliament or any other commission of inquiry.
12. The nominee has paid taxes due as provided by law.

Potential Conflict of Interest

13. The nominee indicated that he will not engage in activities that will result in a conflict of interest between personal interests and public official duties or compromise any public interest in favour of personal interest.

Net worth

The nominee stated that his net worth is KES 50,000,000.00 and includes investments in real estate, transport sector, salary and allowances.

GENERAL AND SECTOR SPECIFIC ISSUES

The Committee posed questions to the nominee relating to past experience and knowledge in the sector. The nominee responded as follows:

Why he qualifies for the Position.

14. Hon. Munyes credits his leadership qualities to his employment record at various humanitarian organizations like Oxfam and UNESCO. He also acknowledges the opportunities in serving the public in Cabinet in various Ministries among them Water, Labour and the Ministry of State in the Office of the President in charge of special programs and Arid Lands.
15. In terms of reforms the nominee led the team that oversaw the enactment of the Water Act and further strengthened institutions and infrastructure in the Water and sanitation sector including the service boards.
16. He also informed the Committee that while serving at the Ministry of Labour, he took part in the drafting of labor laws including overseeing Kenya's ratification of the Tripartite Labor Agreement. While at the Labour Ministry, he is credited for efficient food distribution to alleviate drought related malnutrition. He also contributed in the drafting of the National AIDS Control Council (NACC) Act.

Preparedness for the position

17. He described himself as a reformer, patriot, servant leader and capable of transforming the mining and petroleum sub sector into a flourishing and viable economic activity. Further, taking into consideration that the management of petroleum discovery in Turkana will be among his many responsibilities, he intends to utilize the opportunity as a bridge to deter possible conflict and encourage community participation.

Factors Key to Successful Implementation of Petroleum Exploration

18. He informed the Committee that the key to successful petroleum exploration is the enactment of the requisite legislation and supporting regulations. Further, he suggested that public participation is required to ensure community ownership of the entire extractive process, compensation and in addition appreciate petroleum as a resource.

Vision and Strategy for the Ministry if Appointed

19. According to him, the Mining Act sets out the framework for mining activities. However, he challenged Parliament to legislate on petroleum and fast-track the approval of subsidiary legislation on royalties once the same are presented to it. He also proposed to focus on the following if appointed-
 - (a) undertake a forensic audit of mineral resources in the country;
 - (b) oversee the regulation of the petroleum industry particularly the petroleum blocs;
 - (c) map mineral resources and develop master plans;

- (d) leverage on Information Communication Technology (ICT);
- (e) ensure accountable investment;
- (f) give priority to artisanal miners and small-scale mining investors;
- (g) provide licenses to potential investors in the sector; and
- (h) ensure engagement of County Governors.

Proposed Action Points

20. He proposed a raft of measures that will guarantee the success of the sector but noted the disconnect between legislation and practical implementation of oil exploration. He promised to-

- (a) focus on the government developing infrastructure to support the exploration of petroleum and minerals, including roads, rail, pipelines among others;
- (b) focus on value addition, small scale artisans, providing licenses including to cooperative societies will be priority
- (c) address environmental degradation including pursuing impact assessment and engaging with other regulatory bodies and committees to ensure sustainability of the exploration project;
- (d) ensure that women benefit from the trickle down benefits of petroleum exploration through other services like health care, water among others.
- (e) restructuring the sector to encourage accountability will guarantee value for money and economic viability.

Committee observations on the suitability of Hon. John Munyes to serve as Cabinet Secretary, Ministry of Petroleum and Mining

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

- a. The nominee exhibited vast knowledge and experience having served in various Ministries as a Minister and having worked in humanitarian organizations;
- b. the nominee has exhibited impressive knowledge of topical issues in the petroleum and mining sectors;
- c. he underestimated his net worth as KES 50,000,000.00 by excluding other movable assets including livestock;
- d. in accordance with Article 78(1) (2) he is a Kenyan citizen and does not hold dual citizenship and is therefore fit to hold office as a Cabinet Secretary;

- e. his academic credentials, and professional training and experience are impressive and in compliance with Section 6(7) of the Public Appointments (Parliamentary Approval) Act;
- f. he satisfies the requirements of Chapter 6 of the Constitution on leadership and integrity having been cleared by the DCI, KRA on tax compliance, RPP, HELB and the EACC;
- g. the nominee has never been charged in a Court of Law;
- h. as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest;
- i. he satisfies the requirements of Article 77(1) of the Constitution in that he does not intend to participate in any other gainful employment;
- j. he does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- k. the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) the Constitution and is therefore fit to hold office as a Cabinet Secretary.

3.3 *AMB. (DR.) MONICA KATHINA JUMA - CABINET SECRETARY NOMINEE, MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE.*

Amb. (Dr.) Monica Juma appeared before the Committee on Thursday 8th February, 2018 at 1.00 p.m. and was orally interviewed by the Committee. The following are the key excerpts of the proceedings-

Citizenship, Date and Place of Birth

1. The nominee is a Kenyan Citizen with ID number 8950363 and was born in 1954 in Kitui County.

Academic and Professional Qualifications

2. She holds a Bachelors' Degree in Arts, 1987 and a Masters of Arts in Political Science and Government (Upper division), 1993 both from UoN. Further, she possesses a Certificate in Refugee Studies and a Doctor of Philosophy (PhD) from Oxford University in 2003.

Employment Records, Work and Professional Experience

3. Her work experience spans over twenty-five (25) years. In 1991, she was employed as a Graduate Assistant in the Department of Government and Public Administration at Moi

University. For one year, she served as visiting Research Fellow – Refugee Studies Program at the University of Oxford. She was thereafter employed as a Tutorial Fellow at Moi University in 1992.

4. In 1993, she served as a Lecturer at Moi University for seven (7) years. Other positions she has held at various Universities include: Founding member and Research Director of the Centre for Refugees Studies, at Moi University, visiting Fellow at the Christian Michelsen Institute for Human Rights in 1999, Faculty member at the African Centre for Strategic Studies at the National Defense University in Washington D.C. in 2002. She was also a member of the International Advisory Board at the Centre for the Study of Forced Migration at the University of Witwatersrand between 2006 and 2010.
5. In terms of Public service, she first served as an Ambassador at the African Union (AU), Intergovernmental Authority on Development (IGAD) and United Nations Commission for Africa (UNECA) between 2010 and 2013. She has also served as the Principal Secretary in both the Ministry of Defense and State Department of Interior between 2013 and 2016. This culminated in her being appointed to her current position of Principal Secretary in the Ministry of Foreign Affairs in 2016.
6. During her tenure at the Department of Interior, she provided leadership that resulted in the reforms and transformation of the National Security policy, architecture and operations within National Administration, Immigration, Registration of persons and the National Police Service. She also led the team that developed Kenya's strategy on Counter terrorism and violent extremism.

Consultancy and Publications

7. The nominee has been involved in consultancy assignments and has engaged in various publications. They include -
 - (a) lead expert in the process that produced the Government of Sierra Leone Gender mainstreaming strategy in the Defence Forces (2009);
 - (b) lead expert to the South African Peace Support Mission training Centre;
 - (c) team leader on engendering the Darfur Peace process (2007-2009);
 - (d) member of the PAP Task force on the Grand Debate (2007);
 - (e) lead Consultant at the African Union (AU)- African Humanitarian Action Symposium on Building African Humanitarian Capacity (2004); and
 - (f) team leader during the Golden Spear Process (1999-2002).

Publications

- (g) Co- editor (with Prof. Koriwa Adar & Alitu Katurambo) *The State of Africa: Legacies and issue areas 2010-2011 (2011)*

- (h) Co-editor (with Jeniffer Klot) *HIV/AIDS, Gender, Human Security and Violence in Southern Africa* (2011);
- (i) Co-editor (with Astri Suhrke) *Eroding Local Capacity: Humanitarian Action in Africa* (2002)
- (j) *Africa mediation of the Kenyan post-2007 election crisis* (2009)
- (k) Co-authored (with A. Olumide) *Evaluating Gender Mainstreaming in African Union: Eight years on* (2009)
- (l) Co-authored (with P.M. Kagwanja) *The Asylum trap: Somali Refuge and shifting security frontiers in the Horn of Africa* (2008)

Fellowship, Grants and Awards

8. The nominee is a beneficiary of several grant awards that include:
- (a) Moran of the Burning Spear (MBS) for recognition of good performance;
 - (b) Government of Norway grant to support the acceleration of gender mainstreaming in the Defense forces in Africa with focus of South Africa and Southern African Development Community (SADC) region (2009-2010);
 - (c) World Bank grant to support the development of the AU Strategic framework on post conflict reconstruction (2006-2007);
 - (d) CHR. Michelsen Institute Grant for the Nordic- African Dialogue Project (1998-2000);
 - (e) United Nations Development Program (UNDP) grant to undertake research on the role of women in peace building at the community level (1999-2000);
 - (f) Wingate fellowship towards PhD (1998);
 - (g) Commonwealth fellowship to undertake a Doctoral study at the University of Oxford (1995-1999);
 - (h) Economic and Social Research Council to undertake research on coordination of assistance during emergencies in Kenya (1993-1994); and
 - (i) UNDP to undertake research on internal displacement in Western Kenya (1992)

Political Activities and Affiliations

9. She informed the Committee that she has not held any position in a political party and is not affiliated to any political party.

Integrity

10. The nominee has never been dismissed or otherwise removed from office under Article 75 of the Constitution. The nominee has not been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties.

11. She had neither been charged in a court of law in the last three years nor adversely mentioned in any investigatory report of Parliament or any other commission of inquiry.
12. She also holds the view that integrity issues and misappropriation of public resources is a criminal offense and should be treated as such.
13. The nominee has paid taxes due as provided by law.

Net worth

14. Her sources of income are derived from salary from Public Service and income from farming. Her net worth is approximately KES 50, 000,000.00.

GENERAL AND SECTOR SPECIFIC ISSUES

The Committee posed questions to the nominee relating to past experience and knowledge in the sector. The nominee responded as follows:

Previous Achievement complimenting her nomination

15. Amb. (Dr.) Juma pointed out three key achievements and experiences that will be useful in her work as Cabinet Secretary, Ministry of Foreign Affairs (MFA) and International Trade. First, that she was part of the team that midwifed the transition of the OAU to AU. Second, her role in peace and security where she was central to the negotiations for the expanded role and mandate of the AU mission in Somalia (AMISOM) and enhancing the strategic relations between the AU peace security council and its strategic partners. Thirdly, her broad academic and professional research in areas relating to Peace and Security, Human rights, Conflict management have increased her international networks and confidence to be a champion in a team.

Her suitability as the CS Foreign Affairs and International Trade

16. The nominee intimated that her predecessor and senior colleague, Amb. Amina Mohamed, has been her mentor since 2016 when she was appointed the Principal Secretary at the Ministry. Further, she has drawn wide experience from her and she will continue interacting with her predecessor if appointed. She also appreciates the fact that she will be a vision bearer to a team that she has worked with for close to two year hence making her adaptable and gives a sense of continuity.

Asset acquisition, Management Abroad and Resources in Missions

17. On matters asset acquisition and management, she informed the Committee that the Country continues to rent most of the infrastructure housing Kenya missions abroad. The reason for these is that the Ministry is yet to determine the character of footprint in that

regard by developing an Asset Management Policy. Further, she indicated that discussions are ongoing with the Ministry of Finance and Treasury to consider these as strategic intervention so as to be allocated adequate resources. She acknowledged that such projects are capital intensive and hence require medium to long term plans. Even then, she said the Ministry has acquired assets in New York, Pakistan. Acquisition of properties in Pretoria and Somalia is ongoing although the Ministry recognizes the need to accelerate the initiative in a more organized, structured and planned manner.

18. Inadequate resources within missions was noted by the Committee as a setback to diplomacy as Kenyan mission abroad were said to lack adequate operational resources. The nominee explained that as a result of the ongoing austerity measures across all Ministries, MFA is mostly affected given its scope of work, which is majorly operation and maintenance (O/M). Ostensibly, O/M is the most affected budget line during austerity cuts.

Diminishing Role of Kenya in the Region

19. The nominee refuted claims that Kenya's role in the region is diminishing. She clarified that on the contrary, MFA's and Kenya's foreign policy in general identifies Africa as its primary focus. Strengthening Kenya's, bilateral relations with Africans Countries and engagement with African regional organizations being imperative. According to her, this will enhance peace and stability, foster economic growth and regional development and integration. She also stressed the focus of Kenya on regional integration hence the push for LAPPSET, Non- tariff barriers, EAC (both customs Union and Political integration), regional projects like the Standard Gauge Railway (SGR). She underscored the need for intense dialogue among Member states and sound relationship with Kenya's neighbors to guarantee trade opportunities and hence contributing to Vision 2030.

Kenya's Focus on Regional Prosperity.

20. Following up to the issue on the perceived diminishing role of Kenya in the region, the nominee reemphasized Kenya's focus on regional prosperity with an aim of ensuring growth and prosperity along trans-border communities hence the spirit of EAC and the push to think around cross boarder initiatives. As regards the role of the MFA in supporting international trade and agriculture export in particular, she stated that MFA is rethinking export policy with a view to adopt import substitution policy while administratively ensuring that commercial attachés form the bulk of mission attachés abroad.

Diaspora and Consular Support

21. On the issue of Kenya's citizen protection while outside the Kenyan borders, she reiterated that almost three million Kenyans work and live abroad and are engaged in various ways, both professionally and unskilled. He opined that unskilled workers seeking employment abroad are the most affected by labor relations problems. She alluded to the fact that movements happening in Kenya are not aligned to the policy of protection and therefore there is need to put in place mechanism to protect Kenyans seeking employment abroad. She however recognized the existence of the Diaspora and Consular Affairs. One of the measures she alluded being implemented by the Ministry of Labour and Social Protection is the establishment of a vetting process of recruiting agencies.

Strategy for achieving MFA Vision

22. The nominee summed up her presentation by reiterating the need for MFA to focus on career development of its staff by developing a career development framework, a path that is predictable, clear and fair. Further she was of the view that there is need for constant scanning of the globe so as to set strategies from an informed point of view. She stated that it is critical for MFA to project, promote and protect Kenya's interests and image globally through innovative diplomacy.

Committee observations on suitability of Amb. (Dr) Monica Juma to serve as Cabinet Secretary, Ministry of Foreign Affairs and International Trade

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

- a. The nominee exhibited vast knowledge and experience in matters within the mandate of the Ministry and best understands and articulates diplomatic issues;
- b. Parliament had rejected her nomination for the position of Secretary to the Cabinet in 2015. The rejection brought to the fore the need for enhanced relations between the legislature and the executive arm of government for better service delivery to the citizens;
- c. in accordance with Article 78(1) (2) of the Constitution she is a Kenyan citizen and does not hold dual citizenship and is therefore fit to hold office as a Cabinet Secretary.

- d. her academic credentials, and professional training and experience are impressive and in compliance to Section 6(7) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011;
- e. she satisfies the requirements of Chapter 6 of the Constitution on leadership and integrity having been cleared by the DCI, KRA on tax compliance, HELB and the EACC.
- f. she has never been charged in a Court of Law;
- g. as stipulated in Article 75(1) of the Constitution, she has no potential conflict of interest;
- h. she satisfies the requirements of Article 77(1) of the Constitution in that she does not intend to participate in any other gainful employment;
- i. she does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- j. she has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) the Constitution and is therefore fit to hold office as a Cabinet Secretary;

3.4 MS. FARIDA CHEPCHUMBA KARONEY - CABINET SECRETARY NOMINEE, MINISTRY OF LANDS AND PHYSICAL PLANNING.

Ms. Farida Karoney appeared before the Committee on Thursday 8th February, 2018 at 3.35pm where she was orally interviewed by the Committee as follows:-

Citizenship, Date and Place of Birth

1. Ms. Farida Karoney is a Kenya citizen, ID number 10221867, was born in 1969, in Nandi County.

Academic and Professional Qualifications

2. She holds a Bachelor's degree in Education Science (Botany and Zoology) from Kenyatta University, 1992 and a Post Graduate Diploma in Mass Communication from the University of Nairobi, 1996. In 2008 she graduated with a Masters of Business Administration (Strategic Management) from the University of Nairobi.
3. In the course of her career, she has attended the following courses -
 - (a) Mwongozo induction programme for boards of State Corporation
 - (b) Corporate governance
 - (c) Performance management

- (e) Covering elections
- (f) Writing and producing television news

Employment Records and Work Experience

4. She has extensive management, resource utilization and communication experience spanning twenty three (23) years whilst working for leading media houses in Kenya.
5. In 1994, the nominee joined Kenya Television Network (KTN) as a Senior Reporter, Features Editor, a position she held until 2000 when she joined the Nation Media Group (NMG) as an Associate News Editor. In 2004, she was the News Manager at the Standard Group (SG), a position she held for two (2) years before a further move to the position of Managing Editor and subsequently Managing Director (Strategy and Product Development) in 2005 and 2006 respectively. She also served as a Freelance Correspondence) with Radio France Africa International and Al Jazeera English between 2006 and 2007.
6. Ms. Farida Karoney moved back to KTN as Head of Editorial in 2007. In 2008 she was appointed the Assistant Director, Broadcast Operations at the Standard Group. She held this position until 2009 when she moved to Royal Media Services (RMS) as the Group Editorial Director.
7. She is currently the Chief Operating Officer, at the Royal Media Services since 2014.

Honours and Awards

8. She is a beneficiary of the following awards and recognitions:-
 - (a) The Mohammed Amin Hunger Awareness Award (1999)
 - (b) Broadcast Investigative Journalist of the year, Kenya National Media Trust (KNMT)(2000)
 - (c) Broadcast Journalist of the year, KNMT(2000)
 - (d) Special Recognition award, African Journalism Award (2000)
 - (e) Recognition for effective coverage of issues of food security, NMG (2001)
 - (f) Young Alumni Award for Excellence in Journalism, KU (2008)
 - (g) Order of Grand Warrior of Kenya (OGW)(2008)

Professional Affiliations

9. The nominee is a Member of the Kenya Editors Guild since 2005 and KU Alumni association.

Public Office and affiliations

10. She is a Council member of the Kenya Institute of Mass Communication (KIMC)

Potential Conflict of Interest

11. The nominee indicated that she will not engage in activities that will result in conflict of interest between personal interests and public official duties or compromise any public interest in favour of personal interest.

Net worth

12. She informed the Committee that her net worth is approximately KES 200,000,000.00 comprising investments in shares, farming and real estate.

Integrity

13. She has never been dismissed or otherwise removed from office under Article 75 of the Constitution. The nominee has not been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties.
14. She had neither been charged in a court of law in the last three years nor adversely mentioned in any investigatory report of Parliament or any other commission of inquiry.
15. The nominee has paid taxes due as provided by law.

GENERAL AND SECTOR SPECIFIC ISSUES

The Committee posed questions to the nominee relating to past experience and knowledge in the sector. The nominee responded as follows:

Justification for Appointment

16. Ms. Karoney underscored why she should be offered the opportunity to become the vision bearer of the Ministry of Lands and Physical Planning. Among the reasons are that: - she possesses vast experience as communication expert and as such the public sector and specifically the Ministry will benefit from her expertise. Secondly, her interaction with human resources as a professional has provided her with the opportunity to acquire the interpersonal skills required in serving the public in the Lands docket.
17. She informed the Committee that her change champion personality has enabled her to make significant contributions to the corporate and business strategy of several Media Houses.

The challenge of cartels and probable solutions

18. The nominee acknowledged the sentiments by the Committee on the thriving cartels at the Ministry of Lands and proposed the following solutions:-
 - (a) The need to address poor record keeping by fast tracking the ongoing digitization process;

- (b) Following up on the digitization, secure the records to deter and eliminate third party (middlemen) interactions and access while reducing the cost of access – efficiency in accessing them;
- (c) Improve infrastructure at the Ministry as a complementing mechanism to digitization;
- (d) Build capacity and equip staff with skills in land matters in addition to involving them in reforms as change agents;
- (e) Secure land rights by ensuring the implementation of the provision of Article 60 of the Constitution;
- (f) Manage land in line with Article 60 to Article 68 of the Constitution;
- (g) Continuous sensitization of citizens including encouraging them to collect their land title deeds.

Strategy on the 'Big Four Agenda'- Affordable Housing

19. The nominee informed the Committee that for Kenya to achieve the affordable housing promise, private sector players will need to participate. According to her, affordable housing depends on the type of materials, access to finance and the availability of infrastructure to support the housing projects. She also emphasized that quality of housing is critical.

Land issues in Kenya

20. While discussing the immediate land issues in Kenya, the nominee indicated that if appointed she will address challenges of inequitable land access and poor records management. This will be addressed by harmonizing land laws to ensure efficiency and accountability in service delivery, digitization and securing of land records and ensuring public participation on land issues.

Description of the Nominees Personality

21. She described herself as a change agent, a worker and possesses the ability to work with teams. She informed the Committee that she preferred employing and working with people who are better than her for the benefit of the organization.

Digitization of Land Records

22. On the digitization of the land records, the nominee emphasized the need to undertake a system audit on the extent of the ongoing digitization process with a view to ensure that the process is fast tracked.

Squatters Problem

23. On the issue of squatters at the coastal region and among other indigenous communities, the nominee reassured Members that if appointed she will ensure the process is concluded as it is ongoing. Further that the long term solution to the squatter challenge is to address inefficiencies in the Ministry and automate the land processes. She also intimated that the Ministry is in the process of developing a policy to guide land compensation (land value index) with the aim of addressing the high cost of land acquired by Government for infrastructure development.

Committee observations on suitability of Ms. Faridah Karoney to serve as Cabinet Secretary, Ministry of Land and Physical Planning

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

- a. the nominee demonstrated the ability to work and grow teams to achieve the organizational goals;
- b. she has vast knowledge and experience on communication strategies, having worked in the media, which is critical in dissemination of government agenda on development;
- c. in accordance with Article 78(1) (2) of the Constitution she is a Kenyan citizen and does not hold dual citizenship and is therefore fit to hold office as a Cabinet Secretary;
- d. her academic credentials, and professional training and experience are impressive and in compliance to Section 6(7) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011;
- e. the nominee satisfies the requirements of Chapter 6 of the Constitution on leadership and integrity having been cleared by the DCI, KRA on tax compliance, HELB and the EACC;
- f. she has never been charged in a Court of Law for the last three years;
- g. as stipulated in Article 75(1) of the Constitution, she has no potential conflict of interest;
- h. she satisfies the requirements of Article 77(1) of the Constitution in that she does not intend to participate in any other gainful employment;

- i. the nominee does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- j. she has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) the Constitution and is therefore fit to hold office as a Cabinet Secretary;
- k. the nominee has exhibited impressive knowledge of topical issues in the land docket.

**3.5 HON. PETER GATIRAU MUNYA - CABINET SECRETARY NOMINEE,
MINISTRY OF EAST AFRICAN COMMUNITY AND NORTHERN CORRIDOR
DEVELOPMENT.**

Hon. Peter Munya appeared before the Committee on Thursday 8th February, 2018 at 5.10 pm and was orally interviewed pursuant to the provisions of the Constitution of Kenya, the Public Appointments (Parliamentary Approval) Act and the Standing Orders of the National Assembly.

The nominee presented as follows both orally and in writing:

Citizenship, Date and Place of Birth

1. The nominee is a Kenya citizen, ID number 10717881 and was born in 1969 in Meru County

Educational and Professional Qualifications

2. He sat for his Kenya Certificate of Education (KCE) and Kenya Advanced Certificate of Education (KACE) in Chogoria Boys and Meru School respectively.
3. He holds a Bachelor's of Laws Degree from the UoN, 1993 and a Master's Degree in International Law (International Economic Integration Law) from the University of Brussels, 1995. The nominee also holds a Master's degree in Law (Public International Law) from University of Georgia, 1997. *No attached certificates, See attached letter from university of Nairobi dated 13th April 2017 confirming conferment of the Degree. Further, police abstract dated 11th March 2017 alleging theft of documents including two masters certificates form Brussels and Georgia Universities.*
4. He is an advocate of the High Court of Kenya with seventeen (17) years' experience having been admitted to the bar in 2000.

Employment Records and Work Experience

5. Prior to his election for two terms as a Member of Parliament for Tigania East Constituency in 2002, the nominee served as a Lecturer of Law of contract, evidence and women law at Moi University between 1999 and 2002.
6. He also served as an Assistant Minister in the Ministry of Internal Security and Provincial Administration and Ministry of East African Community (EAC) between 2006-2007 and 2008-2013 respectively.
7. While serving as the Governor of Meru County between 2013 and 2017, he was elected the Chairperson of the Council of Governors, a position he held until August 2017.

Publications

8. The nominee has published two papers:-
 - (a) *The Role of the Organization of African Union (OAU) in conflict resolution and dispute settlement (1997)*
 - (b) *The Role of International Court of Justice (ICJ) in resolving African disputes: Past, present and future prospects (2002)*

Honours and Awards

9. The nominee is a beneficiary of a Scholarship for the Masters of Law from Ministry of International Cooperation, Government of Belgium (1995), and in 1996 from the University of Georgia to pursue a Master of Law. He was also awarded the award of Moran of the Golden Heart (MGH) in 2015.

Professional Association

10. He is a member of the Law Society of Kenya since 2000

Political Activities and Affiliations

11. The nominee informed the Committee that he currently holds no party position having resigned from the position of Leader of Party of National Unity (*Annexure 16*).

Potential Conflict of Interest

12. The nominee informed the Committee that he has no plans or commitments to pursue outside employment with or without compensation during service in office and therefore no conflict of interest.

Net worth

13. The nominee's estimated his total net worth at KES 264,100,000.00 comprising of investments in real estate, agriculture and land.

Integrity

14. He informed the Committee that he has never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution and has not been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties.

AFFIDAVITS AGAINST THE NOMINATION OF HON. PETER MUNYA

15. The Committee received an affidavit sworn by Mr. Alphonse Mbinda Musyoki contesting the nomination of Mr. Peter Munya as the Cabinet Secretary for East Africa Community and Northern Corridor Development. He has attached the following documents in support of the affidavit –

- a) A copy of the Kenya Gazette dated 13th March, 2013;
- b) A copy of a document from the Office of the Registrar of Political Parties where Mr. Peter Munya is indicated as having been registered as a member of Party of National Unity on 1st February, 2016;
- c) A copy of a letter dated 8th August, 2016 by the Alliance Party of Kenya addressed to Ayieko & Kangethe Advocates with the reference “Alliance Party of Kenya National Executive Committee (NEC) Member”;
- d) A copy of the Kenya Gazette dated 21st April 2017;
- e) A copy of the Judgement of the Political Parties Dispute Tribunal dated 20th June, 2017 in the matter of *Alphonse Mbinda Musyoki v. John Okemwa Anunda & The Party of National Unity*;
- f) A copy of an Order by the High Court dated 28th June 2017 in *JR Misc. Application No. 384 of 2017, Party of National Unity v. Alphonse Mbinda Musyoka & Political Parties Dispute Tribunal*;
- g) A copy of the resignation letter by Hon. Peter Munya dated 31st January, 2018 addressed to the Registrar of Political Parties titled “Resignation as Party Leader of Party of National Unity”; and
- h) A copy of Hon. Peter Munya’s National Identification Card.

16. Mr. Alphonse Musyoka contests the appointment of the nominee on the grounds that the nominee was elected as the Governor of Meru County under the Alliance Party of Kenya (APK) but later changed parties and became a member of the Party of National Unity (PNU) on 1st February, 2016. However, as at 8th August 2016, he was still a National Executive Committee Member of APK meaning that the nominee belonged to two political parties at the same time contrary to the provisions of the Political Parties Act, 2011.

17. Owing to the leadership wrangles in PNU, the complainant challenged the Gazettement of the nominee as the leader of PNU and the Political Parties Dispute Tribunal subsequently nullified the Gazette Notice. However, the High Court thereafter quashed the decision of the Political Parties Dispute Tribunal and issued an order prohibiting the second respondent from carrying out further proceedings with regard to the publication of the Gazette Notice dated 21st April 2017 and further staying the execution of the judgment of the Political Parties Dispute Tribunal.

18. Therefore, the nominee's resignation as leader of PNU does not have any legal effect unless the nominee withdraws the court case pending, that is, *Misc. Application No. 384 of 2017* as the Court still recognizes him as a leader of PNU.

Hon. Munya's replying affidavit to the affidavit by Alphonse Musyoki

19. Hon. Peter Munya in response (*Annexure 17 a*) to the affidavit by Alphonse Musyoki, swore an affidavit stating that the letter purportedly from Alliance Party of Kenya dated 8th August, 2016 is not authoritative and cannot form the basis of rendering him an official of the party as the Registrar of Political Parties is by law the official custodian of the official register of party members and officials. He questioned the authority of the person who authored the letter.

20. He further deponed that he tendered his resignation as an official of APK before joining PNU and was on that basis cleared by IEBC to run for office as Governor of Meru in the 2017 elections. In addition, he is not party to the matter mentioned in the *Judicial Review Misc. 384 of 2017* and accordingly, he cannot, as a stranger, withdraw a matter which he is not a party to. He notes that the matter in court is between PNU and the complainant, Mr. Alphonse Musyoki.

21. The nominee confirmed that he was the Party Leader of PNU but resigned from the position on 31st January, 2018 upon nomination by the President to the position of Cabinet Secretary.

Committee Observations on the affidavit

22. In light of the foregoing, the Committee observes the following on the submissions -

- (i) That, as per the letter dated 5th February 2018 submitted by the Registrar of Political Parties, the Registrar of Political Parties confirmed that Hon. Peter Munya does not hold office in any Political Party and is therefore not in contravention of Article 77(2) of the Constitution.

(ii) That, from the replying affidavit, the nominee is not a party to the matter mentioned in *Judicial Review Misc. 384 of 2017* and, he therefore cannot, as a stranger, withdraw a matter which he is not a party to. Indeed, the matter in court is between PNU and the complainant, Mr. Alphonse Musyoki;

(iii) That, the explanation by the nominee on the allegations were satisfactory and he had exculpated himself.

23. The Committee was in receipt of a second affidavit sworn on February 5, 2018 by Kennedy Echesa Lubengu contesting the suitability of Hon. Peter Munya to serve as the Cabinet Secretary for East African Community and Northern Corridor.

24. In the affidavit, Mr. Lubengu states that he is aware of the existence of the Report tabled by H. E. the President on Tuesday March 26, 2015 in which he presented names of 175 individuals implicated in graft and forwarded to him by the Ethics and Anti-Corruption Commission. H. E. the President directed all the officials of the National and County Governments adversely mentioned in the report to step aside pending the conclusion of the investigations.

25. The complainant is aware that Hon. Munya was adversely mentioned in the report on allegations of abuse of office and misuse of public funds on fuel, service and repair of a private motor vehicle registration number TCD 385EAC.

26. The complainant is also aware of the Auditor's Report on the financial statements of the county executive of Meru for the years 2013, 2014, 2015 and 2016 that gave an adverse opinion on the accuracy and completeness of the financial statements of Meru County. The issues raised in the Report include –

- (a) Unexplained pending bills;
- (b) Unsupported payments;
- (c) Direct procurement on leasing of county offices;
- (d) Irregular procurement – construction of county offices;
- (e) Unaccounted expenditure for Meru Diaspora Investment Conference;
- (f) Irregular upgrading of Kinoru Stadium;
- (g) Irregular recruitment of the County Health Finance Manager;
- (h) Irregular recruitment of the Laboratory Service Manager;
- (i) Existence of illegal bank accounts.

27. The complainant averred that these issues amount to violation of the Constitution, the Public Procurement and Asset Disposal Act, 2015, the Public Finance Management Act, 2012 and the Public Finance Management (County Governments) Regulations, 2015.
28. He is also aware of the decision by Hon. Munya to snub the summons of the Senate and a Judicial Review Matter filed by Hon. Munya seeking an order of Certiorari to quash the Summons and challenge the extent of the powers of the Committee. Further, the complainant is aware that the Meru County Executive Committee (CEC) Member for Finance, appointed and subordinated to Hon. Peter Munya was arrested and charged before a court of law. However, Hon. Munya refused to take any action against the CEC-Finance.
29. The complainant is also aware of the judgement in *Constitutional Petition No. 24 of 2016* filed by one Mr. Moses Muteithia and others in which Hon. Munya is named as the second Respondent in his capacity as the Governor for Meru.
30. The complainant further states that he is aware that EACC has been investigating Hon. Munya on the following –
- a) Irregular procurement in the construction of Kinoru stadium;
 - b) Irregular procurement in the refurbishment of Meru County Hotel;
 - c) Irregular procurement of computers;
 - d) Embezzlement of County Funds through dubious water projects mainly in Nyambene region;
 - e) Use of 23 proxy companies for supply of various items within the county;
 - f) Retaining of officers in County Public Service Board even after they were charged by EACC for abuse of office;
31. In addition, on diverse dates in July 2016, Hon. Peter Munya visited and recognized as government a break-away section of Somaliland prompting a diplomatic row between Kenya and Somalia. Hon. Munya was thus in defiance of the principles of International Law and projects the image of a reckless and arrogant character incapable of institutionalizing the desired cohesion of the East African Community which Somalia has applied to be a Member.

Hon. Peter Munya's replying affidavit to the affidavit by Mr Kennedy Echesa Lubengu

32. In his replying affidavit (*Annexures 17 b*) to the allegations contained in the Report tabled by H. E. the President on March 26, 2015, Hon. Munya swore an affidavit stating that the Report was not conclusive. He informed the Committee that the Ethics and Anti-Corruption concluded its investigations and cleared him of any wrongdoing.

33. Some of these allegations arose from the fact that upon assumption of Office as Governor of Meru County, there was no official vehicle for the Governor. He therefore had to use his personal car to carry out official duties. The car needed fuel and service and this was charged on the county. This raised an audit query from which he was absolved. However, to avoid further conversations on the matter, he refunded the sum of Kenya Shillings Two Hundred and Sixty Thousand (KES 260, 000.00) to the county being the amount of money used to repair the car.
34. As concerns the Auditor-General's Reports of 2013, 2014, 2015 and 2016, Hon. Munya noted that Mr. Lubengu only attached the Report of 2016 and he therefore cannot substantively respond to any matters in those Reports;
35. He further stated that the allegations by Mr. Lubengu that he was unwilling to appear before the Senate were untrue. He had appeared before the Senate with respect to the Auditor's Reports for the year 2013 and 2014 and all the issues were resolved. The Hansard Reports in the Senate can confirm these assertions. In addition, he had already appeared before the Senate with respect to the Auditor's Report of 2016 and the same were deliberated but not concluded. He stated that his office had not received a report as provided under the Public Service Commission (Discipline Manual for the Public Service), 2016 to enable him interdict the CEC Finance. In addition, the CEC Finance had filed *Judicial Review Case No. 24 of 2016* challenging his charge and prosecution and he could not take action before the conclusion of the suit. The Director of Public Prosecutions went ahead and withdrew the charges against the CEC Finance.
36. With regard to the visit to Somaliland, he informed the Committee that it was true that he visited the country. This was because there had been a ban on khat (*miraa*) by the United Kingdom. He was thus looking for a market for the crop as he had information that Ethiopia is exporting khat to Somaliland. He did not visit the country in his official capacity. According to international law, recognition of a State is by one State to another and thus he had no official capacity to recognize Somaliland.
37. He urged the Committee to dismiss the Petition

Committee observations on the Affidavit

38. In light of the foregoing, the Committee observes the following on the submissions -
- (i) THAT, the affidavit meets the requirements of section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011 as it is a sworn statement;
 - (ii) THAT, on the allegations of abuse of office, the EACC has confirmed that as at 5th February, 2018 there were no issues against Hon. Munya;
 - (iii) THAT, the nominee as an individual has no capacity to recognize another state which is a preserve of governments under international law;

(iv) THAT, the explanation by the nominee on the allegations were satisfactory and he had exculpated himself.

GENERAL AND SECTOR SPECIFIC ISSUES

The Committee posed questions to the nominee relating to past experience and knowledge in the sector. The nominee responded as follows:

Suitability for the Position.

39. Hon. Munya informed the Committee that as a holder of a Masters of Laws degree in international Law in (International Economic Integration) he is best suited to serve as the Cabinet Secretary, East African Community and Northern Corridor development. Further, his experience as a Governor of Meru between 2013 and 2017 exposed him to serve in several leadership and management positions. During his tenure as the Governor of Meru County he initiated the County Revenue Board which resulted in increased county revenues by twenty eight (28) percent, established Meru County Micro-finance and Investment Corporation. He also informed the Committee that his experience as a negotiator will be useful within the EAC where diplomacy, negotiations and compromise are key to decision making.

Commitment to the Office

40. While responding to the affidavit sworn against him Hon. Munya gave a commitment to abide by the expectation and standards of the office of Cabinet Secretary including honoring summons by Parliament pursuant to Article 125(1) (2) of the Constitution.

Challenges facing EAC

41. He is aware of the challenges facing the East African Community particularly in the last five (5) years. He alluded to the lack of human resource which he attributed to inadequate resources. He further noted the non-compliance of Member states to remit their contributions to the EAC. To address the lack of resources he proposed that partner's states should transition from standard and equal payments to making contributions commensurate to the size of their economy.

Vision and Strategy

42. While articulating the Vision for the Ministry, he reiterated his commitment to regional integration given its benefits and the consideration that Kenya is the leading partner in the EAC. He informed the Committee that he is passionate that the ultimate goal of EAC is political federation as enshrined in the EAC Treaty. However, he noted the slow pace towards the attainment of the goal and underscored that opportunities continue to exist for EAC to form a confederation as a step towards political federation.

Lamu Port and Southern Sudan Ethiopia Transport Corridor (LAPSETT) and Economic Development

43. As regards to LAPSETT, he lauded the completion of specific transport and infrastructure projects such as the Isiolo Moyale Road and Isiolo airport. He however noted that the projects' short and medium term targets are highly delayed. He noted that the LAPSETT projects will contribute towards political integration by minimizing regional conflicts and barriers and foster regional development.

EAC and Gender Mainstreaming

44. On mainstreaming gender issues in EAC agenda, the nominee assured the Committee that the principles of the EAC under the Treaty and Protocols in Article 121 recognize the significant contribution of both women and men towards progress of socio-economic transformation of the Partner states.

Committee observations on the suitability of Hon. Peter Munya to serve as Cabinet Secretary, Ministry of East African Community and Northern Corridor Development

45. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and having heard his oral submission during the approval hearing, made the following observations on his suitability for appointment as Cabinet Secretary Ministry of East African Community and Northern Corridor Development, THAT --

- i. two affidavits had been received contesting the suitability of the nominee for appointment as Cabinet Secretary Ministry of East African Community and Northern Corridor Development;
- ii. the response by the nominee to the affidavits was satisfactory and he exculpated himself;
- iii. the nominee had exhibited impressive knowledge on issues integration owing to his previous service as an Assistant Minister in the Ministry of EAC;
- iv. in accordance with Article 78(1) (2) of the Constitution he is a Kenyan citizen and does not hold dual citizenship and is therefore fit to hold office as a Cabinet Secretary;
- v. his academic credentials, and professional training and experience are impressive and in compliance with Section 6(7) of the Public Appointments (Parliamentary Approval) Act;
- vi. he satisfies the requirements of Chapter 6 of the Constitution on leadership and integrity having been cleared by the DCI, KRA on tax compliance, RPP and HELB;

- vii. the EACC indicated that they had received allegations against Hon. Peter Munya. The Commission further indicated that investigations so far had not implicated or found him culpable;
- viii. he has never been charged in a Court of Law;
- ix. as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest;
- x. 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;
- xi. he does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- xii. the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) the Constitution and is therefore fit to hold office as a Cabinet Secretary.

3.6 MR. KERIAKO TOBIKO - CABINET SECRETARY NOMINEE, MINISTRY OF ENVIRONMENT AND FORESTRY.

Mr. Keriako Tobiko appeared before the Committee on Friday, 9th January, 2018 at 9.00am and was orally interviewed pursuant to the provisions of the Constitution of Kenya, the Public Appointments (Parliamentary Approval) Act and the Standing Orders of the National Assembly.

The nominee presented as follows both orally and in writing:

Citizenship, Date and Place of Birth

1. The nominee is Kenyan citizen, ID number 6116196, and was born in 1964 in Kajiado County.

Academic and Professional Qualifications

2. He attended Mashuru Primary School, Athi River High School and Kanyakine High Schools where he pursued his Certificate of Primary Education (CPE), KCE and KACE between 1972 and 1984 respectively.
3. He holds Bachelor's of Laws degree from UoN, 1989 and a Masters of Laws degree from Cambridge University, 1991. He also holds a Diploma on Law from the Kenya School of Law 1990.

Employment Records and Work Experience

4. He received professional training from Kaplan & Stratton Advocates in Nairobi, Erskine Chambers and Clifford Chance Solicitors both in London.
5. He is an Advocate of the High Court of Kenya since 1992;
6. He began his career as Bank clerk at Barclays Bank of Kenya (BBK) in 1985. In 1992, he acted as Legal Officer at the Public Law Institute (PLI) before serving as an Assistant Lecturer in Law at the UoN between 1992 and 1993. In 1993 he operated his Law firm, Tobiko and Associates Advocates for twelve (12) years as a Senior Partner.

National Appointments

7. He has served in various capacities in the public service. Among them are:-
 - (a) The Director of Public Prosecutions, 2011- 2018;
 - (b) Chief Public Prosecutor, 2010- 2011;
 - (c) Director of Public Prosecution (DPP), 2005 under the old Constitution;
 - (d) Commissioner, in the Commission of inquiry in to land law systems in Kenya, 1999- 2002;
 - (e) Commissioner in the Constitution of Kenya Review Commission (CKRC), 2000- 2005;
 - (f) Member of the Governing Council of the National Crime Research Centre (NCRC), 2017-2018;
 - (g) Member of the Advisory Board of Witness Protection Agency (WPA), 2008-2018;
 - (h) Ad hoc secretary to the Constitutional Advisory Committee on Prerogative of Mercy, 2009;
 - (i) Alternative to Hon. Attorney General(AG) as member of the Ransely Taskforce on police reforms;
 - (j) Alternate to the Hon. AG on Cabinet sub-committee on International Criminal Court (ICC); and
 - (k) Chairperson, Advisory Board of the Office of the DPP.

Scholarship, Awards and Fellowships

8. The nominee is a beneficiary of the following awards and fellowships-
 - (a) GadhiSmarak Award for best 'A' Level student (1984)(Kenya);
 - (b) Barclays Cambridge Commonwealth Scholarship (1990) for Kenya;
 - (c) Pegasus Cambridge Scholarship, 1990;
 - (d) Fellow of Cambridge Commonwealth Society (FCCS);
 - (e) Frist class Chef of the Order of the Burning Spear (CBS), 2011;
 - (f) Rank and dignity of a Senior Counsel, 2013.

Books, Publications and Parties

9. The nominee has authored the following publications and papers:-

- (a) *The Land (Group Representatives) Act Cap 287 Laws of Kenya (1989);*
- (b) *Criminal justice in Kenya: The Constitutional Context (1998);*
- (c) *A paper on prosecuting offenses related to terrorism at the stakeholders workshop on draft Anti-terrorism Bill (2006);*
- (d) *A paper on the role of Provincial Administration and Internal Security in the rule of law and administration of justice (2009);*
- (e) *A paper on the Legislative, Institutional and Administrative Framework for Combating corruption in Kenya (2010);*
- (f) *A paper on challenges in the prosecution of anti-corruption and economic crimes cases (2010).*

Professional Associations

10. He is a member of the LSK, Institute of Certified Public Secretaries (ICPS), International Association of Prosecutors (IAAP), African Prosecutors Associations (APA) and East African Association of Prosecutors (EAAP).

Potential Conflict of Interest

11. The nominee informed the Committee that he has no conflict of interest and does not have plans or commitments to pursue outside employment with or without compensation during his tenure in office.
12. He informed the Committee that his primary interest will be to serve the entire nation if approved and appointed as the CS, Environment and Forestry. On issues touching on Mau forest the nominee informed the Committee that he will address the matter in accordance with the provisions of the law notwithstanding the fact that he hails from the Maasai community that has an interest in the Mau forest.

Net Worth

13. The nominee informed the Committee that his net worth is approximately KES 360,000,000.00 comprising of investment in real estate, agriculture and livestock.

Integrity

14. He informed the Committee that he has fully complied with tax obligations to the State. He has not been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution. He has also not be adversely associated with practices that depict, favoritism or nepotism in the discharge of public duties.

15. The nominee also informed the Committee that he has not been charged in a court of law in the last three years or adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry.

Memoranda against the nomination of Mr. Keriako Tobiko

16. The Committee received an affidavit sworn by Ms. Elizabeth Wambui Kamichar in contest of the appointment of Mr. Keriako Tobiko as the Cabinet Secretary for Environment and Forestry. She has attached the following documents to the affidavit –
- a) A copy of a Certificate of Lease of Ms. Elizabeth Wambui Kamichar and Mr. Nelson Thiongo Mukuna for Block No. 9/430 Thika Municipality;
 - b) A copy of Official Search for Block No. 9/430 Thika Municipality; and
 - c) A copy of the Judgment in Criminal Case No. 4873 of 2011 Thika R. v Elizabeth Wambui Kamichar.
19. Ms. Kamichar opposes the nomination and approval of the nominee on the grounds that she is the registered owner of Thika Municipality/Block 9/L430. That, however, due to the false allegations of one Ms. Cecilia Mwangi she was charged in Criminal Case No. 4873 of 2011 Thika with the offence of malicious damage to property. The Court acquitted her on August 7, 2014.
20. That further at the alleged instigation of Mr. Keriako Tobiko, she has again been arraigned in Court in Criminal Case No. 5143 of 2017 Thika with the offence of obtaining registration by false pretense. Mr. Tobiko is responsible as the Director of Public Prosecutions for this second charge as no investigations have been undertaken. She states that the proceedings are unlawful and malicious.

Mr. Keriako Tobiko's response to the Affidavit

21. In his replying affidavit (*Annexure 18*), Mr. Tobiko stated that he only become aware of the criminal case against Ms. Kamichar via her affidavit. He further states that the cases were handled by the Office of the Director of Public Prosecutions, Thika Office, acting pursuant to its own functional autonomy and without prior reference to or directions from him. In addition, there is a distinction between the Office of the Director of Public Prosecutions and Mr. Tobiko himself.
22. Further, the decision by the Office of the Director of Public Prosecutions, Thika Office to charge Ms. Kamichar were based on laid down principles under the National Prosecution Policy as to a prima facie case and public interest threshold. In any event, any aggrieved party is at liberty to challenge the decision of the Office at the High Court. It is also worth noting that as the case is still pending in court, it is sub judice.

Committee observations on the affidavit against Mr. Keriako Tobiko

23. The Committee having considered the affidavit against the nomination of Mr. Keriako Tobiko, the replying affidavit and oral submission by the nominee observes:

- (i) THAT, the affidavit complies with the provisions of section 6(9) of the Public Appointments (Parliamentary Approval), Act, 2011;
- (ii) THAT, there is a distinction between the Office of the DPP and Mr. Keriako Tobiko and that Ms Kamichar had wrongly sought to have Mr. Keriako Tobiko take personal responsibility for alleged wrongs which were committed by the Prosecutors in charge of the ODPP Thika office ;
- (iii) THAT, the response by the nominee on the allegations was satisfactory and that he had exculpated himself.

GENERAL AND SECTOR SPECIFIC ISSUES

The Committee posed questions to the nominee relating to past experience and knowledge in the sector. The nominee responded as follows:

Suitability for the Position

24. Mr. Tobiko outlined his background, experience and professional qualifications. He highlighted his past experience as key to his appointment to the docket: His service at the Public Law Institute (public interest litigation institution) allowed him to take charge of pastoralists legal program and engage with indigenous communities on land tenure, land rights and natural resources. Also, as a practicing advocate in his law firm between 1993 and 2005, he dealt with complex land cases, environmental litigations some of which have informed Constitutional landmark jurisprudence. He also worked with indigenous communities, civil society and engaged with Parliamentarians, lawyers within EA region to establish network for indigenous land rights.

25. He also informed the Committee that his Master's degree in corporate law and finance and securities regulations will be useful in the discharge of his new mandate if appointed. Against this background he sees an opportunity to use his skills in mobilizing resources for the sector for environment and diversity protection. This is informed from the fact that the Ministry budget is 45 percent donor dependent and as such knowledge in securities will facilitate his interaction with private business enterprises. He asserted that private enterprises are adopting green technologies thereby offering a huge potential for the Nairobi Securities to mobilize resources. In a nutshell, his vision is to outgrow dependence on direct consolidated fund allocations and grants and to mobilize alternative resources.

26. He also views his service as the Director Public Prosecution as being instrumental in making him interact closely with environmental concerns and agencies including the National Environmental Management Agency (NEMA). He worked with Kenya Wildlife Service (KWS), wildlife conservation docket and established thematic divisions within the Department viz the Lands and Environment unit and Wildlife Execution Unit. He also established a division in International Corporate and Mutual Assistance relevant to environment and forestry. According to him this was to complement Kenya as an environment capital of the world hosting the United Nations Environmental Program (UNEP) at Gigiri.
27. He will use his legal background and experience in the public service to deal with environmental issues including domesticating and implementing environmental treaties and enforcement of environmental rights and laws.

Enforcement of Environmental Rights and Laws

28. He expressed concern on the failure to actualize Article 70 of the Constitution where urban centers around the Country are chocking with environmental pollution. He linked these to a compromised public interest litigation process. He agreed with the Committee on the problem of environmental pollution in Counties saying that water, sanitation and pollution are devolved functions. He cited poor county leadership, lack of preparedness by Counties following the transitional period, low capacity of Counties in terms of knowledge, skills, and competencies and resources to implement national policies as the causes of environmental pollution. He noted that the solution to the problem will be appropriate leadership and good will among County Government officials.
29. He also informed the Committee that the Draft Waste Management Policy and Bill are being developed. That, these will impose legal obligations on County Governments to discharge their responsibility. He is also keen to engage Counties, collectively and bilaterally, work with CoG, Sectoral Committee on environment within the CoG to address these short comings.

National Environmental Tribunal (Section 125 of the NEMC Act)

30. He agreed with the Committee on the challenges facing the Tribunal saying that the body is not operational. He attributed this to conflicted roles, where the National Environment Management and Coordination (NEMC) Act establishes the Tribunal, the Constitution mandates the JSC to populate the tribunal while the Cabinet Secretary only gazettes it.
31. He also blamed numerous stoppage orders that have resulted in massive infrastructural projects being stayed. He sees the need for judicial bodies to take into account the context and public interest while making determinations.

Priority Areas

32. The nominee informed the committee that his nomination to the Ministry of Environment is appropriate and that a change from Judiciary will add value to his career.
33. He informed the Committee that if appointed he has prioritized the Cleanup of Nairobi River and other river ecosystems; development of infrastructure taking into account the environmental, social and strategic impact; and public participation in implementation of government policies. Others are address the challenges associated with Engineered Land Fields (*popularly referred to as dumpsites*), undertake audit on actual implementation status of Environmental laws with an aim to identify gaps and weak links and work closely with relevant Committees, youth groups on ways they can be mainstreamed in the sector.

Corruption at the Ministry and Conflict of Interest

34. The nominee informed the Committee that to deal with corruption, he will enforce asset and wealth declaration, declaration of gift registers and conflict of interest registers pursuant to Public Officers and Ethics Act of 2003. He will also introduce corruption prevention committees, work closely with the EACC, and on certain occasions invite the EACC to undertake a systems audit and procedural risk assessment and strengthen the whistle blower mechanism.
35. As to whether he is likely to be biased on matters relating Mau Forest settlement conflict, he informed the Committee that regardless of the sensitivity of the issue, he will serve the interest of the Nation and will discharge his duties and make decision based on evidence and prevailing law.

Climate Change and Human Wildlife Conflicts

36. While concluding his presentation, he acknowledged the devastating effects of climate change and reiterated the need for developing mitigation and adaptation measures to address it. He proposed the adoption of a coordinating mechanism bearing in mind that matters climate change are multi sectoral. He had similar sentiments on matters to with human wildlife conflicts where he sees the need to closely work with the relevant sectors and stakeholders.

Committee observations on suitability of Mr. Keriako Tobiko for appointment as Cabinet Secretary for Environment and Forestry

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

observations on his suitability for appointment as Cabinet Secretary Ministry of Environment and Forestry, THAT-

- a. the nominee satisfies the requirements of chapter six of the Constitution of Kenya on leadership and integrity having been cleared by the DCI, KRA on tax compliance, RPP, HELB and the EACC;
- b. an affidavit had been received contesting the suitability of the nominee for appointment as Cabinet Secretary Ministry of Environment and Forestry;
- c. the response by the nominee to the affidavit was satisfactory and he exculpated himself;
- d. in accordance with Article 78(1) (2) of the Constitution he is a Kenyan citizen and does not hold dual citizenship and is therefore fit to hold office as a Cabinet Secretary;
- e. his academic credentials, and professional training and experience are in compliance with Section 6(7) of the Public Appointments (Parliamentary Approval) Act;
- f. he has never been charged in a Court of Law for the last three years;
- g. as stipulated in Article 75(1), he has no potential conflict of interest;
- h. 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;
- i. he does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- j. 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), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) the Constitution and is therefore fit to hold office as a Cabinet Secretary.
- k. the nominee exhibited knowledge on topical and legal issues touching on the environment and forestry sector and has the requisite abilities and qualifications.

**3.7 MR. SIMON KIPRONO CHELUGUI - CABINET SECRETARY NOMINEE,
MINISTRY OF WATER AND SANITATION.**

Mr. Simon Chelugui appeared before the Committee on Friday, 9th February, 2018 at 11.46 am and was orally interviewed pursuant to the provisions of the Constitution of Kenya, the Public Appointments (Parliamentary Approval) Act and the Standing Orders of the National Assembly.

The nominee presented as follows both orally and in writing:

Citizenship, Date and Place of Birth

1. He is a Kenyan citizen, ID number 11187851 and was born in 1971 in Baringo County

Educational and Professional Qualifications

2. He completed his Kenya Certificate of Primary Education (KCPE) in 1986 at Pombo Primary School and KCSE in 1990 at Moi High School Kabarak. He is a holder of a Bachelor's of Commerce degree with a specialization in Management Science from the University of Nairobi.

Employment Records and Work Experience

3. He was first employed as Finance and Administration Director at the Coffee Machinery Services in 1996 and was promoted to the position of Managing Director in 2000. In 2008 he was appointed the Managing Director of Baumann Engineering.
4. He served as a Director, Constituency Development Fund Board (CDF) from 2008 to 2011. He also served as a Director of the Betting Control and Licensing Board from 2015 to 2017.

Potential Conflict of Interest

5. He informed the Committee that he does not have intentions of pursuing other commitments outside of employment with or without compensations during his tenure in office if appointed.
6. He is ready to serve all citizens in the entire country and prioritize the need of water as a resource according to specific county needs without fear or favour notwithstanding the fact that he vied for the Senatorial position in Baringo County in 2017. He informed the Committee that he will resign as a director of Penelly Limited, a company which did water works in different counties, so that he has autonomy to perform his duties as the Cabinet Secretary in conformity with the provisions of the Public Officers Ethics Act.

Net Worth

7. The nominee informed the Committee, in his response to the questionnaire, that his net worth is approximately KES 796, 000, 000.00 comprising investments in real estate, movable assets and farming.

Integrity

8. He informed the Committee that he has never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution and further that he has not been adversely mentioned with practices that depict bias, favoritism or nepotism in the discharge of his duties.

9. He also informed the Committee that he has not been charged in any court of law in the last three years and has never been adversely mentioned in any investigatory report of Parliament or any other Commission of inquiry.
10. The nominee is fully tax compliant having complied with tax obligations to the State.
11. Mr. Chelugui informed the Committee that if appointed he will serve all Kenyans with fairness including his political competitors. He assured the Committee that he will not favor his home county which is one of the water scarce counties.

Affidavit against the nomination of Mr. Simon Chelugui

12. The Committee received an affidavit sworn by Ms. Anne W. Wado contesting the appointment of Mr. Simon Chelugui as the Cabinet Secretary for Water and Irrigation. She had attached the following documents to the affidavit –
 - (a) Cheque No. 001301 by St. Elizabeth Academy Karen Ltd addressed to Penelly Construction Engineering Ltd;
 - (b) A letter dated May 2, 2014 addressed to the Managing Director of St. Elizabeth Karen Ltd by Mr. Simon K. Chelugui;
 - (c) A letter dated April 30, 2014 addressed to St. Elizabeth Academy Karen Ltd by Mr. Christopher Agwanda;
 - (d) An authorization by the Water Resource Management Authority dated April 10, 2014;
 - (e) A bank statement for St. Elizabeth Academy Karen Ltd Account No. 1106989589 at Kenya Commercial Bank; and
 - (f) An excerpt of the online Star Newspaper dated July 20, 2017.

Summary of the affidavit

13. In the affidavit, Ms. Wado who is the Chief Executive Officer of St. Elizabeth Academy Karen deponed that she knows the nominee. She stated that the school contracted the nominee to drill a borehole on plot No. LR/1159/140 on Dagoretti Road in May 2014 for a cost of Kenya Shillings nine hundred and fifty nine thousand five hundred and five only (KES 959, 505.00). The school paid the nominee Kenya Shillings Five Hundred Thousand only (KES 500, 000.00) via Cheque. She stated that since then, they have not been able to trace the nominee. As a result of the non-performance of the contract by the nominee, the school incurred a cost of Kenya Shillings two million five hundred and ninety two thousand (KES 2, 592, 000.00) to purchase water. She stated that in view of the above, she was of the view that the nominee is not a fit person to hold a public office.

She also requested that nominee to refund the deposit paid and the costs incurred in the purchase of water.

Response by the nominee

14. In response, Mr. Chelugui filed a replying affidavit (*Annexure 19*) and made oral submissions on the allegations. He stated that he was a Managing Director of Penelly Construction and Engineering Ltd since its incorporation and specifically from July 2003 to January 2008 and from March 2009 to 1st May 2017. He stated that he resigned on April 10, 2017 to contest for the seat of Senator, Baringo County.
15. He stated that it's the company and not him that entered into an agreement with St. Elizabeth Academy Karen for the drilling and equipping of a borehole to supply water to St. Elizabeth Academy Karen on Plot No. LR/1159/140 on Dagoretti Road in May 2014. The quotation was worth Kenya Shillings one million five hundred and sixteen thousand five hundred (KES 1, 516, 500.00) less 3% discount thus amounting to Kenya Shillings one million four hundred and seventy one thousand and five (KES 1, 471, 005.00) and not Kenya Shillings nine hundred and fifty nine thousand five hundred and five (KES 959, 505.00) as stated by Ms. Wado.
16. The quotation clearly stated that payment should have been made by way of payment of a down payment of 50% of the contract value which was Kenya Shillings seven hundred and thirty five thousand five hundred and two and fifty cents (KES 735, 502.50) upon signing the agreement and the balance upon completion.
17. On June 20, 2014, the school made a down payment of Kenya Shillings five hundred thousand only (KES 500,000.00) to the Company which was short of the required deposit as stipulated in the contract. There was no written or verbal explanation given to the company as to when and how the deficit would be met to enable the company mobilize and start the works. The total amount that the company was to spend in drilling, equipping, testing and capping the borehole including labour was valued at Kenya Shillings one million, two hundred and fifty thousand three hundred and sixty (KES 1, 250, 360.00) hence the need for the 50% down payment. The company pursued the complainant to make good her part with no success.
18. He also stated that this was not the first contract between the two. The two had successfully engaged in a project in 2006.
19. In February 2017, Ms. Wado got in touch with the nominee as the Managing Director of Penelly Construction and Engineering Ltd requesting for Kenya Shillings one hundred and fifty thousand (KES 150, 000.00) to resolve a personal matter as she was low on funds as the school was receiving less students. The company refunded her the sum of Kenya Shillings one hundred and fifty thousand (KES 150,000.00) which was the sum of the

deposit to Kenya Shillings three hundred and fifty thousand (KES 350,000.00) as she had requested.

20. Ms. Wado therefore did not disclose all material facts and that she was also in breach of the contract having paid less deposit than required. In addition, during his tenure as the Managing Director there was no time that Ms. Wado got in touch with the office demand a refund. She was also at liberty to pursue the matter through the outlined dispute resolution procedure set out in their agreement, which she has not done. Further he stated that she was also at liberty to pursue the refund from Penelly Construction Limited or make the requisite deposit so as to enable the company proceed with the transaction. He was no longer the Managing Director hence could not make a refund to her or the school and in any case, the payments were made to the company and not to him.
21. The nominee stated that Ms. Wado is malicious and that her allegations had adversely affected his chances of winning the Baringo Senate seat as she had shared the information with The Star, Citizen and Standard Newspapers in the period immediately preceding the August 2017 General Elections. The nominee also noted that the complainant had sworn the affidavit in her personal capacity yet the contract was by St. Elizabeth Academy, Karen that is a separate corporate entity.
22. He requested the Committee to dismiss the affidavit.

Committee observations on the affidavit against Mr. Simon Chelugui

23. In light of the foregoing, the Committee observes as follows on the submissions-
 - (a) THAT, the affidavit met the requirements of section 6(9) of the Public Appointments (Parliamentary Approvals) Act, 2011 as it is a sworn statement;
 - (b) THAT, the dispute in the affidavit is civil in nature and therefore the complainant remains at liberty to pursue legal redress as provided by law;
 - (c) THAT, the timing of the publication of the dispute in the media during the period preceding the August 2017 General Elections was malicious and politically motivated and designed to hurt the nominees chances of winning the seat;
 - (d) THAT, contract in the dispute was between St. Elizabeth Academy Karen Limited and Pennelly Construction Engineering Limited and that it is trite law that the actions of a company should not be attributed to a shareholder or any other person;
 - (e) THAT, the nominee provided a satisfactory response to the allegations by Ms. Anne Wado and he had exculpated himself.

GENERAL AND SECTOR SPECIFIC ISSUES

The Committee posed questions to the nominee relating to past experience and knowledge in the sector. The nominee responded as follows:

Professional Experience and Relevance to the Portfolio.

23. Mr. Chelugui informed the Committee that his experience as a business person in the water sector with vast networks in the sector gives him a comparative advantage in identify with county specific needs of water as a natural resource and in championing the Ministry in providing water as an enabler of the Big Four Agenda. He also has practical skills necessary for engaging with the relevant stakeholders in the water sector in terms of technical specifications of water projects. His vast experience in Waste Management and Water Works is necessary for the management of the public sector in particular to achieve value for money.

Leadership

24. He stated that his experience in the public sector gave him an opportunity to understand the working of devolved government and thus he will be able to engage with devolved units and other relevant stakeholders in both the private and public sectors through partnerships to achieve the goals of the public sector.

Strategies to Address the Water Deficit in the Country

25. The nominee informed the committee that:-

- (a) Despite the fact that Kenya is a water deficit country, he will engage with counties and ensure that programs are put in place to address the challenge of Water as a resource in the country;
- (b) He will ensure that in all the Counties that have water catchment areas, the relevant communities benefit from the resource by establishing programs for the catchment areas to ensure sustainability for both the local communities and the other users;
- (c) He will put in place measures to ensure accessibility to safe and affordable water for all and that companies licensed through the Ministry provide quality water services with focus on counties with water deficit and tap into water discoveries in Turkana and other counties so as to increase water coverage from the current 60 percent. He will also partner with the relevant stakeholders such as Kenya Bureau of Standards (KeBS) to assure standards of the quality of bottled water sold to Kenyans.
- (d) He will monitor all companies that drill boreholes with relevant technical specifications in the Country to ensure that there is value for money.
- (e) Mr. Chelugui intimated to the Committee that he will ensure that there is a framework that guides the county governments on how to implement the water distribution function in addition to building capacity for water service providers to give whole sum quality water services and introduce some affordable user charge fees for consumers.

- (f) He further informed the Committee that he will ensure that all stalled mega water projects are implemented and that the local component is enforced by offering employment to the locals, subcontracting other project components from the main contractor. He will also ensure there is equity in the distribution of water.
- (g) He will introduce a programme, through Public Private Partnerships with incentives to the investors, to bridge the financing gap in the sector and ensure recycling of waste water for irrigation purposes.
- (h) Mr. Chelugui assured the Committee that he will partner and collaborate with the relevant stakeholders including other government agencies to address compensation issues which have stalled mega water projects in the country. He will collaborate with the Ministry of Land to ensure that there are no conflicts regarding land compensation as regards implementation of water projects including addressing the issue of land valuation indexing.
- (i) He will ensure that water as an enabler of achieving the four major government priorities is available. This includes food security through irrigation of Galana Kulalu and reclaiming northern part of Kenya, provision of clean water to housing; prevent waterborne diseases through provision of safe treated water and the manufacturing sector which needs plenty of water.
- (j) He will bring together all the stakeholders in the water sector to mobilize resources towards increasing water supply, oversight of the water service providers and protection of the consumer through consumer protection tariffs, regulations and legislations in the sector.
- (k) He will also work towards improving sanitation through dealing with pollution, dumping, flooding and waste management across the country.

Committee observations on suitability of Mr. Simon Chelugui for appointment as Cabinet Secretary for Water and Sanitation

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

- a. the nominee satisfies the requirements of chapter six of the Constitution of Kenya on leadership and integrity having been cleared by the DCI, KRA on tax compliance, RPP, HELB and the UACC;

- b. an affidavit had been received contesting the suitability of the nominee for appointment as Cabinet Secretary Ministry of Water and Sanitation;
- c. the response by the nominee to the affidavit was satisfactory and he had exculpated himself;
- d. in accordance with Article 78(1) (2) of the Constitution he is a Kenyan citizen and does not hold dual citizenship and is therefore fit to hold office as a Cabinet Secretary;
- e. his academic credentials, and experience are impressive and in compliance with Section 6(7) of the Public Appointments (Parliamentary Approval) Act;
- f. the nominee has never been charged in a Court of Law;
- g. as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest;
- h. he satisfies the requirements of Article 77(1) of the Constitution in that he does not intend to participate in any other gainful employment;
- i. he does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- j. the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) the Constitution and is therefore fit to hold office as a Cabinet Secretary.
- k. the nominee exhibited knowledge on topical issues touching on the water and sanitation sector and has the requisite abilities and qualifications.

**3.8 HON. UKUR YATANI KANACHO - CABINET SECRETARY NOMINEE,
MINISTRY OF LABOUR AND SOCIAL PROTECTION.**

Hon. Ukur Yatani appeared before the Committee on Friday, 9th February, 2018 at 2.35 pm and was orally interviewed pursuant to the provisions of the Constitution of Kenya, the Public Appointments (Parliamentary Approval) Act and the Standing Orders of the National Assembly.

The nominee presented as follows both orally and in writing:

Citizenship, Date and Place of Birth

1. He is a Kenya citizen, ID number 8151693 and was born in 1967 in Marsabit County.

Academic and Professional Qualifications

2. He holds a Master's degree in Public Administration and Public Policy from the University of York in the United Kingdom, 2005 and a Bachelor's degree in Economics and Sociology from Egerton University, 1991.

3. He has attended various senior management courses at the Kenya Institute of Administration on Disaster Capacity Building, Food security, Advanced Public Administration, Leadership Development. In addition he has also attended short courses and seminars that include: Ambassadors' Bi-annual Conference (2010, 2011), Conference of African Ministers for Industrialization (2011), UNIDO conference on Accelerated, Agri-business and Agro-industries development Initiative (2010), Peaceful Use of Nuclear energy- Study tour of Japan Nuclear Agency (2010), East Africa (EA) oil and gas Conference (2015) and Investment Conferences in Dubai, China, UK and USA.

Employment Records and Work Experience

4. He is a career civil servant with twenty five (25) years of experience spanning public administration, politics, diplomacy and governance.
1. He served as a Senior District Officer between 1992 and 2002 and was promoted to Senior District Commissioner in 2002. He was elected as a Member of Parliament and appointed an Assistant Minister in the Ministry of Science and Technology between 2006 and 2007.
2. He has served in both Government and the United Nations (UN) system. During his tenure as Kenya's Permanent Representative to the UN in Vienna he served as the Permanent Representative to the International Atomic Energy Agency (IAEA), UN organization on Drugs and Crimes (UNODC), UN Industrial Development Organization (UNIDO), Comprehensive Test Ban Treaty Organization (CTBTO) and Office of Outer Space Agency (OOSA) between 2009 and 2011.
3. He is a founder board member of the International Anti-Corruption Academy (IACA) and Non-Aligned Movement, African Group and G-77 and China.
4. He has served as the Kenyan Ambassador to Austria with accreditation to Hungary and Slovakia.
5. He served as the Governor for Marsabit County from 2013 to 2017 during which period he held the positions of Chair of the Foreign Affairs Committee and the Chief Whip within the Council of Governors.

Honors and Awards

6. He was awarded the Jomo Kenyatta Foundations Awards scholarship for top CPE in Marsabit District in 1981.

Political Activities Affiliations

7. He was the Frontier Alliance Party Leader until January 2018 when he resigned prior to which he was the Jubilee Campaign Coordinator for Marsabit County in 2017.

Potential Conflict of Interest

8. The nominee informed the Committee that he does not have plans to pursue outside employment with or without compensation if approved and appointed to the office of Cabinet Secretary.

Net Worth

9. Amb. Yatani informed the Committee that his net worth amounts to approximately KES 295,000,000.00 comprising investments in transport, movable assets, real estate and livestock.

Integrity

10. The nominee informed the Committee that he has complied with his tax obligations to the State. As a public servant he has not been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution and has never been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties.

GENERAL AND SECTOR SPECIFIC ISSUES

The Committee posed questions to the nominee relating to his past experience and knowledge in the sector. The nominee responded as follows:

Suitability for the Position

11. On his suitability for position of Cabinet Secretary in the Ministry of Labour and Social Protection, Amb Yatani informed the Committee that he possesses relevant academic qualifications as a graduate of Economic and Sociology and Public Administration and Public policy. He is a seasoned civil servant with twenty five (25) years' experience. He particularly noted his achievements while serving as the Permanent Representative to the IAEA where Kenya, among other countries, is credited for persuading North Korea and Iran not to test nuclear weapons and the establishment of the Nuclear Agency Committee in Kenya.
12. As a Diplomat in Vienna, Austria with accreditation to Hungary and Slovakia he prides himself for the increased bilateral trade. He also credits himself as the first Governor of Marsabit County who in a span of five years contributed to increased opportunity for self-governance and improved physical infrastructure. He also attributed the increased cohesive index, enhanced affirmative action and integration among communities in Marsabit to his able leadership as Governor of the County. It is with this background that he is prepared for the position he has been nominated for.

National Social Security Fund (NSSF)

13. The Committee noted that NSSF holds public money in trust for pensioners. He acknowledged that with over KES 180, 000,000.00 in assets and between KES 13,000,000.00 and KES 15,000,000.00 in generated investments income annually, the NSSF has its historical challenges. On his commitment to implement Section 6 and 8(1) of the NSSF Act of 2013 as relates to terms of office of NSSF trustees, he promised to ascertain the reasons for the inability by predecessors to implement the law taking cognizance of existing court cases. He also vowed to engage and explore where possible out of court alternative dispute resolution. He also proposed the need to undertake a forensic audit to determine sustainable and value for money at NSSF.

Universities and Job Market Disconnect

14. He acknowledged that there exists a disconnect between skills, knowledge and job market demand that he attributed to the upgrading of middle level colleges to Universities resulting in shortage of technicians and technologists. He therefore proposed the need to engage industry and academia to develop skills at the National Industrial Training Authority and other tertiary institutions.

Social Protections Programmes

15. On Social protection programmes, he lauded the efforts and contributions made by the program in addressing the Sustainable Development Goal (SDG) number one on poverty alleviation. He recognized the multiplier effects of the programmes to communities through economic empowerment. He informed the Committee that the current age limit of seventy (70) years old could not be reduced since it was arrived at having considered the ability of the country to support the senior citizens. Further taking into consideration the accountability challenges facing the funds, he informed the Committee that the Ministry is in the process of transferring cash to recipients through mobile money transfers in addition to putting in place monitoring arrangements to ensure accountability and value for money.

Industrial Unrests and Collective Bargaining Agreements (CBAs)

16. The nominee acknowledged that there has been an upsurge in labour disputes and this has led to industrial unrests across most sectors of the economy. He called for social dialogue when addressing workers grievances on salary demands and allowances. He attributed the risk of such spiral effect to diminishing investor confidence and flight to Countries known to provide cheaper labor.

Labour Laws

17. He promised that if appointed, he will institute an aggressive sensitization campaign to inform agencies, engage stakeholder including trade unions in the sector with the aim of addressing the challenge of mistreatment of workers among them domestic workers. He further undertook to conduct an audit on the implementation of the various labour laws and if need arises propose amendments to the National Assembly.

Committee observations on suitability of Amb. Ukur Yatani for appointment as Cabinet Secretary for Labour and Social Protection

18. The Committee having considered the nominees filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, 2011 his curriculum vitae and having heard his oral submission during the approval hearing, made the following observations on his suitability for appointment as Cabinet Secretary Ministry of Labour and Social Protection, THAT -

- i. the nominee satisfies the requirements of Chapter Six of the Constitution of Kenya on Leadership and Integrity having been cleared by the DCI, KRA on tax compliance, RPP and HELB;
- ii. the EACC indicated that they had received allegations against Amb. Ukur Yatani. The Commission further indicated that investigations so far had not implicated or found him culpable;
- iii. the nominee has a wide experience in the public sector;
- iv. in accordance with Article 78(1) and (2) of the Constitution he is a Kenyan citizen and does not hold dual citizenship and is therefore fit to hold office as a Cabinet Secretary;
- v. his academic credentials, and professional training and experience are impressive and in compliance with Section 6(7) of the Public Appointments (Parliamentary Approval) Act, 2011;
- vi. the nominee has never been charged in a Court of Law in the last three years;
- vii. as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest;
- viii. he satisfies the requirements of Article 77(1) of the Constitution in that he does not intend to participate in any other gainful employment;
- ix. the nominee does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- x. 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), 76(financial

probity), 77(restriction of State Officers) and 78(2) (dual citizenship) of the Constitution and is therefore fit to hold office as a Cabinet Secretary.

- xi. the nominee exhibited knowledge on topical issues touching on labour and social protection and has the requisite abilities and qualifications.

3.9 MR. RASHID ECHESA MOHAMED – CABINET SECRETARY NOMINEE MINISTRY OF SPORTS AND HERITAGE

Mr. Rashid Echesa Muhamed appeared before the Committee on Friday, 9th February, 2018 at 3.50 pm and was orally interviewed pursuant to the provisions of the Constitution of Kenya, the Public Appointments (Parliamentary Approval) Act and the Standing Orders of the National Assembly.

The nominee presented as follows both orally and in writing:

Citizenship, Date and Place of Birth

1. He is a Kenyan citizen, ID number 22736470 and was born in August 1982 in Kakamega County.

Educational and Professional Qualifications

2. He attended Shibale primary school from 1990 to 1997. Due to his humble background and challenges of school fees he was not able to continue with his formal education.
3. His core interests and competence areas include; management, planning, implementation and monitoring, civil community based project, youth empowerment and development, and human and resource mobilization.

Employment Records and Work Experience

4. He is the Chief Executive Officer of Aust and Oust International Limited, a private company. He worked as a loader at Mumias Sugar Company Limited. He has also worked with Kenya Prisons as a sportsperson serving in the boxing section.

Awards

5. He won the Amateur Boxing Association of Kenya (Welter weight) and Amateur Boxing Association of Kenya.

Political Party Affiliations

6. Between 2006 and 2007 he coordinated and mobilized for the Party of National Unity (PNU) in Mumias Constituency. He also served as the chairperson of the National Youth for the Orange Democratic Movement (ODM) between 2009 and 2015 and subsequently vied for the parliamentary seat in Mumias Constituency. He also participated and coordinated and mobilized votes for the Jubilee Party in Kakamega County and the larger

7. He is currently not a member or affiliated to any political party but had worked with the Party of National Unity, Orange Democratic Movement and Jubilee.

Potential Conflict of Interest

8. The nominee informed the Committee that he does not have plans to pursue outside employment with or without compensation during service in office.

Net-worth

9. Mr. Echesa informed the Committee that he has a net worth of KES 40,000,000.00 comprising of investments in movable assets, real estate and construction.

Integrity

10. The nominee has complied with his tax obligations to the State. He informed the Committee that he has not been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution and neither has he been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties.
11. The nominee confided to the Committee that he had been charged in court on a matter of incitement but the matter was dismissed for lack of evidence. He further informed the Committee that he has not been adversely mentioned in any investigatory report of Parliament or any other Commission of inquiry in the last three years.

Affidavit against the nomination of Mr. Rashid Echesa

12. The Committee received an affidavit sworn on February 1, 2018 by Ms. Esther Kabura questioning the suitability of Mr. Rashid Echesa Muhamed to serve as the Cabinet Secretary for Sports and Heritage.

Summary of the affidavit

13. In the affidavit, Ms. Kabura deponed that she knew the nominee who was a close friend of her deceased husband, Mr. Patrick Akifuma Lisusta. After the demise of her husband, the nominee advised her that her husband's relatives were planning to forcefully take over her husband's properties and he wished to help her secure the property. To this effect, she handed over three motor vehicles namely Volkswagen registration no. KAY 388A, Toyota Land cruiser registration no. KBZ 009J and Toyota Mark X registration no. KBN 242W and their original logbooks to the nominee.
14. She stated that later on she requested the nominee to return the cars but he began avoiding her. This compelled her to report the matter at Kisumu Central Police Station vide OB. NO. 58/9/2016 but three months later she had neither recovered the motor vehicles nor

had the nominee been summoned. She averred that it was her belief that the nominee had compromised the police.

15. She later on reported the matter to the flying squad special unit at Kilimani Police Station and the investigating officer impounded one Land cruiser registration number KBZ 009J. She indicated that the Police summoned the nominee and he produced three sale agreements for the cars. Thereafter, the motor vehicle was released to the nominee.
16. She also indicated that the Nairobi newspaper later on published her story on March 10, 2017. She stated that thereafter, the nominee called her and threatened her, causing her to switch off her phone and ultimately change her number. She later on received a letter dated March 14, 2017 from the nominee's advocates demanding an apology for the libelous publication in the newspaper or in default, they would sue her for defamation.
17. Ms. Kabura insisted that she did not sell the three motor vehicles and the nominee had defrauded her. She claimed that her efforts to recover the vehicles had been frustrated by the nominee who is influential. To this effect, she prayed that the Committee on Appointments do find the nominee unfit to serve as a Cabinet Secretary.

Response by the nominee

18. In response, the nominee submitted a Replying Affidavit (*Annexure 20*) denying the above allegations and attached a letter from Mr. Noah L. Katumo O/C Special Crime Prevention Unit explaining that the police did not charge the nominee as their investigations revealed that the motor vehicles were sold by the complainant. The affidavit was supported by signed agreements and deposit receipts paid into her account.
19. During the approval hearing, the nominee was also afforded an opportunity to respond to the accusations from Ms. Kabura. He reiterated the contents of his affidavit and affirmed that he believed he had acted in good faith as a witness in the transactions between Ms. Kabura and the persons who bought the vehicles. He stated that Ms. Kabura's daughter was also a witness to the agreements. He also recalled that Ms. Kabura had published the same allegations in a newspaper during the 2017 campaign period and he believed that the publication was aimed at tainting his reputation so that he would not succeed politically during the elections as he was a candidate in Mumias West Constituency. He stated that in his view, the allegations were malicious, vexatious and fictitious and only aimed at ruining his reputation.

Committee observations on the Affidavit

20. In light of the foregoing, the Committee observes as follows on the submissions:

- (a) THAT, the affidavit by Ms. Kabura met the requirements of section 6(9) of the Public Access to Information Act (Parliamentary Approval) Act, 2011 as it is a sworn statement:

- (b) THAT, the dispute in the affidavit is civil in nature and therefore the complainant remains at liberty to pursue legal redress as provided by law.
- (c) THAT, the timing of the publication of the dispute in the media during the period preceding the August 2017 General Elections was malicious and politically motivated and designed to hurt the nominees chances of winning the seat.
- (d) THAT, the security agency tasked with investigating the matter completed its investigations and exonerated the nominee.
- (e) THAT, the nominee provided a satisfactory response on the allegations by Ms. Esther Kabura and had exculpated himself;

GENERAL AND SECTOR SPECIFIC ISSUES

The Committee posed questions to the nominee relating to past experience and knowledge in the sector. The nominee responded as follows:

21. The nominee appreciated his nomination for appointment as Cabinet Secretary in spite his humble background and challenges in early life thus underscoring the principle that no one should be discriminated on any ground and affording adequate and equal opportunities for appointments as enshrined in Article 27(3) as read with Article 232(1)(i) of the Constitution.

Suitability for the Position

22. On his suitability for the position, Mr. Echesa explained how his humble family background formed the basis for self-motivation and passion to achieve. He also explained that having interacted with the youth and sports people at community level, he fully understands their challenges. He sees this as an opportunity to champion the youth agenda through Sports and Heritage if appointed. Further, his experiences as a youth mobiliser and coordinator having worked across three political parties underscores his strength in articulating issues of the youth, of which Sports is among them. He also views himself as an entrepreneur following the establishment of a Company by the name Aust and Oust International in 2008 which employs two hundred (200) Kenyans. All these attributes give him leverage to drive policy within the Ministry.

Understanding of Heritage

23. He informed the Committee that having close ties with the Nabongo Wanga Clan has broadened his understanding of Heritage and its implication to culture and social integration. He will integrate his background knowledge on cultural heritage to champion protection and preservation of Kenya's cultural heritage which is important in building a cohesive society.

State of Sports in Kenya

24. He underscored the poor state of sports in Kenya and pointed out doping challenges, missed opportunity in hosting international championships and disenfranchised former sports men and women as some of the priorities that he will address if approved and appointed to the position of Cabinet Secretary. He will also establish sports academies across the Counties, complete ongoing works in building five stadia, build new stadia in the 47 counties to tap youth talent, ensure strategic management of sports men and women through consultative dialogue by all stakeholders in the sporting industry, sourcing of funds from the consolidated fund and other potential donors. He undertook to collaborate with County governments to nurture talent, set up Constituency committees' as focal points of sports development at community level and inclusive talent development irrespective of gender.

Corruption in Sports

25. To address issues of corruption in the Sports sub-sector, the nominee informed the Committee that he will engage the relevant stakeholders with the aim of finding practical solutions to mismanagement of funds since fighting corruption requires a collective effort from all the stakeholders in the sector. As an individual he abhors corruption.

Conflict of Interest

26. He assured the Committee of his commitment to give full attention to the Cabinet position if appointed as he has plans to resign from the Directorship of his company. Further, the challenges in the sector and the expectations of the Cabinet position will require that he does not engage in politics going forward.

Mentorship Opportunities

27. He informed the Committee of his passion for both politics and Sports. Given his background, he underscored the importance of giving back to the society. He has been at the forefront in supporting upcoming sport persons and being involved in voluntary activities such as the Chairing of the Western Boxing Association and patron of the Kakamega Homeboys football club.

28. His heritage coming from the Nabongo Kingdom, the only cultural kingdom in Kenya, puts him at a better pedestal to lead the Ministry responsible for protecting the country's cultural heritage.

Committee observations on the suitability of Mr. Rashid Echesa Muhamed for appointment as Cabinet Secretary for Sports and Heritage

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

- i. in accordance with Article 78(1) and (2) he is a Kenyan Citizen and does not hold dual citizenship and is therefore fit to hold office as a Cabinet Secretary. THAT, though his academic credentials show that he only underwent basic formal education, his professional training and experience in sports (boxing) and entrepreneurial and resource mobilization skills are impressive and in conformity to requirements of Section 6(7) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011.
- ii. an affidavit had been received contesting the suitability of the nominee for appointment as Cabinet Secretary Ministry of Sports and Heritage;
- iii. the response by the nominee to the affidavit was satisfactory and he had exculpated himself;
- iv. he satisfies the requirements of Chapter 6 of the Constitution on leadership and integrity having been cleared by the DCI, KRA on tax compliance, HELB and the EACC.
- v. the nominee has not been charged and found guilty in any Court of Law in the last three years.
- vi. as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest.
- vii. The nominee satisfies the requirements of Article 77(1) of the Constitution of the Constitution in that he does not intend to participate in any other gainful employment upon appointment to office.
- viii. he does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution.
- ix. 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), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) of the Constitution and is therefore fit to hold office as a Cabinet Secretary.
- x. The nominee has exhibited impressive knowledge of topical issues in the sports and heritage docket.

4.0 COMMITTEE'S GENERAL OBSERVATIONS ON THE NOMINEES

The Committee having vetted all the nominees' made the following general observations:-

1. THAT, in accordance with Article 78(1) and (2) of the Constitution all nominees are Kenyan citizens and do not hold dual citizenship and are therefore fit to hold office as Cabinet Secretaries;
2. THAT, all nominees satisfy the statutory requirements on leadership and integrity having been cleared by the DCI, KRA on tax compliance and HELB;
3. THAT, the Committee did not receive any adverse information on any of the nominees from the EACC, which is the constitutional body mandated to ensure compliance with and to enforce the provisions of Chapter Six of the Constitution;
4. THAT, none of the nominees has been convicted in a Court of Law for a criminal offence in the last three years;
5. THAT, as stipulated in Article 75(1) of the Constitution, all the nominees indicated that they have no potential conflict of interest;
6. THAT, all the nominees satisfy the requirements of Article 77(1) of the Constitution in that they do not intend to participate in any other gainful employment;
7. THAT, all the nominees do not hold office in any political party hence satisfy the provisions of Article 77(2) of the Constitution;
8. THAT, none of the nominees has been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) the Constitution and are therefore fit to hold office as a Cabinet Secretaries; and
9. THAT, all the nominees have exhibited impressive knowledge and understanding of issues relating to the dockets they have nominated for appointment.

5.0 COMMITTEE'S RECOMMENDATIONS

Pursuant to Article 152(2) of the Constitution and Standing Order 204 (4), the Committee recommends that the National Assembly approves the nomination of;

1. **Prof. Margaret Kobia** for appointment by H.E. the President as Cabinet Secretary, Ministry of Public Service, Youth and Gender Affairs.
2. **Hon. John Munyes** for appointment by H.E. the President as Cabinet Secretary, Ministry of Petroleum and Mining.
3. **Amb. (Dr.) Monica Juma** for appointment by H.E. the President as Cabinet Secretary, Ministry of Foreign Affairs and International Trade.
4. **Ms. Farida Karoney** for appointment by H.E. the President as Cabinet Secretary, Ministry of Lands and Physical Planning.
5. **Hon. Peter Munya** for appointment by H.E. the President as Cabinet Secretary, Ministry of East African Community and Northern Corridor Development.
6. **Mr. Keriako Tobiko** for appointment by H.E. the President as Cabinet Secretary, Ministry of Environment and Forestry.
7. **Mr. Simon Chelugui** for appointment by H.E. the President as Cabinet Secretary, Ministry of Water and Sanitation.
8. **Hon. Ukur Yatani** for appointment by H.E. the President as Cabinet Secretary, Ministry of Labour and Social Protection.
9. **Mr. Rashid Echesa Muhamed** for appointment by H.E. the President as Cabinet Secretary, Ministry of Sports and Heritage.

Signed 

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

Speaker of the National Assembly/Chairperson, Committee on Appointments

Date 12/02/2018

