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TWELFTH PARLIAMENT (THIRD SESSION)

REPORT OF THE COMMITTEE OF POWERS AND PRIVILEGES

ON THE INQUIRY OF ALLEGED LEAKAGE AND MISUSE OF OFFICIAL
INFORMATION CONTRARY TO THE LEADERSHIP AND INTEGRITY ACT,
2012

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 20 NOV 2019	DAY: WEDNESDAY
TABLED BY:	HON. PETER MWATHI, MP MEMBER OF THE COMMITTEE
CLERK AT THE TABLE:	INZOFU MWANGI

Clerk's Chambers
Parliament Buildings
NAIROBI

November 2019

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PREFACE

The Committee of Powers and Privileges is established pursuant to Section 15 of the Parliamentary Powers and Privileges Act 2017. The Committee comprises of the Speaker as Chairperson and fourteen other Members. The Committee is broadly responsible for handling matters concerning powers, privileges and immunities of the House, committees, members and staff. In particular, the Committee is mandated to, either of its own motion or as a result of a complaint made by any person, inquire into the conduct of a member alleged to constitute breach of privilege, and report to the House its findings together with such recommendations as it considers appropriate.

Further, the National Assembly Standing Orders assigns to the Committee the duty to inquire into allegations of absence by Members from parliamentary proceedings exceeding eight sittings within a session; enforce the Codes of Conduct made pursuant to the requirements of Chapter Six of the Constitution through the Leadership and Integrity Act, the Public Officer Ethics Act and the Parliamentary Power and Privileges Act, and to recommend necessary sanctions following due process.

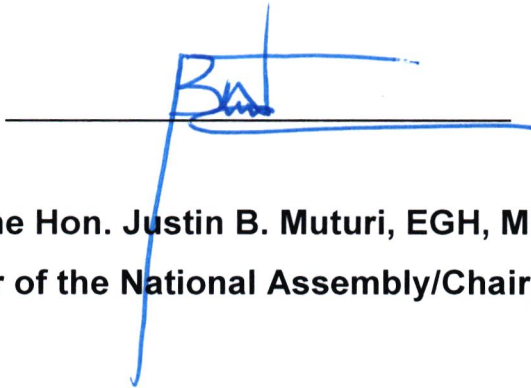
The Constitution of Kenya (2010), which is now in its ninth year of implementation, heralded a paradigm shift in the enforcement of the principles of leadership and integrity for holders of public and state offices. Consequently, this new dispensation necessitated enactment of various legislations on leadership and integrity, together with Codes of Conduct. The law relating to the powers, privileges and immunities of Members was also reviewed to accord with the new Constitution. Effectively, the Eleventh Parliament passed into law the Parliamentary Powers and Privileges Act in June 2017 thus repealing the National Assembly (Powers and Privileges) Act, Chapter 6 of the Laws of Kenya.

The current Committee of Powers and Privileges, which was re-constituted in February 2018, is the first to operate and decide on matters of powers, privileges, immunities and ethics under the new law. Apart from being responsible for powers, privileges, immunities and ethics of Members, the House and staff, the committee is also responsible for matters relating to the absence of members from proceedings of the House, the registration of members' interests and the enforcement of the Codes of Conduct that apply to members under the various statutes.

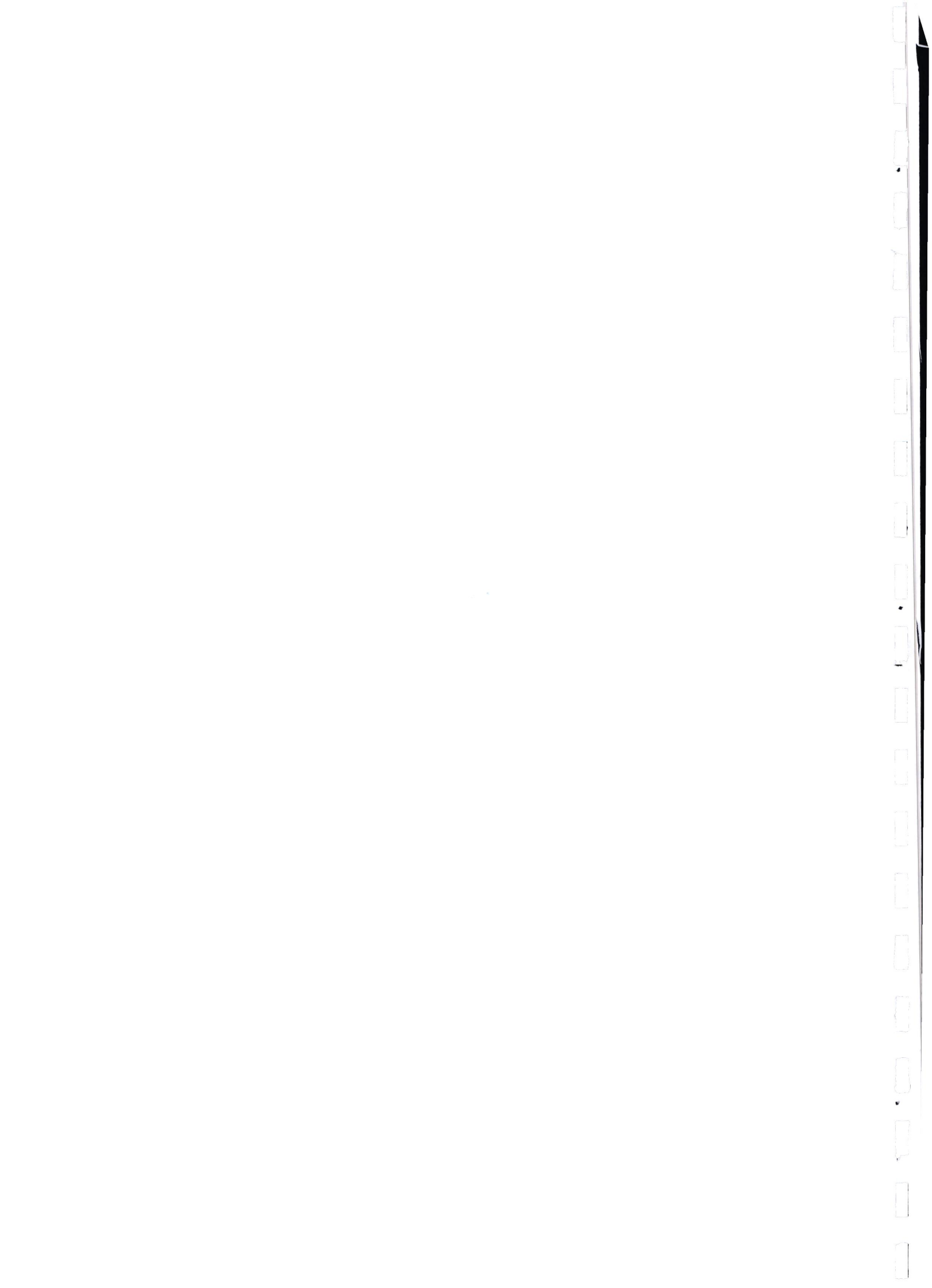
ACKNOWLEDGEMENT

The Chairperson of the Committee takes this opportunity to thank all the Members of the Committee for their immense contribution to the inquiry that culminated in this Report. The Committee wishes to also thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate. The Committee further wishes to record its appreciation for the services rendered by the staff of the National Assembly that enabled the production of this Report.

On behalf of the Committee of Powers and Privileges, I have the honour and pleasure to present the Report to the House.



The Hon. Justin B. Muturi, EGH, MP
Speaker of the National Assembly/Chairperson



PART I: ESTABLISHMENT AND MEMBERSHIP OF THE COMMITTEE

Establishment of the Committee of Powers and Privileges

The Committee of Powers and Privileges of the National Assembly is established under Section 15(1)(a) of the Parliamentary Powers and Privileges Act, 2017. The Committee consists of fifteen Members, being the Speaker as the Chairperson and fourteen other Members of the House appointed in accordance with the Standing Orders.

Membership of the Committee of Powers and Privileges

The membership of the current Committee comprises of the following Members –

Speaker/Chairperson

The Hon. Justin B. N. Muturi, EGH, MP

Members

1. The Hon. Peter Mungai Mwathi, M.P. (**Designated Vice Chairperson**)
2. The Hon. Andrew Mwadime, MP
3. The Hon. Jude L. Kangethe Njomo, M.P.
4. The Hon. Francis Chachu Ganya, M.P.
5. The Hon. Shimbwa Omar Mwinyi, MP
6. The Hon. James Mathew Onyango K' Oyoo, MP
7. The Hon. Beatrice Pauline Cherono Kones, M.P.
8. The Hon. Anthony Githiaka Kiai, M.P.
9. The Hon. Vincent Kipkurui Tuwei, M.P.
10. The Hon. Gladwell Jesire Cheruiyot, M.P.
11. The Hon. Marselino Malimo Arbelle, M.P.
12. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, M.P.

13. The Hon. Danson Mwakuwona Mwashako, MP

14. The Hon. Vincent Kemose Mogaka, MP

Committee Secretariat

The current staff of the Committee are Ms. Jemimah Waigwa (Legal Counsel I), Ms. Anne Shibuko (Second Clerk Assistant), Mr. Benson Inzofu (Second Clerk Assistant) and Ms. Esther Ngechu (Serjeant at Arms) under the supervision of Mr. Kipkemoi arap Kirui, Deputy Director, Legislative and Procedural Services.

PART II: MANDATE OF THE COMMITTEE

The Committee of Powers and Privileges draws its mandate from the Constitution, the Public Officers Ethics Act, 2003, the Leadership and Integrity Act, 2012, the Parliamentary Powers and Privileges Act, 2017 and the National Assembly Standing Orders which assigns to the Committee various functions, which include the following:

a. Inquiring into the conduct of a member whose conduct is alleged to constitute breach of privilege

Section 15(4)(a) of the Parliamentary Powers and Privileges Act, 2017 mandates the Committee to inquire into the conduct of a Member whose conduct is alleged to constitute breach of privilege in terms of section 16 of the Act. The breaches contemplated under section 16 are –

- (a) unauthorized publication of any journal, if the publication of the journal is prohibited by or in terms of the Standing Orders or an order or resolution of Parliament, any journal purporting that it has been published under the authority of Parliament or a committee or the Speaker while it has not been published under such authority, or any journal purporting that it is a verbatim account of the proceedings of Parliament or a committee while it is not such account;
- (b) assaulting, obstructing, molesting or insulting any member proceeding to, being within or leaving the precincts of Parliament, or attempting to compel any member by force, insulting or menacing to declare himself or herself in favour of or against any proposition or matter pending or expected to be brought before Parliament or any committee;
- (c) assaulting, interfering with, molesting, resisting or obstructing any member of staff while in the execution of his or her duty;

- (d) assaulting or threatening a member or unlawfully depriving a member of any benefit on account of the member's conduct in Parliament, or while Parliament or a committee is sitting, creating or taking part in any unlawful disturbance which interrupts or is likely to interrupt the proceedings of Parliament or any committee while Parliament or the committee is sitting;
- (e) improper influence in contravention of sections 25, 26 or 28 of the Act;
- (f) committing offences relating to witnesses¹, including -
 - (i) failing to attend at the time and place specified in a summons, without sufficient cause, having been duly summoned;
 - (ii) failing to remain in attendance until excused from further attendance by the person presiding at the inquiry;
 - (iii) refusing to be sworn in or to make an affirmation as a witness;
 - (iv) failing or disobeying, without sufficient cause, to answer fully and satisfactorily all questions lawfully put to the person;
 - (v) failing or disobeying to produce any document, paper, book or record in the person's possession, custody or control which the person has been required to produce; and on conviction such offences attract a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both;
- (g) other serious offences relating to witnesses², including -
 - (i) threatening, obstructing, assaulting or insulting a member of staff or police officer carrying out service of summons issued under the Act;

¹ Section 27(1)(a), (b) or (2) and (3)(d), (e), (f) or (g) Parliamentary Powers and Privileges Act, 2017

² *Ibid*

- (ii) using abusive language directed at a member, a committee or a House of Parliament;
 - (iii) threatening or obstructing another person in respect of evidence to be given before Parliament or a committee;
 - (iv) inducing another person to refrain from giving evidence to or to produce a document before Parliament or a committee; or
 - (v) inducing another person to give false evidence before Parliament or a committee;
 - (vi) assaulting or penalising or threatening another person or deprives the person of any benefit on account of the giving or proposed giving of evidence before Parliament or a committee;
 - (vii) with intent to deceive or mislead Parliament or a committee, producing a false, untrue, fabricated or falsified document; or
 - (viii) wilfully furnishing Parliament or a committee with information which is false or misleading or makes a statement before Parliament or committee that is false or misleading; and on conviction such offences attract a fine not exceeding five hundred thousand or a term of imprisonment not exceeding one year or to both such fine and imprisonment;
- (h) wilfully failing or refusing to obey any rule, order or resolution of Parliament;
- (i) contravening any provision of the Speaker's orders³; or
- (j) conducting himself or herself in a manner which, in the opinion of the Committee, is intended, or is likely to reflect adversely on the dignity or integrity of Parliament, or of the Members or to be contrary to the best interests of Parliament or its Members.

³ Section 37, Parliamentary Powers and Privileges Act, 2017

The Committee may inquire into the conduct of a Member whose conduct is alleged to constitute breach of privilege either of its own motion (*suo moto*) or as a result of a complaint made by any person.

Upon conclusion of the inquiry, the Committee may recommend any or all the sanctions under Section 17 of the Act. Where the relevant House finds that a Member has committed a breach of privilege, the relevant House may, in addition to any other penalty to which the Member may be liable under a specific law, issue a formal warning, a reprimand, an order to apologize to the House or a person in a manner to be recommended by the Committee of Powers and Privileges, the withholding, for a specific period of time, of the member's right to the use or enjoyment of any specified facility provided to Members by Parliament, the removal or suspension for a specified period of time of the Member from any parliamentary position occupied by the Member, such fine in terms of the Member's monthly salary and allowances as the House may determine, the suspension of the Member for such period as the House may decide, whether or not Parliament or any of its committees is scheduled to meet during that period or vacation of seat pursuant to Articles 75(2)(b) and 103(1)(c) of the Constitution.

In the case of an inquiry arising from a complaint, the Parliamentary Powers and Privileges Act envisages such inquiry to be concluded within fourteen days of receipt of such complaint. Moreover, the Committee is expected to table its findings in the House, together with such recommendations, as it considers appropriate for consideration, within fourteen days of the conclusion of such an inquiry. However, section 36 of the Act permits the Committee to seek an extension of time for inquiring into a complaint.

(b) Attendance of House proceedings and committees including being responsible for the Absences of Members from the House and its committees;

Article 103(1)(b) of the Constitution as read together with Standing Order 258 of the National Assembly Standing Orders (NASO) assign to the Committee of Powers and Privileges the function of determining claims of absence of a Member from the House without the permission of the Speaker or where, upon a complaint, a satisfactory explanation for the absence is tenable to the Committee. A State Officer (including a Member) who does not behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids any conflict between personal interests and public or official duties, or behaves in a manner compromising any public or official interest in favour of a personal interest, or demeans the office the officer holds (*and thus contravening Articles 75(1), 76, 77 or 78 (2)*) shall be subject to the applicable disciplinary procedure for the relevant office; and may, in accordance with the disciplinary procedure, be dismissed or otherwise removed from office⁴. Standing Order 258 of the National Assembly Standing Orders provides that if, during any Session, a Member is absent from eight sittings of the Assembly without the Speaker's written permission, the Speaker reports the matter to the Assembly and the matter stands referred to the Committee of Powers and Privileges for hearing and determination.

The Committee inquires into the matter within fourteen days from the date the matter is referred to it and thereafter submits a report to the House. If the report of the Committee finds that the Member has offered a satisfactory explanation for the Member's absence, the matter ends.

⁴ Article 75(2)(b) of the Constitution

If the report of the Committee finds that the Member has not offered a satisfactory explanation for the Member's absence, the Chairperson or a Member of the Committee designated by the Committee for that purpose, upon submitting the report, must give a three days' notice of a Motion that, **"This House notes the Report of the Committee of Privileges laid on the Table of the House on ... regarding..."**

The Motion is debated in the usual manner, except that –

- (a) no amendment to the Motion is permitted;
- (b) the debate of the Motion cannot be anticipated by a Motion for the adjournment of the House, and no dilatory Motion is allowed in relation to the business, and the business cannot be interrupted; and
- (c) at the conclusion of the debate, the Speaker does not put a question but declares that, pursuant to Article 103 (1) (b) of the Constitution, the office of the Member concerned has become vacant.

It is however important to note that Article 105 of the Constitution provides that the High Court shall hear and determine any question whether the seat of a member has become vacant. The question must however be heard and determined within six months of the date of lodging the petition.

(c) Enforcement of ethics and rules governing the conduct of Members of Parliament:

While there is no universally agreed definition or scope of codes of conduct, other than a recognition that offences already punishable by law - such as corruption and bribery - are not covered, experience suggests that codes of conduct often start out with a narrow scope, which gradually evolves. Our is a fledgling one with the intention of outlining the overall principles of proper conduct in the institution of Parliament, including what is generally agreed to be desirable behaviour, and what is not. Codes of conduct will serve both an internal

and an external purpose: within the institution, codes of conduct guide behaviour on the part of Parliament and those within it; outside the institution they enable society to hold legislators and staff to account on the basis of agreed standards, thereby enhancing *public trust*.

Chapter Six of the Constitution of Kenya prescribes leadership and integrity benchmarks for holders of State and public offices. Article 75 of the Constitution assigns the Committee the role to exercise penal authority over contravention of the Leadership and Integrity Code.

It states –

(2) A person who contravenes clause (1), or Article 76, 77 or 78 (2) –

(a) shall be subject to the applicable disciplinary procedure for the relevant office; and

(b) may, in accordance with the disciplinary procedure referred to in paragraph (a), be dismissed or otherwise removed from office.

The Public Officer Ethics Act, 2012 also assigns to the Committee the function of investigating and enforcing compliance with the Code of Conduct and Ethics. Section 35(1) provides that the responsible Commission for a public officer may investigate to determine whether the public officer has contravened the Code of Conduct and Ethics.

The General Leadership and Integrity Code contained in the Leadership and Integrity Act, 2012 is also within the ambit of the Committee of Powers and Privileges with respect to misconduct by Members of Parliament.

Section 37(3) of the Parliamentary Powers and Privileges Act also provides for a Code of Conduct for Members of Parliament, provided in the Fourth Schedule to the Act. Rule 12 of the Code specifically obligates the Committee of Powers and Privileges to enforce the Code and recommend penalties for its breach.

(d) Registration of Members' Interests

The Committee is responsible for the compilation, maintenance and accessibility of the Register of Members' Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; to consider any specific complaints made in relation to the registering or declaring of interests referred to it; to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in the Code of Conduct which have been drawn to the Committee's attention by the Speaker or the Ethics and Anti-corruption Commission; and to recommend any modifications to the Code of Conduct as may from time to time appear to be necessary.

Registration of Members' Interests is regulated by Section 16 of Leadership and Integrity Act, 2012, and the Second Schedule of the Act, and Rule 6 of the Code of Conduct for Members of Parliament contained in the Fourth Schedule to the Parliamentary Powers and Privileges Act, 2017.

Rule 6 of the Code of Conduct for Members of Parliament provides that Members shall register with the relevant Speaker all financial and non-financial interests that may reasonably influence their parliamentary actions, declare any relevant interest in the context of parliamentary debate or the matter under discussion before contributing to debate in the House or its Committees, or communicating with State Officers or other public servants; and observe any rules agreed of the House in respect of financial support for Members or the facilities of the House.

Whereas Rule 6 envisages Members' registering their personal interests with the relevant Speaker, the Committee of Powers and Privileges handles questions of Members' interests on behalf of the Speaker.

(e) Ensuring that any contempt of the House and its committees is sanctioned:

Contempt are acts or omissions which obstruct or impede either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his/her duty or which has a tendency, directly or indirectly, to produce such results. Any disorderly, contemptuous or disrespectful conduct in the presence of either House or a committee constitutes a contempt, which may be committed by members of the public, parties, witnesses or by Members of either House.

Determination of what constitutes contempt is as the House would determine on occurrence of an incidence and is the power of the House to punish for contempt being discretionary to the House itself. It is notable that although the Act does not define what acts or omissions can be termed as being contemptuous, such matters can arguably be determined following the dictates of usages, forms, customs, precedence, procedures and traditions of Parliament as envisaged in section 14 of the Parliamentary Powers and Privileges Act.

(f) Declaration of wealth by State Officers

The Committee of Powers and Privileges is also responsible for handling matters relating to the declaration of wealth by State officers and holders of independent Commissions. Custody of the wealth declaration forms by State Officers is vested in the 'responsible Commission'. Section 3 the Public Officer Ethics Act No. 4 of 2003 defines the responsible Commission for the purposes of members and other designated officers as the Committee of Powers and Privileges of the National Assembly.

PART III: PROCEDURE FOR CONSIDERING THE REPORT BY THE COMMITTEE

The manner of considering a Report of the Committee of Powers and Privileges is anchored in the Third Schedule to the Parliamentary Powers and Privileges Act. Section 1 of Schedule provides that –

“every Report by the Committee concerning any inquiry into the conduct of a Member shall, as soon as possible after it has been completed, be laid by a member of that Committee on the Table of the House.”

Section 2 of the Schedule contemplates that *“if the Report does not recommend any disciplinary action, there shall be no further proceedings whatsoever in respect of it, other than (where necessary) further inquiry and Report by the Committee may be needed.”*

Pursuant to section 3(1) of the Schedule, *“if the Report recommends disciplinary action, a member of the Committee must as soon as possible after the report has been laid, but after giving at least one day’s previous notice, move that the House adopts the Report.”*

Motion for adoption of a Report of the Committee of Powers and Privileges is debated in the usual manner and in the open; except that –

- (i) in exceptional circumstances to be determined by the Speaker, strangers may be ordered to withdraw throughout the debate; and
- (ii) no amendment may be moved, other than an amendment of the disciplinary action recommended by the Report or an amendment to the effect that the Report be referred back to the Committee for further inquiry.

Where the House adopts any recommendation of the Report for disciplinary action, with or without amendment, the Speaker is required to forthwith take action accordingly.

PART IV: EVENTS PRECEDING THE INQUIRY OF ALLEGED LEAKAGE AND MISUSE OF OFFICIAL INFORMATION CONTRARY TO THE LEADERSHIP AND INTEGRITY ACT, 2012

1. On or about 19th December, 2018 a video clip went viral in the internet containing pornographic content of a woman in a compromising situation with an unidentified man that was widely circulated on social media.
2. On 21st February, 2019, one Mr. Wiso J. M wrote to the Clerk of the National Assembly informing him that the DCI was investigating an alleged case of defamation and four Members namely Hon. (Dr.) Adan Keynan, Hon. Purity Wangui Ngirici, Hon. Abdikhaim Osman Mohamed and Hon. Rehema Dida Jaldesa had been mentioned adversely. The said officer requested that the Clerk does therefore inform the said four Members to report to DCI Headquarters Kiambu road at 1000 hours on 25th and 26th February, 2019 to facilitate investigations.
3. On the same day 21st February, 2019, the Directorate of Litigation and Compliance Services wrote a memo to the Clerk advising him on the request made by Mr. Wiso, J.M from the DCI. In the memo, the Directorate advised the Clerk that noting the case under investigations did not arise from performance of duties of a Member, the DCI should inform the Members directly. Further, the Memo indicated that the request by DCI did not fall within the scope of duties of the Clerk and also contravened the principles of parliamentary powers, privileges and immunities.
4. On 23rd February, 2019, the contents of the advisory internal memo and letter appeared as a news item on NTV and in the Daily Nation and Standard on 24th February, 2019.

5. On 25th February, 2019, Hon. Adan Keynan wrote to the Speaker expressing his displeasure with the leakage of letter from DCI and sought to inquire among other things on what action was being taken against the staff or member involved in the matter. To this end, he requested that the matter be investigated and be brought to a logical conclusion.
6. On 25th February, 2019, Hon. Abdikhaim Osman Mohamed wrote to the Clerk expressing his displeasure with the leakage of letter from DCI and sought to know the names of the persons who leaked the letter.
7. On 27th February, 2019, the Office of the Clerk received a letter from Hon. Rehema Dida Jaldesa also expressing her displeasure with the leakage of letter from DCI and sought to know the details of the members of the staff who colluded with the media in circulating the fabricated allegations.
8. On 28th February, 2019, Hon. Purity Ngirici wrote to the Clerk of the National Assembly. In the letter, the Member observed that on 23rd February, 2019 alleged summons from the Directorate of Criminal Investigations were published in main stream media. She expressed her displeasure with the staff working in the office of the Clerk for breach of her privacy and requested to know the details of the staff.

PART V: CONSIDERATION OF THE COMPLAINTS BEFORE THE COMMITTEE

9. On 20th March, 2019, the Committee of Powers and Privileges held its first meeting and was informed by the secretariat that -
 - (1) Complaints had been filed by Hon. (Dr.) Adan Keynan, Hon. Purity Wangui Ngirici, Hon. Abdikhaim Osman Mohamed and Hon. Rehema Dida Jaldesa expressing their displeasure with leakage of purported summons from the DCI.

- (2) The Directorate of Criminal Investigations (hereinafter referred to as the DCI) had written a letter to the Clerk dated 21/2/2019 requesting the Clerk to inform the four members of the summons by DCI, two of whom were to appear on 25/2/2019 and two others on 26/2/2019.
- (3) The said letter from DCI was committed to the Directorate of Litigation and Compliance.
- (4) On 21/2/2019 the Directorate advised the Clerk that since the case did not arise from performance of his duties the DCI should write directly to the members.
- (5) The Clerk signed the memo and letter communicating the same to DCI. The letter was received by the Directorate of Litigation on Friday 22/2/2019 at around 5.00pm, and the same was transmitted to the relevant authorities on Monday 25th February, 2019.
- (6) On 23rd February, 2019 the detailed contents of the letter and memo appeared as a news item in NTV and in both Daily Nation and Standard on 24th February, 2019.
- (7) On 26th February, 2019, the Clerk wrote to the officer who had been assigned to transmit the letter and internal memo from the Clerk's Office to the Directorate of Litigation and Compliance requiring him to clarify the circumstances under which the contents of the documents were leaked.
- (8) On 27th February, 2019, the officer responded to the letter and tendered his apology and cited having been under duress from Hon. Fatuma Gedi. He also averred that the member approached him in confidence and asked if he could locate the documents from DCI. The officer initially declined as he found it "absurd, difficult and irregular" but he eventually handed the documents to the Member

reluctantly after she persistently and repeatedly indicated that she intended to use them for Parliamentary business.

(9) Section 22 of the Leadership and Integrity Act, 2012 provides that -

(1) A State officer shall not directly or indirectly use or allow any person under the officer's authority to use any information obtained through or in connection with the office, which is not available in the public domain, for the furthering of any private interest, whether financial or otherwise.

(2) The provisions of subsection (1), shall not apply where the information is to be used for the purposes of—

(a) furthering the interests of this Act; or

(b) educational, research, literary, scientific or other purposes not prohibited by law.

10. In light of the foregoing, the Committee resolved-

(a) To invite Mr. Noor Mohamed Adan, the parliamentary Officer who admitted to sharing the documents with Hon. Fatuma Gedi to further explain the circumstances of the situation;

(b) The Hon. Fatuma Gedi Ali to give comprehensive details of the allegations against her.

11. Consequently, on 21st March, 2019, the Clerk of the National Assembly wrote to Mr. Noor Mohammed inviting him to appear before the Committee on 27th March, 2019 with a view of providing information to the Committee in relation to complaints filed by four Members of Parliament regarding alleged unauthorised release and misuse of information

through leakage of summons from the Directorate of Criminal Investigations.

12. On 21st March, 2019, the Clerk of the National Assembly wrote to Hon. Fatuma Gedi inviting her to appear before the Committee on 27th March, 2019 with a view of providing information to the Committee in relation to complaints filed by four Members of Parliament regarding alleged unauthorised release and misuse of information through leakage of summons from the Directorate of Criminal Investigations.

PART VI: THE ORAL SUBMISSIONS OF MR. NOOR MOHAMMED ADAN.

13. On 27th March, 2019, the Committee proceeded to hear Mr. Noor Mohammed Adan who informed the Committee as follows-
 - (1) That, he is a Parliamentary Officer attached to the Office of the Director, Legislative and Procedural Services (National Assembly) as an Office Attendant, and that his duties include circulation of correspondences and documents to relevant Offices.
 - (2) That on Friday, 22nd February 2019, he was tasked to extend the service to the Office of the Clerk, since the designated Officer had been excused to attend to personal matters.
 - (3) That, while dispatching letters from the Office of the Clerk, he coincidentally met the Member for Wajir County, Hon, Fatuma Gedi, MP, at around 4.00 p.m., along the way to Protection House.
 - (4) That the Member stopped him and inquired about documents relating to a request by the Directorate of Criminal Investigations to question certain Members of Parliament. He checked and indeed confirmed that, the internal memo on the matter Hon. Gedi had inquired about was indeed among those documents that he had.

- (5) That he was reluctant to give the Member a copy of the letter as it was not addressed to her, but the Member impressed upon him that she (Hon. Gedi) was a Vice-Chairperson of a Committee and she needed a copy of the document for parliamentary business.
- (6) That, he firstly declined the request and proceeded to circulate the documents to relevant offices. Thereafter, the Member called him three times asking to be given a copy of the said document for parliamentary business.
- (7) That, succumbing to pressure from the Member, he obtained a copy of the said letter from the file and gave it to the Member, in good faith and without influence of any form of inducement from the Member.
- (8) That, considering it was late in the evening on that Friday, and there was no senior officer in the Office to authorise the release of the documents.
- (9) That, the Member did not sign a delivery book to signify receipt of the document, since the letter was not meant for her. He understood it was against work ethics to give the Member the copy of that letter but proceeded to do so in good faith on the understanding that his role is to facilitate Members of Parliament in their parliamentary business.
- (10) That, soon thereafter, he learnt that the copy of the letter he had given to Hon. Fatuma Gedi was being circulated in social media. He reported the fact to the Personal Assistant to the Clerk, Mr. John Mutega and acknowledged that he had given the letter to the Member who had maintained that she needed it for parliamentary business.

- (11) That, he later received a letter from the Clerk of the National Assembly requesting him to offer an explanation on how and why the letter he handled during dispatch found itself in wrong hands. He sought audience with the Clerk and explained the circumstances and also did a letter, regretting the action and seeking to be forgiven for the mistake.
- (12) That, even though the Hon. Fatuma Gedi, MP, is indeed his County Member of Parliament to the National Assembly, they are not related. Further that, his decision to give her a copy of the letter in question was not informed by the fact that they come from the same County; it was purely out of the duress that the Member exerted to him.
- (13) That, he has been a diligent officer and that he regretted the mistake he committed under duress. He pleaded for leniency from the Committee and undertook that he would not repeat such a mistake.
14. It is noteworthy that on the same day the Committee had invited Hon. Fatuma Gedi to also appear and give her testimony but she did not appear. Consequently, the Committee resolved that the witness be invited for a second time to appear on Wednesday, 3rd April 2019 at 10.00am, failure to which the Committee shall invoke the sanctions of section 19 of the Parliamentary Powers and Privileged Act.
15. On 27th March, 2019, Hon. Adan Keynan wrote to Clerk of the National Assembly raising issues with the fact that the proceedings of the Committee held on 27th March, 2019 had been held in camera.
16. On 28th March, 2019, the Clerk of the National Assembly wrote again to Hon. Fatuma Gedi inviting her to appear before the Committee on 3rd April, 2019 with a view of providing information to the Committee in relation to allegations of misuse of official information. In the letter, the

Clerk noted that the Member had failed to honour the previous invitation to appear before the Committee and advised the Member that failure to honour the Committee's invitation would compel the Committee to issue summons.

17. On 28th March, 2019 the Parliamentary Service Commission in its 260th meeting considered the discipline case against Mr. Noor and resolved to reprimand him as evidenced by a letter dated 15th April, 2019 to the said officer.
18. On 1st April, 2019, the Office of the Clerk wrote to each of the four complainants namely Hon. (Dr.) Adan Keynan, Hon. Purity Wangui Ngirici, Hon. Abdikhaim Osman Mohamed and Hon. Rehema Dida Jaldesa to attend the Committee meeting scheduled to be held on 3rd April, 2019 for taking of evidence of Hon. Fatuma Gedi.

PART VII: THE ORAL SUBMISSIONS OF HON. FATUMA GEDI.

19. On 3rd April, 2019, the Committee proceeded to hear Hon. Fatuma Gedi who informed the Committee as follows-
 - (1) That, sometime in December 2018, an alleged fake video containing pornographic content involving her in a compromising situation with an unidentified man was widely circulated on social media, including among Members of the National Assembly.
 - (2) That, as the aggrieved party, she reported the matter to the Police and the investigations that were launched by the Directorate of Criminal Investigations (DCI) revealed that four Members of Parliament were among the persons behind the said video. The four Members were summoned by the DCI to record statements.

- (3) That, having been informed that the suspected Members had been summoned to DCI, she inquired from the Serjeant-At-Arms whether any summonses in respect of the four Members had been received and passed to the Members or not. After being informed that none had been received, she proceeded to the Clerk's Office to enquire on the same.
- (4) That, she did not find the Clerk in his office but as she was leaving, she met Mr. Noor Mohamed, a staffer, who was well known to her as he comes from her County of representation;
- (5) That, she informed the officer she had wished to meet the Clerk to establish if he had received a letter from the DCI summoning four Members to write statements regarding circulation of the alleged fake video involving her in a compromising situation with an identified man. She asked him whether he had seen the letter and if he so, whether he could give her a copy of that letter, to which the officer responded that he had not seen that letter.
- (6) That, two days later, the officer called her, informing her that he had seen the letter summoning the four Members of Parliament by the DCI in the Office of the Clerk. The officer inquired where the Member was so that he could show her the letter. The officer met the Member and showed her the letter but declined to hand a copy to her at first instance. A day later, she instructed the officer to give a copy of the letter to her driver and also take a copy to her.
- (7) That, when she got the letter, she read it and upon completion, she left it on the table where she was seated and went on with her other business.
- (8) That, she was not responsible for the leakage and circulation of the contents of the letter to the media.

20. In reacting to the submissions by the witness, Members sought clarifications from the witness on the following matters:

- (1) Whether the Member influenced the DCI to write to the Clerk issuing summonses to the four suspected Members, the witness informed the Committee that she had been closely following up on the progress on investigations to have culprits of the alleged video brought to book and that she had visited the office of the DCI where she was informed that the letter had been done and dispatched to the Clerk.
- (2) Asked where she was when the officer took the letter to her and whether she was in the company of any other Members at the time the officer went to her with the letter, the witness informed the Committee that she was in the company of Wajir West (Hon. Ahmed Kolosh Mohamed, MP) and the Member for Wajir North (Hon. Ahmed Abdisalan Ibrahim, MP) in the Lounge at about 2.30 pm when the officer showed her the letter.
- (3) Asked whether she obtained from the officer the document alleged to have been leaked with ease on account of them being acquaintances from the same County, the witness acknowledged knowing Mr. Adan Noor Mohamed (staff) since they hail from the same County but denied having approached him for the document on account of him being one of her voters.
- (4) On whether the witness used her position as Vice-Chairperson of the Committee on Delegated Legislation to intimidate the officer to hand over to her the document alleged to have been leaked, the witness denied the claim.
- (5) Asked why she left a letter she had sought so earnestly on the table after reading, when she would ordinarily have been expected to

safeguard it dearly, the witness said that her interest was to confirm receipt of the letter by the Clerk.

- (6) Asked of the reasons why she never reported to the Speaker for action the suspicion she had that four certain Members of the National Assembly had masterminded creation and circulation of the alleged fake video of her in compromising situation with an unidentified man, the witness informed the Committee the Committee that she did not do so since the DCI was already investigating the matter.
- (7) On the claims that she may have initiated the summonses by DCI for the four Members to settle personal differences and vendetta with the four complainants, including her ouster as Chair of Caucus 47 by the Hon. Purity Ngirici, MP, the witness clarified that she had no personal differences but was pursuing justice and the four Members were identified by the DCI through investigation.
- (8) On how she got a copy of the letter containing the leaked information, she stated that the officer gave it to her driver, who then handed over to her.
- (9) Regarding claims that the letter from the DCI summoning the four Members was fake and was authored by a junior officer at the DCI under her instructions, she denied having influenced any officer to write the letter and challenged the Member claiming so or the Committee to authenticate the letter with the DCI.

PART VIII: THE WRITTEN SUBMISSIONS OF HON. FATUMA GEDI

21. On 24th July, 2019, the witness filed written submissions in which she observed as follows-

- (1) That on 19th December, 2018 while she was out of the country on official duty a fabricated video went viral on the internet.
- (2) That she lodged a formal complaint on the same with the DCI.
- (3) That some suspects were arrested on or about 27th December 2018 and charged before Kiambu Law Court.
- (4) That other persons mentioned adversely in the preliminary investigations included four Members of Parliament.
- (5) That she made up follow ups with DCI on the same and she was made to understand that the Members would be summoned.
- (6) That she went to the Clerk to inquire whether or not his office was in receipt of the letter of summons from DCI requiring the four members to avail themselves at DCI.
- (7) This was about three months down the line after the DCI was seized of the matter.
- (8) That on her way from Clerk's office she met a gentleman by the name Hassan Noor (*Mr. Noor Mohamed Adan*).
- (9) That the parliamentary officer inquired about her visit where she told him that she was looking for the Clerk to know whether some letter in relation to the investigations had been delivered to the office, of which he responded that he was not aware of the same.
- (10) That while seated at the lounge alongside Hon. Kolosh and Hon. Abdisalam, she received a call from Noor who informed her he had seen the letter.
- (11) That Mr. Noor then went to the lounge, showed her the letter but declined to give her a copy.

- (12) That the following day, he again told her that he had seen her driver and wanted to give to the driver but she told him to give her the letter personally at the lounge.
- (13) That she read the letter and inadvertently left it there.

**PART IX: STATUS UPDATE ON THE INQUIRY OF THE ALLEGED
LEAKAGE AND MISUSE OF OFFICIAL INFORMATION**

22. On 9th October, 2019 the Committee held a meeting and was briefed as follows on the status of the inquiry of the alleged leakage and misuse of official information by the secretariat-

(a) Authenticity of the Letter from the DCI

- (1) On 16th April 2019, the Clerk wrote to the Director of Criminal Investigations (DCI) requesting him to ascertain the authenticity of the letter from DCI dated 21st February 2019.
- (2) On 23rd July 2019, the Clerk wrote a follow up letter to the Director of Criminal Investigations (DCI) requesting him to urgently ascertain the authenticity of the letter from DCI dated 21st February 2019.
- (3) On 26th July, 2019, Mr. J. N Kariuki on behalf of the Director of Criminal Investigations had written to the Clerk indicating that the four Members were summoned by Mr. Wiso J.M without the authority of the Directorate of Criminal Investigations and disciplinary action was taken against the said officer.

(b) Invitation to Hon. Fatuma Gedi's driver

- (1) The Clerk of the National Assembly, by way of a letter dated 23rd July 2019, conveyed to Hon. Gedi the resolution of the Committee requesting her to avail details of the driver for purposes of being invited to the Committee.

- (2) The Member has never responded to the letter and even in her written submission, which she tendered with the Clerk on 30th July 2019 (later than the required date of 12th April 2019), she mentioned a “driver” but never provided the name of that driver.

23. The Committee noted the report and resolved–

- (1) that the response issued by the Directorate of Criminal Investigations was unsatisfactory;
- (2) that the response of the letter dated 26th July 2019 signed by Mr. John Kariuki was contradictory with the submissions given by some of the Members who appeared before the Committee on 3rd April 2019;
- (3) that the differing communication by two officers communicating on behalf of the same institution raised questions on the manner of handling cases by the DCI;
- (4) that to resolve the matter objectively, there was need to summon the Director of Criminal Investigations himself to clear the contradictory communication;
- (5) that the secretariat prepares a list of the events chronologically so as to assist the Committee in getting a snapshot of the occurrences; and
- (6) that the Hon. Gedi be asked to give the name of her driver to appear before the Committee.

PART X: ANALYSIS OF THE TIMELINE OF CHRONOLOGY OF EVENTS AND WITNESS STATEMENTS

24. On 15th October, 2019, the Committee analysed the timeline of chronology of events and witness statements as prepared by the

Secretariat. The chronology noted events preceding the inquiry, the details of the inquiry including a chronology of events, oral and statements written submissions and relevant correspondences.

25. The Committee noted the report and observed as follows:-

- (1) there existed inconsistencies in the oral and written testimony of Hon. Fatuma Gedi in terms of timelines of when she inquired from the Clerk about the letter and when she received the letter;
- (2) there also existed inconsistencies in the oral and written testimony of Hon. Fatuma Gedi in terms of the role of her driver in receiving the letter. It was also notable that the witness has failed to furnish the Committee with details of the driver;
- (3) there also existed inconsistencies in the testimony of Hon. Fatuma Gedi and that of Mr. Noor, the Parliamentary officer as to where they met and the time of meeting;
- (4) that in the testimony of Hon. Fatuma Gedi, Mr. Noor is the one who called her to inform her about the letter. However, Mr. Noor indicates that it is Hon. Fatuma Gedi who called at least three times where he succumbed to pressure and gave a copy of the letter;
- (5) that the Committee needs to confirm what documents were leaked as the witness appear to suggest it is only the letter that Mr. Noor handed over to Hon. Fatuma Gedi, yet an analysis of the Media house footage shows both the letter and Internal Memo;
- (6) there also existed inconsistencies in the oral and written testimony of Hon. Fatuma Gedi in terms of how she first became aware of the alleged summons by DCI to the four Members; and
- (7) that the letter allegedly making a formal complaint to the DCI was not submitted to the Committee by Hon. Fatuma Gedi. It was also

notable that Hon. Mohammed Abdulhakim stated in his testimony that Mr. John Kariuki, the Deputy Director of Criminal Investigations had informed him that he was not aware of the summons as he had heard about it in the television.

26. In view of the foregoing, the Committee resolved as follows:-

- (1) that the Hon. Fatuma Gedi, MP be asked to furnish the Committee with particulars of the driver she alluded to during her testimony on Wednesday 3rd April, 2019, and have the driver appear before the Committee at its next sitting scheduled to be held on Wednesday, 30th October, 2019;
- (2) that, the Director for Criminal Investigations be summoned to appear before the Committee in person on Monday 4th November, 2019 to give evidence on the matter, particularly the contradictory communication from the Directorate;
- (3) that, the Director for Criminal Investigations be asked to provide a copy of the formal complaint filed by the Hon. Fatuma Gedi, MP;
- (4) that, both Mr. Wiso J.M. and Mr. John Kariuki be summoned to appear before the Committee on Monday 4th November, 2019 to give evidence on the letters they respectively signed on behalf of the Director for Criminal Investigations;
- (5) that, the complainants: Hon. (Dr.) Adan Keynan, CBS, MP, Hon. Purity Wangui Ngirici, MP, Hon. Abdikhaim Osman Mohamed, MP and Hon. Rehema Dida Jaldesa, MP be invited to the proceedings scheduled for Monday 4th November, 2019; and

- (6) that, the Hon. Fatuma Gedi be allowed to attend the proceedings scheduled for Monday 4th November, 2019.

PART XI: THE ORAL SUBMISSIONS OF MR. JACOB KIPKEMBOI, HON. FATUMA GEDI'S DRIVER.

27. On 30th October, 2019, the Committee proceeded to hear Hon. Fatuma Gedi's driver, Mr. Jacob Kipkemboi who informed the Committee as follows-

- (1) That, he has served under the National Police service for 9 years.
- (2) That, the Hon. Fatuma Gedi is well known to him since 16th January 2019 when he was assigned to her on secondment by the National Police Service as her driver.
- (3) That, as at the time of his appearance before the Committee he was still employed by the Member in the same capacity.
- (4) That, Hon. Ahmed Kolosh was well known to him but he was not sure if he knew Hon. Ahmed Abdisalan unless he physically sees him.
- (5) That, no parliamentary staff has ever been sent to him to deliver any correspondence and that he did not know any parliamentary staff by the name Hassan Noor (*Mr. Noor Mohamed Adan*) neither has he ever met him before.
- (6) That, whenever he is within the precincts of Parliament, he usually sits in the vehicle or around the parking yards with his fellow drivers and he has entered the precincts only in the cases where Hon. Fatuma Gedi has sent him.
- (7) That, all official communication meant for Hon. Fatuma Gedi has always been given to the Honourable Member directly or to her office through the personal assistant or secretary.

- (8) That, he has no personal relations with any officer working under the Directorate of Criminal Investigations.
- (9) That, on 29th October 2019 he received a call from a member of the Committee Secretariat that the Powers and Privileges Committee had resolved to invite him to appear before it for a hearing on issues pertaining his duties.
- (10) That, upon enquiry on the issues he was advised to consult the Member since she was the one who had submitted his name.
- (11) That, he contacted the Member through a phone call to ascertain the reason for the invitation but the Honourable Member told him that she has been having some issues since early this year, issues that she didn't disclose to him.
- (12) That, upon failure to obtain a satisfactory answer from the Hon. Fatuma Gedi, he decided to reach the Secretariat of the Committee again and was told that he would be informed of the details of the meeting on appearing before the Committee.
- (13) That, shortly afterwards, he came across Hon. Fatuma Gedi within the precincts of Parliament and again made an enquiry on the nature of his invitation but the Honourable member who appeared to be hurrying for a meeting told him that she had mentioned his name before the Committee in a previous sitting but the Committee would give him the details once he appeared before it.

28. In reacting to the submissions by the witness, Members sought clarification from the witness on the following-

- (1) On whether he has ever met Hassan Noor (*Mr. Noor Mohamed Adan*), the witness maintained that he had never met him and that

he did not also know anyone in the Parliamentary Service by that name;

- (2) Asked whether Hon. Fatuma Gedi has ever sent him on personal or official errands on her behalf, he clarified that most of his errands involved picking guests for the Member and not any official letters and that the only document he has ever received on behalf of the Member was a wedding invitation for a Member of Parliament;
- (3) Asked whether any of Hon. Fatuma Gedi's friends has ever been given him anything to deliver to the Honourable Member, he maintained that none of the friends of the Honourable Member had given him anything to deliver to the Member;
- (4) Asked whether he has ever visited DCI Headquarters, he admitted that, earlier this year on a day he couldn't recall accurately but he was still new to his assignment as a personal driver to Hon. Fatuma Gedi, he together with the bodyguard, accompanied the Honourable Member to the Directorate of Criminal Investigation Headquarters at around 2:00 pm;

29. In view of the foregoing, the Committee resolved as follows:-

- (1) That, the submissions by Hon. Gedi's driver were satisfactory; and
- (2) That, Hon. Ahmed Kolosh and Hon. Ahmed Abdisalam having been mentioned by Hon. Fatuma Gedi in her submissions, be invited to appear before the Committee on 4th November 2019 since they were mentioned in the submissions that were given by Hon. Fatuma Gedi before the Committee.

PART XII: MEETING WITH MR. GEORGE KINOTI, THE DIRECTOR OF CRIMINAL INVESTIGATIONS, MR. WISO J.M AND MR. JOHN KARIUKI, OFFICERS OF THE DIRECTORATE OF CRIMINAL INVESTIGATIONS.

30. On 4th November, 2019, the Chairperson informed members that the Director of Criminal Investigations, Mr. George Kinoti, had written to the Clerk requesting the Committee to reschedule the taking of evidence to a later date since the concerned officers Mr. Wiso J. M. and Mr. John Kariuki were unable to attend the meeting owing to official assignments abroad. It was proposed that evidence from the Director Mr. George W. Kinoti, Mr. Wiso J. M. and Mr. John Kariuki of the Directorate of Criminal Investigations be taken on Monday 11th November 2019 at 11.00 am.

PART XIII: THE ORAL SUBMISSIONS OF HON. AHMED ABDISALAN AND HON. AHMED KOLOSH

31. On 4th November, 2019, the Chairperson informed members that Hon. Ahmed Kolosh had registered his apology as he was indisposed.
32. The Committee therefore proceeded to hear Hon. Ahmed Abdisalan, MP who informed the Committee as follows-
- (1) That, he knew Hon. Fatuma Gedi well as a friend.
 - (2) That the Hon. Fatuma Gedi is the women representative of his county of origin.
 - (3) That, he did not personally know the parliamentary officer, Mr. Hassan Noor (*Mr. Noor Mohamed Adan*) who had been mentioned by Hon. Fatuma Gedi, but had learnt that the officer came from his constituency.

- (4) That, he can remember a day when, while seated in the Members Lounge, he saw Mr. Hassan Noor (*Mr. Noor Mohamed Adan*) pass around the lobby but he does not recall him delivering any letter.
- (5) That, he had been in the lobby area at the same time with Hon. Ahmed Kolosh and Hon. Fatuma Gedi, but does not remember any communication being delivered to Hon. Fatuma Gedi in his presence as they were not seated at the same table.

33. Reacting to the evidence, Members sought further clarifications on the following-

- (1) On whether Hon. Fatuma Gedi was his friend, Hon. Ahmed Abdisalan confirmed that Hon. Fatuma Gedi was his friend, a Woman Representative from his county and that they did not have any personal differences.
- (2) Asked whether he was aware of some Members in the National Assembly who were to be summoned by the Directorate of Criminal Investigations, the witness said he was indeed aware since the matter had been widely reported in the media that Hon. Aden Keynan, Hon. Abdikhaim Osman Mohamed, Hon. Rehema Dida Jaldesa and Hon. Purity Wangui had been summoned by the DCI early in the year to record statements pertaining to some charges.
- (3) Asked whether he thought that Hon. Fatuma Gedi misled the Committee by saying in her submissions that he, Hon. Ahmed Abdisalan, was in her company together with Hon. Ahmed Kolosh when she received the alleged letter from Mr. Hassan Noor (*Mr. Noor Mohamed Adan*), the witness said that he couldn't say that Hon Fatuma Gedi misled the Committee since they had been at the Members Lounge together on many occasions.

- (4) On being made aware of a testimony by Hon. Fatuma Gedi on Hansard claiming "*na tukaisoma*", loosely translated, "and we then read" to mean that he, Hon. Ahmed Abdisalan, in the company of Hon. Fatuma Gedi may have read the documents in question, the member maintained that he does not recall being in the company of Hon. Fatuma Gedi when she received any letter nor has he ever seen nor discussed the contents of any such letter.

Part XIV: THE ORAL SUBMISSIONS OF MR. GEORGE KINOTI, DIRECTOR OF CRIMINAL INVESTIGATIONS

34. On 11th November, 2019, the Committee proceeded to hear the testimony of Mr. George Kinoti, the Director of Criminal Investigations who informed the Committee as follows-

- (1) That, he was the Director of Criminal Investigations.
- (2) That, Hon. Fatuma Gedi filed a complaint of cyber-crime through a fake video to him in person and she demonstrated to him that the video was fake.
- (3) That, even before the complaint was filed, he had seen the viral video that circulated on social media and was disturbed by the acts of injustice and distress that had been subjected to Hon. Fatuma Gedi.
- (4) That upon receiving the complaint, he immediately instructed the investigation bureau to take up the matter.
- (5) That, he instructed Mr. Michael Wiso to be the head of the investigation.
- (6) That, he saw the information from the media that four Members of Parliament were to be summoned to appear before him, and sought to establish the origin of the letter summoning the Members.

- (7) That, shortly thereafter he got information that some Members of Parliament had been harassed by the Directorate of Criminal Investigations.
- (8) That, after inquiry, he confirmed that Mr. Michael Wiso was the author of the letter dated 21st February 2019 addressed to the Clerk of the National Assembly seeking that the four Members of Parliament appear before DCI two on 25th and two on 26th February, 2019.
- (9) That, he instructed Mr. John Kariuki to immediately write to the Clerk of the National Assembly, to disassociate the first letter summoning Members on the grounds that it was done without his authority.
- (10) That, he was therefore aware of the letter written by Mr. John Kariuki on 26th July, 2019 as it was done under his authority.
- (11) That, he decided to initiate disciplinary actions on Mr. Michael Wiso by summoning him.
- (12) That, upon summoning Mr. Wiso, he learnt that Mr. Michael Wiso obtained the four names from the preliminary investigations which he had authorized him to undertake and that the four Members were persons of interest in the case.
- (13) That, he concluded the matter had been misconstrued and hence advised Mr. Wiso to continue with the investigations.
- (14) That, Mr. Wiso had authority to write the letter dated 21st February, 2019.
- (15) That, the four Members did not honour the invitation to appear before the Directorate of Criminal Investigations hence impeding progress of the case.
- (16) That, consequently, the case file is still open pending the appearance of the four Members.

35. In reacting to the submissions by the witness, Members sought clarification from the witness as follows -

- (1) Asked whether in her complaint, the Hon. Fatuma Gedi had mentioned name(s) of persons she thought might have been behind the fake video, the witness confirmed that there were no names that were mentioned in her complaint.
- (2) Asked who has the power to write letters and summon people, he stated that any investigation officer in the Directorate of Criminal Investigation has powers to write and summon.
- (3) Asked whether Mr. John Kariuki and Mr. Michael Wiso, had authority to write correspondences on his behalf, the witness maintained that both are duly authorized to do so.
- (4) Asked on the criteria for summoning VIPs as opposed to other Members of the public, the witness informed the Committee that if the summons involves State Officers/ VIPs, an official call is usually done to the person and by virtue of the office they hold and their stature in society, they are expected to honour the summons. This procedure for summoning of Members of Parliament is adopted as there is no risk of flight by Members of Parliament. However, when dealing with members of the public, the witness informed the meeting that the DCI usually arrests suspects as there exist a risk of flight.
- (5) Asked why then the four Members of Parliament were summoned through writing to the Clerk of the National Assembly, Mr. Kinoti admitted that there had been difficulties reaching the Members as they had sought protection, hence the decision to write to them through the Clerk of the National Assembly for his intervention;
- (6) Asked why he told Mr. John Kariuki to write to the National Assembly disowning the letter by Mr. Michael Wiso, the witness said that he

saw the need to do so after realizing he had not been apprised of the matter despite the fact that he ordinarily took keen interest and personally guided on the manner of conducting investigations where Members of Parliament are involved due to the sensitivity of the matters.

- (7) On why the case has remained unresolved without any feedback of its progress to the complainant, the witness stated that it was because the four Members were yet to honour invitations and record statements that would help establish the evidence to use in arresting and charging the culprits;
- (8) Asked why his office had not yet recorded statements from the four Members, the witness purported to seek permission to proceed from the Committee, a request that was not honoured on the grounds that his office is an independent institution with powers vested on it by the Constitution to do all that appertains to crime investigations and the matter at hand was criminal in nature and did not concern Parliament as an institution;
- (9) Asked on why he did not take personal initiative to invite the four Members upon the realization that they would not show up following the summons, the witness confirmed that since he had given Mr. Michael Wiso authority to pursue the investigations, he had not received any information from Mr. Wiso indicating whether or not he had met the four Members.
- (10) Asked on where the complainant should seek redress if the Directorate of Criminal Investigations has failed to continue further investigations on the matter, the witness stated that the case had not stalled, the file was open only that the case was pending after failure of the four Members to honour the invitations and promised to

proceed with the investigations to finality and ensure that justice is served.

PART XV: THE ORAL SUBMISSIONS OF HON. AHMED KOLOSH, MP

36. On 11th November, 2019, the Committee proceeded to hear the testimony of Hon. Ahmed Kolosh who informed the Committee as follows-

- (1) That, he knows Hon. Fatuma Gedi well as a friend who they consulted widely with.
- (2) That she is the women representative in his county.
- (3) That, he knows Mr. Noor Hassan (*Mr. Noor Mohamed Adan*) well as a parliamentary staff who gave him his first copy of the Standing Orders even before he was sworn in as a Member of Parliament.
- (4) That, he has on many occasions been in the Members Lounge with Hon. Fatuma Gedi and other Members discussing various issues at different times.
- (5) That, he remembers very well one day early in the year, while seated at the Members Lounge, he saw Mr. Noor Hassan (*Mr. Noor Mohamed Adan*) approach Hon. Fatuma Gedi who stood up to meet Mr. Noor Hassan (*Mr. Noor Mohamed Adan*) and they had a conversation.
- (6) That, he did not see Hon. Fatuma Gedi receive any kind of a letter or document from Mr. Noor Hassan (*Mr. Noor Mohamed Adan*) at that time, as they were not seated at the same table.

37. In reacting to the submissions by the witness, Members sought clarification from the witness the following-

- (1) Asked on what exactly happened on the material day at the members Lounge, he informed the Committee that initially they were just seated at the Members Lounge and they were not in any

meeting when Mr. Noor Hassan (*Mr. Noor Mohamed Adan*) approached and walked towards Hon. Fatuma Gedi.

- (2) Asked on the implication of the statement “na tukaisoma” in the submissions by Hon. Fatuma Gedi, he averred that it was an incorrect statement because he did not see, read or discuss any letter in the company of Hon. Fatuma Gedi on the material day at the Members Lounge and maintained that Noor Hassan (*Mr. Noor Mohamed Adan*) came and met Hon. Fatuma Gedi and had a brief discussion beside him.

PART XVI: THE ORAL SUBMISSIONS OF MR. MICHAEL WISO, SENIOR SUPERINTENDENT OF POLICE AND THE INVESTIGATORY AND LEGAL ADVISOR TO THE DIRECTOR OF CRIMINAL INVESTIGATIONS

38. On 11th November, 2019, the Committee proceeded to hear the testimony of Mr. Michael Wiso who informed the Committee as follows-

- (1) That, he was the Investigatory and Legal Advisor to the Director for Criminal Investigations.
- (2) That, he was the author of the letter dated 21st February 2019 addressed to the Clerk of the National Assembly seeking that the four Members of Parliament appear before DCI two on 25th and two on 26th February, 2019.
- (3) That, the complaint by Hon. Fatuma Gedi was recorded as a statement in the Occurrence Book but unfortunately, he could not clearly remember the Occurrence Book number.
- (4) That, he received the complaint from the complaints section.

- (5) That, after conducting his preliminary investigations, he wrote to the Clerk of the National Assembly with names of four Members who were required to report to DCI Headquarters.
- (6) That, he received communication from the Clerk of National Assembly that the matter at hand was of criminal nature and did not take place within the Parliament and that he ought to continue pursuing the matter without his involvement.
- (7) That, the Director of Criminal Investigations had not yet communicated on continuing with the investigations and summoning the four Members.
- (8) That, the four Members were yet to appear and record their statements with the DCI.

39. The Committee noted with concern that the witness was rude, uncooperative, contemptuous, unprofessional, appeared unprepared and acted in a manner unbecoming of the office that he held.

40. The Committee unanimously directed that Mr. Michael Wiso be given time to prepare himself by going through the relevant documentation regarding the complaint and was thereafter required to appear before the committee on Wednesday 13th November 2019 at 10.00 am.

PART XVII: THE ORAL SUBMISSIONS OF MR. JOHN KARIUKI, DIRECTOR OF THE INVESTIGATIONS BUREAU AT THE DIRECTORATE OF CRIMINAL INVESTIGATIONS

41. On 11th November, 2019, the Committee proceeded to hear the testimony of Mr. John Kariuki who informed the Committee as follows-

- (1) That, he is in charge of investigations at the headquarters of the Directorate of Criminal Investigations and his duties include initiating

any case within the Republic or taking over ongoing cases as well as issuance of status updates of ongoing investigations.

- (2) That, he was aware that Hon. Fatuma Gedi came to the Directorate and recorded her statement;
- (3) That, the Director of Criminal Investigations called him on the weekend that the leakage of the information happened and asked him whether he was aware of the summons of the four Members of Parliament but he stated that he was not aware.
- (4) That, he received phone calls from two of the Members who had been summoned in the afore- mentioned letter one of whom he did not know and the other was Hon. Adan Keynan.
- (5) That, he informed the Members that they could not be arrested as they were VIPs and if they were to be summoned, he was the one who would call them in his official capacity.
- (6) That, it was later established that Mr. Wiso was the officer who wrote the letter summoning the four Members upon which the Director of Criminal Investigations summoned him to explain the circumstances under which he had issued the summons.
- (7) That, he was the author of the letter to the Clerk of the National Assembly, dated 26th July, 2019 stating that Mr. Wiso did not have the authority of the Director of Criminal Investigations to write the letter summoning the four Members of Parliament, and that he did the letter under the direction, instructions and authority of the Director of Criminal Investigations.
- (8) That, all the contents of the letter disowning the letter by Mr. Michael Wiso were as instructed, directed and dictated by the Director for Criminal Investigations;
- (9) That, the Director for Criminal Investigations instructed him to stay any further action on the case awaiting his further directions.

(10) That, the case file was still open but pending because the four Members who were deemed to be persons of interest in the case had not yet recorded their statements to help further probe into the matter.

42. In reacting to the submissions by the witness, the Members sought clarification from the witness on the following-

- (1) On the question of who from the Directorate of Criminal Investigations is authorized to write letters on behalf of the DCI, the witness confirmed that any officer in the Directorate has the powers to write and summon on behalf of the Director for Criminal Investigations.
- (2) Asked why the two Members of Parliament called him and not any other officer at the Directorate, the witness informed the Committee that by the virtue of being a public officer, very many members of public consult him without him knowing them personally and he is always happy to assist them. He however admitted having known Hon. Adan Keynan personally over a long period since his rank as an Inspector.
- (3) Asked on when he was planning to invite the four Members afresh, the witness confirmed to the Committee that he was working under instructions of the Director of Criminal Investigations and that he would issue fresh invitation to the four Members if instructed.
- (4) The witness also informed the Committee that some sections of the recently enacted Computer Misuse and Cyber Crime Act of 2018 had been suspended by the courts, making it difficult to investigate cybercrime cases. He was hopeful that once the ruling is made in January 2020 it would assist the Directorate of Criminal Investigations to fast track such cases.

**PART XVIII: THE ORAL SUBMISSIONS OF MR. MICHAEL WISO, SENIOR
SUPERINTENDENT OF POLICE AND THE INVESTIGATORY AND
LEGAL ADVISOR TO THE DIRECTOR OF CRIMINAL
INVESTIGATIONS**

43. On 13th November, 2019, the Committee proceeded to hear the testimony of Mr. Michael Wiso who informed the Committee as follows-

- (1) That, he is a Senior Superintendent of Police.
- (2) That he heads the Capital Markets Unit at the Directorate of Criminal Investigations.
- (3) That he received instructions from the Director of Criminal Investigations to write a letter to the Clerk of the National Assembly summoning the four Members of the National Assembly.
- (4) That he is therefore the author of the letter dated 21st February, 2019.
- (5) That the case relating to the defaming video that had gone viral relating to Hon. Fatuma Gedi was handed over to him by the Director of Criminal Investigations so that he could carry out the investigations.
- (6) That Hon. Fatuma Gedi in her recorded statement did not mention any Member of Parliament or indeed any suspect.
- (7) That Hon. Fatuma Gedi recorded her statement on 22nd December, 2018.
- (8) That he was not at liberty to disclose his sources of information on how he arrived at the four Members of Parliament as the investigations were not complete.
- (9) That the letter by Mr. John Kariuki dated 26th July, 2019 baffled him as he was assigned to investigate the matter under instructions and authority of the Director of Criminal Investigations.

- (10) That it is not true that he was not pursuing the matter further as there are prime suspects that he had identified following investigations and the four Members of Parliament were also still under investigation and not off the hook.
- (11) That following investigations on the matter, a young man had been arrested and arraigned in court where he was held for fourteen days pending completion of investigations but was later released as there was no sufficient evidence to sustain the custodial orders.
- (12) That the suspect still reports to the Directorate of Criminal Investigations.
- (13) That the delay in completing the matter had been occasioned by failure to get the IP Address so that the DCI can be in a position to identify the source and origin of the video.
- (14) That the Director of Criminal Investigations, Mr. George Kinoti has never told him to stop the investigations on the matter.
- (15) That the Director of Criminal Investigations is aware of his letter dated 21st February, 2019.
- (16) That the Director of Criminal Investigations never requested to see the letter as he was already authorized to write the letter on his behalf.
- (17) That he wishes not to be associated with anything Mr. John Kariuki averred in his letter dated 26th July, 2019.
- (18) That he is the lead investigator and he reports directly to the Director of Criminal Investigations.
- (19) That the investigations on the matter were still active.
- (20) That no disciplinary action has ever been taken against him concerning the matter.
- (21) That the Director of Criminal Investigations has full knowledge on the status of the investigations.

- (22) That he was not required to give the Director of Criminal Investigations a copy of his letter dated 21st February, 2019 as he had written the letter having been authorized by the Director of Criminal Investigations.
- (23) That the rules and procedures for summoning Members of Parliament are well established and known within the Directorate of Criminal Investigations.
- (24) That, he was aware that Hon. Fatuma Gedi came to the Directorate and recorded her statement.
- (25) That the viral video case was different from the matter relating to alleged murder of a person in Ganda and perhaps this explained the difference in the manner in which the arrest of the Member for Malindi Constituency was done. However, he noted that he was not privy to the facts of the case and wished not to comment further.
- (26) That the delay in concluding on the investigations is not related to the action by Mr. John Kariuki of writing the letter dated 26th July, 2019.
- (27) That it is true that additional officers were assigned to him just as is the routine in other investigations.
- (28) The witness also informed the Committee that previously there were relying on the Kenya Information and Communications Act Cap 411A prior to the passage of Computer Misuse and Cyber Crimes Act, 2018 which has also since been suspended by the High Court. The witness stated that he was hopeful that once the ruling on the Computer Misuse and Cyber Crimes Act, 2018 is made in January 2020 it would assist the Directorate of Criminal Investigations fast track such cases.
- (29) That none of the four Members have recorded statements at the DCI.

- (30) Asked on whether he knew Hon. Fatuma Gedi before – The witness stated that he did not know Hon. Fatuma Gedi before the case that he was investigating.
- (31) Asked on whether he had ever received any interferences in the process of executing his mandate pertaining to the case – the witness told the Committee that he had never received any kind of pressure from anyone.
- (32) Asked on whether he had received any form of distraction from Mr. John Kariuki – the witness told the Committee that he was authorized to execute the case by the Director of Criminal Investigations.
- (33) Asked what was the impact of the letter by Mr. John Kariuki disowning his letter summoning the four Members on the grounds that the letter was done without the authority of the Director of Criminal Investigations – the witness informed the Committee that he was not happy on learning about the letter by Mr. John Kariuki and that the letter was done without his knowledge.
- (34) Asked on whether he had a chance to see the letter by Mr. John Kariuki disowning his letter – the witness told the Committee that he learnt of the letter by Mr. John Kariuki later on and walked to the office of Mr. John Kariuki and requested for a copy of it and that is when he saw it.
- (35) That the DCI relies on recorded statements, and that the use of Occurrence Book Number is being phased out and is only used at the police stations.
- (36) That he does not share official correspondence and letters with other persons.
- (37) That he delivered the letter dated 21st February, 2019 in person to the office of the Clerk of the National Assembly.

- (38) That the video appears to have been made in the United States but they still needed to confirm the IP address.
- (39) That the command structure is well organized and established at the DCI.
- (40) On being asked why upon the summons being issued on Thursday, 21st February, 2019, and upon the summons being leaked to the media on 23rd February, 2019, and having seen Members of Parliament on various media platforms alleging the summons were fake and had no knowledge of the summons, an officer with the sort of experience such as his had not pursued the investigations to a logical conclusion and why it had taken nearly nine months without much progress - the witness informed the committee that the delay was not occasioned by any ill intention nor was there any interference from any quarter.
- (41) The witness also informed the committee that he would forthwith resume investigations and promised to pursue the matter to finality.

PART XIX: QUESTION FOR DETERMINATION BY THE COMMITTEE

44. Section 22 of the Leadership and Integrity Act, 2012 provides that -

(1) A State officer shall not directly or indirectly use or allow any person under the officer's authority to use any information obtained through or in connection with the office, which is not available in the public domain, for the furthering of any private interest, whether financial or otherwise.

(2) The provisions of subsection (1), shall not apply where the information is to be used for the purposes of—

(a) furthering the interests of this Act; or

(b) educational, research, literary, scientific or other purposes not prohibited by law.

45. The question for determination by the Committee is therefore whether the Hon. Fatuma Gedi is in breach of the provisions of section 22 of the Leadership and Integrity Act, 2012.

46. In doing so, the Committee is therefore expected to determine whether Hon. Fatuma Gedi directly or indirectly used or allowed any person under her authority to use any information obtained in connection with her office and which was not available in public domain to further any private interest, whether financial interest or otherwise.

PART XX: OBSERVATIONS OF THE COMMITTEE

47. Having considered and analysed the oral and written submissions of the witnesses and examined various documents including correspondences, the Committee observed that-

(1) In the oral testimony of Hon. Fatuma Gedi, the video clip that went viral on or about 19th December, 2018 containing pornographic content humiliated and embarrassed her.

(2) Whereas there existed inconsistencies between the oral and written submissions of the Hon. Fatuma Gedi, the witness did confirm in both her oral and written testimony that she indeed received a letter summoning the four Members of Parliament from Mr. Noor Mohammed, a parliamentary staff.

(3) While there existed inconsistencies between the testimony of Mr. Noor Mohammed and Hon. Fatuma Gedi as to the accounts of how the Member

obtained the letter from the officer, both witnesses did confirm that the letter was received by Hon. Fatuma Gedi.

- (4) The Hon. Ahmed Kolosh Mohamed and Hon. Ahmed Abdisalan Ibrahim who Hon. Fatuma Gedi had alleged to have been with her at the Member's Lounge on the material day, acknowledged to have on many occasions been in the Members Lounge with Hon. Fatuma Gedi and other Members discussing various issues at different times. However, only Hon. Ahmed Kolosh Mohamed did confirm that on the material day, he saw Mr. Noor Mohammed at the Member's Lounge having a conversation with Hon. Fatuma Gedi.
- (5) Whereas Mr. Noor Mohammed hails from Wajir County being the County that Hon. Fatuma Gedi represents as a Woman Representative, Mr. Mohammed Noor is a Parliamentary Staff attached to the Office of the Director, Legislative and Procedural Services (National Assembly) as an Office Attendant and does not work under her authority as a Member of the National Assembly. However, Mr. Noor in his oral testimony did confirm that the Hon. Fatuma Gedi pressured him into giving her a copy of the letter that was subsequently leaked to the media.
- (6) On 28th March, 2019 the Parliamentary Service Commission in its 260th meeting considered the discipline case against Mr. Mohammed Noor and resolved to reprimand him as evidenced by a letter dated 15th April, 2019 to the said officer.
- (7) The letter dated 21st February, 2019 by the DCI summoning Hon. (Dr.) Adan Keynan, Hon. Purity Wangui Ngirici, Hon. Abdikhaim Osman Mohamed and Hon. Rehema Dida Jaldesa was addressed to the Clerk of the National Assembly and not to Hon. Fatuma Gedi and hence there must have been a reason the Member decided to follow up on a letter not addressed to her. In her written statement Hon. Fatuma Gedi, had also

averred that she made follow-ups with the DCI on the same and she was made to understand that the Members would be summoned. In view of this, the Committee observed that the Member had fore knowledge that the four Members would be summoned.

(8) Further, the Hon. Fatuma Gedi earnestly sought for the letter as evidenced thus -

- (a) In the testimony of Mr. Noor, the Hon. Fatuma Gedi called him at least three times asking to be given a copy of the letter;
- (b) In the testimony of Mr. Noor, he succumbed to pressure from Hon. Fatuma Gedi and hence gave out a copy of the letter to the Member;
- (c) In seeking to obtain a copy of the letter, the Hon. Fatuma Gedi, in her oral and written statement, averred that she sought for the letter from the office of the Serjeant-At-Arms and the Office of the Clerk;
- (d) The Hon. Fatuma Gedi made follow-ups with the DCI on the same;
- (e) In their submissions to the Committee both Hon. Ahmed Kolosh Mohamed and Hon. Ahmed Abdisalan Ibrahim stated that they did not see Hon. Fatuma Gedi receiving any letter or document from Mr. Noor Mohammed at that time and also disputed having read the letter as alleged by Hon. Fatuma Gedi;
- (f) Although Hon. Fatuma Gedi stated in her oral testimony that she had instructed Mr. Noor to give a copy of the letter to the driver and further that Mr. Noor told her that he had given a copy of the letter to her driver, Mr. Jacob Kipkemboi, the driver of Hon. Fatuma Gedi denied having received any letter for Hon. Fatuma Gedi and further that he did not even know the said Mr. Noor; and
- (g) In the oral testimony of Hon. Fatuma Gedi, on the first day of interacting with Mr. Noor, she only read the contents of the letter as shown by Mr. Noor but the following day she insisted on getting a

copy of the letter. The Committee observed that it was curious that the Member insisted on getting a copy of a letter which she had already read and obtained the information.

(9) In light of the foregoing, it was therefore untrue and did not make sense from her conduct that she would leave a letter that she earnestly sought for at the Members' Lounge unattended.

(10) Whereas Hon. Fatuma Gedi only averred that she received a letter from Mr. Noor Mohammed, it is noteworthy that Mr. Noor Mohammed in his oral testimony averred that on the material day, the Member had stopped him and inquired about documents relating to a request by the Directorate of Criminal Investigations to question certain Members of Parliament. Mr. Noor in his testimony stated that he checked and indeed confirmed that the internal memo on the matter Hon. Gedi had inquired about was indeed among those documents that he had. It is however noteworthy that in his testimony he only avers that he gave Hon. Fatuma Gedi a copy of the letter.

(11) However, the documents that were leaked to the media were a letter dated 21st February, 2019 from the Directorate of Criminal Investigations summoning the four Members of Parliament and an Internal Advisory Memo dated 21st February, 2019 from the Directorate of Litigation and Compliance to the Clerk of the National Assembly advising the Clerk to inform the DCI to directly contact the four Members as the investigations did not arise from performance of the duties of a Member.

(12) The possible chronology of events and timelines based on the evidence presented to the Committee was as follows-

(a) The letter by the DCI to the Clerk of the National Assembly summoning the four Members of Parliament was written and delivered to the Clerk on Thursday 21st February, 2019.

- (b) The letter was then forwarded to the Directorate of Litigation and Compliance by the Clerk for advice on the same day.
- (c) On the same day, the Directorate of Litigation and Compliance advised the Clerk through an internal memo and letter for Clerk's signature on the need for the DCI to contact the Members directly as the request that the Clerk does inform the Members of the summons was outside the scope and duties of the Clerk and further did not relate or arise from performance of the duties of a Member.
- (d) The Internal Memo and the signed letter were then returned to the Directorate of Litigation and Compliance for dispatch on 22 February, 2019 this being a Friday.
- (e) Mr. Noor in his testimony stated that he gave a copy of the letter to Hon. Fatuma Gedi late in the evening on Friday at around 4.00 pm but soon thereafter he learnt that a copy of the letter he had given to Hon. Fatuma Gedi was being circulated in the social media.
- (f) That the letter and internal memo subsequently appeared in the mainstream media on Saturday, 23rd February, 2019.

(13) That in view of the foregoing, the leakage may therefore have happened immediately after the exchange of the letter between Mr. Noor and Hon. Fatuma Gedi which was on Friday, 22nd February, 2019.

(14) The Hon. Fatuma Gedi in her oral submissions submitted that the reason for following up on the case was to ensure that the culprits of the alleged video were brought to book. Indeed, based on the testimony of the Director of Criminal Investigations and Mr. Wiso J, the investigating officer, they both confirmed that Hon. Fatuma Gedi had recorded a statement on the matter.

- (15) In the testimony of the Director of Criminal Investigations and Mr. Wiso, the investigating officer, the recorded statement of Hon. Fatuma Gedi did not mention any of the four Members or indeed any suspect. However, based on the fact that Hon. Fatuma Gedi in her testimony stated that she was following up with the DCI on the matter and further her conduct of inquiring from the Office of the Clerk for a copy of the letter, it appears Hon. Fatuma Gedi had prior knowledge of the identity of the persons to be summoned.
- (16) While the Director of Criminal Investigations confirmed that he had given authority to Mr. Wiso to write the letter dated 21st February, 2019 issuing summons to the four Members, Mr. John Kariuki alleged that he had written the letter dated 26th July, 2019 disowning the letter of 21st February, 2019 under the instructions of the Director of Criminal Investigations.
- (17) Whereas Mr. John Kariuki alleged the delay in proceeding with the case was due to the instructions that he had been given by the Director of Criminal Investigations that the matter be stayed until authorised by him, the Director of Criminal Investigations during his testimony stated that the case was still ongoing pending investigations a fact that was also confirmed by Mr. Wiso who acknowledged that the Director of Criminal Investigations had not given him any instructions to stay the matter. The Committee however noted with concern that the letter dated 26th July, 2019 by Mr. John Kariuki was to the effect there be no further action on the matter.
- (18) Additionally, whereas Mr. Wiso averred that he had not been subjected to any disciplinary action by the Director of Criminal Investigations, a fact that was corroborated by the Director of Criminal Investigations who indicated that he had only summoned Mr. Wiso to explain the

circumstances under which he had summoned the four Members, the Committee noted with concern that the letter dated 26th July, 2019 by Mr. John Kariuki stated that disciplinary action had been taken against Mr. Wiso. Furthermore, despite the letter dated 26th July, 2019 alleging that disciplinary action had been taken against Mr. Wiso, it was noteworthy that Mr. Wiso was even at a higher responsibility position as the head of investigations at the Capital Markets Authority.

(19) Both the Director of Criminal Investigations and Mr. Wiso confirmed that the letter dated 21st February, 2019 summoning the four members, was written under the authority and instructions of the Director of Criminal Investigations.

(20) Further, Mr. John Kariuki in his oral testimony to the Committee had stated that no person had been arrested in connection with the case relating to the video that was being circulated in social media. However, the Committee observed that the lead investigator of the case, Mr. Wiso in his oral testimony confirmed that following investigations on the matter, a young man had been arrested and arraigned in court where he was held for fourteen days pending completion of investigations but was later released as there was no sufficient evidence to sustain the custodial orders.

(21) Consequently, the statement by Mr. John Kariuki disclosed glaring inconsistencies with the submissions of the Director of Criminal Investigations and the lead investigator, Mr. Wiso and hence the statement by Mr. John Kariuki was untrue.

(22) Furthermore, Mr. John Kariuki admitted to have been in contact with two Members who as stated by the lead investigator were persons of interest in the case, these being Hon. Adan Keynan and another Member that Mr. John Kariuki could not recall his name. The Hon. Mohammed Abdikhaim

had however in his submissions to the Committee also acknowledged that he had been in contact with Mr. John Kariuki.

- (23) The National Police Service Act, 2011 establishes the office of the Directorate of Criminal Investigations and that of the Director of Criminal Investigations as independent offices with clearly defined functions and powers. In this regard, the Director of Criminal Investigations did not require the authorization or indeed the assistance of any person in executing his mandate. It was therefore unprocedural for the DCI to write to the Clerk of the National Assembly seeking that the Clerk does inform the four Members about the summons. Moreover, in all matters that are criminal in nature touching on Members, the DCI has always been executing the issuance of summons and arrest of Members without the need for assistance from the National Assembly.
- (24) Even though the DCI explained that the delay in concluding on the matter was due to the complexity of the case as it related to cyber-crime, there was inordinate delay in concluding the case, as nine months had passed and none of the four Members had even recorded a statement in relation to the case.
- (25) The manner in which the DCI conducted itself in issuing the summons and conducting the investigations disclosed inefficiency and lack of coordination in conducting the investigations on the case.
- (26) Whereas the lead investigator of the case Mr. Wiso, denied having experienced any interference concerning the case, it was indeed suspicious that the DCI could issue conflicting information on the investigations.


PART XXI: FINDINGS OF THE COMMITTEE

48. Based on the observations of the Committee and an analysis of section 22 of the Leadership and Integrity Act, 2012, the Committee finds that-

- (a) The evidence submitted to the Committee discloses that the Hon. Fatuma Gedi directly used information obtained through or in connection with her office as a Member of Parliament and which was not available in the public domain, for the furtherance of a private interest contrary to Section 22 of the Leadership and Integrity Act, 2012.
- (b) The conduct of the Hon. Fatuma Gedi of leaking the official letter and Memo dated 21st February, 2019 by the DCI to the Office of the Clerk reflected adversely on the dignity and integrity of the National Assembly and its Members and was also contrary to the best interests of the National Assembly and its Members contrary to section 16(e) of the Parliamentary Powers and Privileges Act, 2017.
- (c) Consequently, pursuant to Section 22 of the Leadership and Integrity Act, 2012 as read with section 16(e) of the Parliamentary Powers and Privileges Act, 2017, the conduct of the Hon. Fatuma Gedi constituted a breach of privilege.

PART XXII: RECOMMENDATIONS OF THE COMMITTEE

49. In consideration of the above observations and findings, the Committee recommends that the House pursuant to section 17(3)(b) of the Parliamentary Powers and Privileges Act, 2017, reprimands the Hon. Fatuma Gedi for conducting herself in a manner that reflected adversely on the dignity and integrity of the National Assembly and its Members and contrary to the best interests of the National Assembly and its Members contrary to section 16(e) of the Parliamentary Powers and Privileges Act, 2017.


19th Nov, 2019.


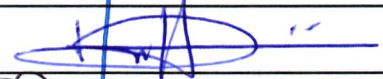
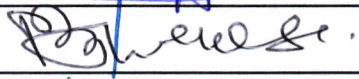

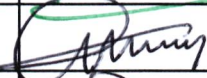
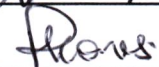
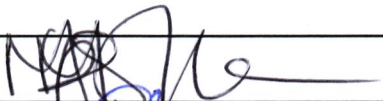

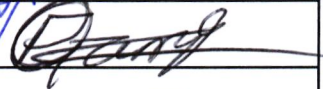
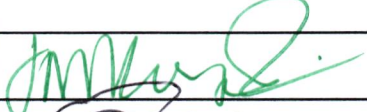

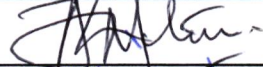

PART XXIII: APPENDICES

APPENDIX I: ADOPTION REGISTER OF THE REPORT

COMMITTEE OF POWERS AND PRIVILEGES

ADOPTION LIST OF REPORT ON THE ALLEGED MISUSE OF OFFICIAL INFORMATION CONTRARY TO THE LEADERSHIP AND INTEGRITY ACT, 2012

DATE.....19TH NOVEMBER 2019.....

S/NO.	NAME	SIGNATURE
1	The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly	
2	The Hon. Peter Mungai Mwathi, M.P	
3	The Hon. Capt. (Rtd.) Didmus Wekesa Barasa Mutua, M.P.	
4	The Hon. Anthony Githiaka Kiai, M.P.	
5	The Hon. Vincent Kipkurui Tuwei, M.P.	
6	The Hon. Beatrice Pauline Cheronon Kones, M.P.	
7	The Hon. Gladwell Jesire Cheruiyot, M.P.	
8	The Hon. Marselino Malimo Arbelle, M.P.	
9	The Hon. Jude L. Kangethe Njomo, M.P.	
10	The Hon. Francis Chachu Ganya, M.P.	
11	The Hon. Shimbwa Omar Mwinyi, MP	
12	The Hon. James Mathew Onyango K' Oyoo, MP	
13	The Hon. Danson Mwakuwona Mwashako, M.P.	
14	The Hon. Andrew Mwadime, MP	
15	The Hon. Mogaka, Vincent Kemose, MP.	


Kipkemoi arap Kirui

FOR: - CLERK OF THE NATIONAL ASSEMBLY

**APPENDIX II: MINUTES OF COMMITTEE
SITTINGS AND HEARINGS OF THE
PROCEEDINGS**

**MINUTES OF THE FIFTEENTH MEETING OF THE NATIONAL ASSEMBLY
COMMITTEE OF POWERS AND PRIVILEGES HELD AT WHITESANDS
HOTEL, MOMBASA ON SATURDAY 16TH NOVEMBER 2019 AT 2:30PM**

PRESENT

1. **The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson**
2. The Hon. Vincent Kemose Mogaka, MP
3. The Hon. Marselino Malimo Arbelle, MP
4. The Hon. Francis Chachu Ganya, MP
5. The Hon. Andrew Mwadime, MP
6. The Hon. Danson Mwakuwona Mwashako, MP
7. The Hon. James Mathew Onyango K' Oyoo, MP
8. The Hon. Omar Mwinyi Shimbwa, MP
9. The Hon. Peter Mungai Mwathi, MP
10. The Hon. Vincent Kipkurui Tuwei, MP
11. The Hon. Jude L. Kangethe Njomo, MP

APOLOGIES

1. The Hon. Anthony Githiaka Kiai, MP
2. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
3. The Hon. Gladwell Jesire Cheruiyot, MP
4. The Hon. Beatrice Pauline Cheron Kones, MP

SECRETARIAT

- | | | |
|----------------------------|---|--------------------------------|
| 1. Mr. Kipkemoi arap Kirui | - | Deputy Director, L& P Services |
| 2. Ms. Jemimah Waigwa | - | Legal Counsel I |
| 3. Ms. Anne Shibuko | - | Clerk Assistant II |
| 4. Ms. Esther Ngechu | - | Sergeant at Arms |

MIN.NO. 67/NACoPP/2019: PRELIMINARIES

The Hon. Speaker called the meeting to order at 2:30pm.

MIN.NO. 68/NACoPP/2019: INQUIRY ON ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

(a) Findings

Based on the observations of the Committee and an analysis of section 22 of the Leadership and Integrity Act, 2012, the Committee finds that-

- (i) The evidence submitted to the Committee discloses that the Hon. Fatuma Gedi directly used information obtained through or in connection with her office as a Member of Parliament and which was not available in the public domain, for the furtherance of a private interest contrary to section 22 of the Leadership and Integrity Act, 2012.
- (ii) The conduct of the Hon. Fatuma Gedi of leaking the official letter dated 21st February, 2019 by the DCI to the Office of the Clerk reflected adversely on the dignity and integrity of the National Assembly and its Members and was also contrary to the best interests of the National Assembly and its Members contrary to section 16(e) of the Parliamentary Powers and Privileges Act, 2017.
- (iii) Consequently, pursuant to section 22 of the Leadership and Integrity Act, 2012 as read with section 16(e) of the Parliamentary Powers and Privileges Act, 2017, the conduct of the Hon. Fatuma Gedi constituted a breach of privilege.

(b) Recommendations

The Committee considered the likely offences, sanctions and penalties under Section 17 of the Parliamentary Powers and Privileges Act, 2017 and agreed that these would be agreed upon at the next meeting.

MIN.NO.69/NACoPP/2019: ANY OTHER BUSINESS

(a) Reports for the Study Visits to Botswana, Uganda

The Committee the deferred adoption of the report of the Study Visits to Uganda and Botswana to the next sitting.

(b) Report of the Study Visit to the Isle of Man

The Committee was notified that the report of the Study Visit to the Isle of Man was still under review and would be shared with the Committee at a later date.

MIN.NO.70/NACoPP/2019: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 4:10 pm. The next meeting would take place on Tuesday 19th November 2019 at 10:00 am.

Sign.....
(Chairperson)
Date.....

MINUTES OF THE FOURTEENTH MEETING OF THE NATIONAL
ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES HELD AT
WHITESANDS HOTEL, MOMBASA ON SATURDAY 16TH NOVEMBER 2019
AT 9:00AM

PRESENT

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson
2. The Hon. Vincent Kemose Mogaka, MP
3. The Hon. Marselino Malimo Arbelle, MP
4. The Hon. Francis Chachu Ganya, MP
5. The Hon. Andrew Mwadime, MP
6. The Hon. Danson Mwakuwona Mwashako, MP
7. The Hon. James Mathew Onyango K' Oyoo, MP
8. The Hon. Omar Mwinyi Shimbwa, MP
9. The Hon. Peter Mungai Mwathi, MP
10. The Hon. Vincent Kipkurui Tuwei, MP
11. The Hon. Jude L. Kangethe Njomo, MP

APOLOGIES

1. The Hon. Anthony Githiaka Kiai, MP
2. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
3. The Hon. Gladwell Jesire Cheruiyot, MP
4. The Hon. Beatrice Pauline Cheronon Kones, MP

SECRETARIAT

- | | | |
|----------------------------|---|--------------------------------|
| 1. Mr. Kipkemoi arap Kirui | - | Deputy Director, L& P Services |
| 2. Ms. Jemimah Waigwa | - | Legal Counsel I |
| 3. Ms. Anne Shibuko | - | Clerk Assistant II |
| 4. Ms. Esther Ngechu | - | Sergeant at Arms |

MIN.NO. 64/NACoPP/2019: PRELIMINARIES

The Hon. Speaker called the meeting to order at 9:00am.

MIN.NO. 65/NACoPP/2019: INQUIRY ON ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

Upon invitation by the Chairperson, the Secretariat briefed the Committee of the observations that were made from cross-examination of both written and oral submissions by all the witnesses. The following observations were made:-

- (1) While the Director of Criminal Investigations confirmed that he had given authority to Mr. Wiso to write the letter dated 21st February, 2019 issuing summons to the four Members, Mr. John Kariuki alleged that he had written the letter dated 26th July, 2019 disowning the letter of 21st February, 2019 under the instructions of the Director of Criminal Investigations.
- (2) Whereas Mr. John Kariuki alleged the delay in proceeding with the case was due to the instructions that he had been given by the Director of Criminal Investigations that the matter be stayed until authorised by him, the Director of Criminal Investigations during his testimony stated that the case was still ongoing pending investigations a fact that was also confirmed by Mr. Wiso who acknowledged that the Director of Criminal Investigations had not given him any instructions to stay the matter. The Committee however noted with concern that the letter dated 26th July, 2019 by Mr. John Kariuki was to the effect there be no further action on the matter.
- (3) Additionally, whereas Mr. Wiso averred that he had not been subjected to any disciplinary action by the Director of Criminal Investigations, a fact that was corroborated by the Director of Criminal Investigations who indicated that he had only summoned Mr. Wiso to explain the circumstances under which he had

summoned the four Members, the Committee noted with concern that the letter dated 26th July, 2019 by Mr. John Kariuki stated that disciplinary action had been taken against Mr. Wiso. Furthermore, despite the letter dated 26th July, 2019 alleging that disciplinary action had been taken against Mr. Wiso, it was noteworthy that Mr. Wiso was even heading a more senior position as the head of the Capital Markets Unit.

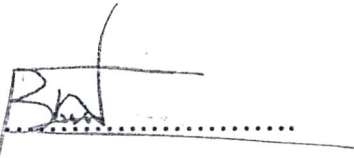
- (4) Both the Director of Criminal Investigations and Mr. Wiso confirmed that the letter dated 21st February, 2019 summoning the four members, was written under the authority and instructions of the Director of Criminal Investigations.
- (5) Consequently, the statement by Mr. John Kariuki disclosed glaring inconsistencies with the submissions of the Director of Criminal Investigations and the lead investigator, Mr. Wiso and hence the statement by Mr. John Kariuki was untrue.
- (6) Furthermore, Mr. John Kariuki admitted to have been in contact with two Members who as stated by the lead investigator were persons of interest in the case, these being Hon. Adan Keynan and another Member that Mr. John Kariuki could not recall his name. The Hon. Mohammed Abdulhakim had however in his submissions to the Committee also acknowledged that he had been in contact with Mr. John Kariuki.
- (7) The National Police Service Act, 2011 establishes the office of the Directorate of Criminal Investigations and that of the Director of Criminal Investigations as independent offices with clearly defined functions and powers. In this regard, the Director of Criminal Investigations did not require the authorization or indeed the assistance of any person in executing his mandate. It was therefore unprocedural for the DCI to write to the Clerk of the National Assembly seeking that the Clerk does inform the four Members about the summons. Moreover, in all matters that are criminal in nature touching on Members, the DCI had always been executing

the issuance of summons to Members without the need for assistance from the National Assembly.

- (8) Even though the DCI explained that the delay in concluding on the matter was due to the complexity of the case as it related to cyber-crime, there was inordinate delay in concluding the case, as nine months had passed and none of the four Members had even recorded a statement in relation to the case.
- (9) The manner in which the DCI conducted itself in issuing the summons and conducting the investigations disclosed inefficiency and lack of coordination in conducting the investigations on the case.
- (10) Whereas the lead investigator of the case Mr. Wiso, denied having been there any interferences on the case, it was indeed suspicious that the DCI could issue conflicting information on the investigations.

MIN.NO.66/NACoPP/2019: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 12:15 pm. The next meeting would take place on Saturday 16th November 2019 at 2:00 pm.

Sign.....
(Chairperson)
Date.....19/11/19.....

MINUTES OF THE THIRTEENTH MEETING OF THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES HELD AT WHITESANDS HOTEL, MOMBASA ON FRIDAY 15TH NOVEMBER 2019 AT 2:00PM

PRESENT

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson
2. The Hon. Vincent Kemose Mogaka, MP
3. The Hon. Marselino Malimo Arbelle, MP
4. The Hon. Francis Chachu Ganya, MP
5. The Hon. Andrew Mwadime, MP
6. The Hon. Danson Mwakuwona Mwashako, MP
7. The Hon. James Mathew Onyango K' Oyoo, MP
8. The Hon. Omar Mwinyi Shimbwa, MP
9. The Hon. Peter Mungai Mwathi, MP
10. The Hon. Vincent Kipkurui Tuwei, MP
11. The Hon. Jude L. Kangethe Njomo, MP

APOLOGIES

1. The Hon. Anthony Githiaka Kiai, MP
2. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
3. The Hon. Gladwell Jesire Cheruiyot, MP
4. The Hon. Beatrice Pauline Cherono Kones, MP

SECRETARIAT

- | | | |
|----------------------------|---|--------------------------------|
| 1. Mr. Kipkemoi arap Kirui | - | Deputy Director, L& P Services |
| 2. Ms. Jemimah Waigwa | - | Legal Counsel I |
| 3. Ms. Anne Shibuko | - | Clerk Assistant II |
| 4. Ms. Esther Ngechu | - | Sergeant at Arms |

MIN.NO. 61/NACoPP/2019: PRELIMINARIES

The Hon. Speaker called the meeting to order at 2:10pm.

MIN.NO. 62/NACoPP/2019: INQUIRY ON ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

Upon invitation by the Chairperson, the Secretariat guided the Committee through Hansard reports and audio recordings and made the following additional observations:-

- (1) Whereas Hon. Fatuma Gedi averred that she received a letter from Mr. Noor Mohammed, it is noteworthy that Mr. Noor Mohammed in his oral testimony averred that on the material day, the Member had stopped him and inquired about documents relating to a request by the Directorate of Criminal Investigations to question certain Members of Parliament. Mr. Noor in his testimony stated that he checked and indeed confirmed that the Internal Memo on the matter Hon. Gedi had inquired about was indeed among those documents that he had. It is however noteworthy that in his testimony he avers that he gave Hon. Fatuma Gedi a copy of the letter only.
- (2) However, the documents that were leaked to the media were a letter dated 21st February, 2019 from the Directorate of Criminal Investigations summoning the four Members of Parliament and an Internal Advisory Memo dated 21st February, 2019 from the Directorate of Litigation and Compliance to the Clerk of the National Assembly advising the Clerk to inform the DCI to directly contact the four Members as the investigations did not arise from performance of the duties of a Member.
- (3) The possible chronology of events and timelines based on the evidence presented to the Committee was as follows-

- (a) The letter by the DCI to the Clerk of the National Assembly summoning the four Members of Parliament was written and delivered to the Clerk on Thursday 21st February, 2019.
 - (b) The letter was then forwarded to the Directorate of Litigation and Compliance by the Clerk for advice on the same day.
 - (c) On the same day, the Directorate of Litigation and Compliance advised the Clerk through an internal memo and letter for Clerk's signature on the need for the DCI to contact the Members directly as the request that the Clerk does inform the Members of the summons was outside the scope and duties of the Clerk and further did not relate or arise from performance of the duties of a Member.
 - (d) The Internal Memo and the signed letter were then returned to the Directorate of Litigation and Compliance for dispatch on 22 February, 2019 this being a Friday.
 - (e) Mr. Noor in his testimony stated that he gave a copy of the letter to Hon. Fatuma Gedi late in the evening on Friday at around 4.00 pm but soon thereafter he learnt that a copy of the letter he had given to Hon. Fatuma Gedi was being circulated in the social media.
 - (f) That the Letter and Internal Memo subsequently appeared in the mainstream media on Saturday, 23rd February, 2019.
- (4) That in view of the foregoing, the leakage may therefore have happened immediately after the exchange of the letter between Mr. Noor and Hon. Fatuma Gedi which was on Friday, 22nd February, 2019.
 - (5) The Hon. Fatuma Gedi in her oral submissions submitted that the reason for following up on the case was to ensure that the culprits of the alleged video were brought to book. Indeed, based on the testimony of the Director of Criminal

Investigations and Mr. Wiso J, the investigating officer, they both confirmed that Hon. Fatuma Gedi had recorded a statement on the matter.

- (6) In the testimony of the Director of Criminal Investigations and Mr. Wiso, the investigating officer, the recorded statement of Hon. Fatuma Gedi did not mention any of the four Members or indeed any suspect. However, based on the fact that Hon. Fatuma Gedi in her testimony stated that she was following up with the DCI on the matter and further her conduct of inquiring from the Office of the Clerk for a copy of the letter, it appears Hon. Fatuma Gedi had prior knowledge of the identity of the persons to be summoned.

MIN.NO.63/NACoPP/2019: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 4:20 pm. The next meeting would take place on Saturday 16th November 2019 at 9:00 am.

Sign..... 

(Chairperson)

Date..... 19/11/19.

MINUTES OF THE TWELFTH MEETING OF THE NATIONAL ASSEMBLY
COMMITTEE OF POWERS AND PRIVILEGES HELD AT WHITESANDS
HOTEL, MOMBASA ON FRIDAY 15TH NOVEMBER 2019 AT 9:00AM

PRESENT

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson
2. The Hon. Vincent Kemose Mogaka, MP
3. The Hon. Marselino Malimo Arbelle, MP
4. The Hon. Francis Chachu Ganya, MP
5. The Hon. Andrew Mwadime, MP
6. The Hon. Danson Mwakuwona Mwashako, MP
7. The Hon. James Mathew Onyango K' Oyoo, MP
8. The Hon. Omar Mwinyi Shimbwa, MP
9. The Hon. Peter Mungai Mwathi, MP
10. The Hon. Vincent Kipkurui Tuwei, MP
11. The Hon. Jude L. Kangethe Njomo, MP

APOLOGIES

1. The Hon. Anthony Githiaka Kiai, MP
2. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
3. The Hon. Gladwell Jesire Cheruiyot, MP
4. The Hon. Beatrice Pauline Cheronon Kones, MP

SECRETARIAT

1. Mr. Kipkemoi arap Kirui - Deputy Director, L& P Services
2. Ms. Jemimah Waigwa - Legal Counsel I
3. Ms. Anne Shibuko - Clerk Assistant II
4. Ms. Esther Ngechu - Sergeant at Arms

MIN.NO. 58/NACoPP/2019: PRELIMINARIES

The Hon. Speaker called the meeting to order at 9:10am and invited Hon. Marselino Malimo Arbelle to say the prayers.

MIN.NO. 59/NACoPP/2019: INQUIRY ON ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

Upon invitation by the Chairperson, the Secretariat took the Committee through the progress of the inquiry which had been compiled to form part of the Draft Report. Following the presentation, the following observations were made by the Committee:-

- (1) In the oral testimony of Hon. Fatuma Gedi, the video clip that went viral on or about 19th December, 2018 containing pornographic content humiliated and embarrassed her.
- (2) Whereas there existed inconsistencies between the oral and written submissions of the Hon. Fatuma Gedi, the witness did confirm in both her oral and written testimony that she indeed received a letter summoning the four Members of Parliament from Mr. Noor Mohammed, a parliamentary staff.
- (3) While there existed inconsistencies between the testimony of Mr. Noor Mohammed and Hon. Fatuma Gedi as to the accounts of how the Member obtained the letter from the officer, both witnesses did confirm that the letter was received by Hon. Fatuma Gedi.
- (4) The Hon. Ahmed Kolosh Mohamed and Hon. Ahmed Abdisalan Ibrahim who Hon. Fatuma Gedi had alleged to have been with her at the Member's Lounge on the material day, acknowledged to have on many occasions been in the Members Lounge with Hon. Fatuma Gedi and other Members discussing various issues at different times. However, only Hon. Ahmed Kolosh Mohamed did confirm that on the material day, he saw Mr. Noor Mohammed at the Member's Lounge having a conversation with Hon. Fatuma Gedi.

(5) Whereas Mr. Noor Mohammed origin was from Wajir County being the County that Hon. Fatuma Gedi represents as a Woman Representative, Mr. Mohammed Noor is a Parliamentary Officer attached to the Office of the Director, Legislative and Procedural Services (National Assembly) as an Office Attendant and does not work under her authority as a Member of the National Assembly. However, Mr. Noor in oral testimony did confirm that the Hon. Fatuma Gedi pressurized him into giving her a copy of the letter that was subsequently leaked to the media.

(6) On 28th March, 2019 the Parliamentary Service Commission in its 260th meeting considered the discipline case against Mr. Mohammed Noor and resolved to reprimand him as evidenced by a letter dated 15th April, 2019 to the said officer.

(7) The letter dated 21st February, 2019 by the DCI summoning Hon. (Dr.) Adan Keynan, Hon. Purity Wangui Ngirici, Hon. Abdikhaim Osman Mohamed and Hon. Rehema Dida Jaldesa was addressed to the Clerk of the National Assembly and not to Hon. Fatuma Gedi and hence there must have been a reason the Member to follow up on a letter not addressed to her. In the written statement of Hon. Fatuma Gedi, she had also averred that she made follow-ups with the DCI on the same and she was made to understand that the Members would be summoned. In view of this, the Committee observed that the Member had fore knowledge that the four Members would be summoned.

(8) Further, the Hon. Fatuma Gedi earnestly sought for the letter as evidenced by-


- (a) In the testimony of Mr. Noor, the Hon. Fatuma Gedi called him at least three times asking to be given a copy of the letter;
- (b) In the testimony of Mr. Noor, he succumbed to pressure from Hon. Fatuma Gedi and hence gave out a copy of the letter to the Member;
- (c) In seeking to obtain a copy of the letter, the Hon. Fatuma Gedi in her oral and written statement averred that she sought for the letter from the office of the Serjeant-At-Arms and the Office of the Clerk;

- (d) The Hon. Fatuma Gedi made follow-ups with the DCI on the same;
- (e) Both Hon. Ahmed Kolosh Mohamed and Hon. Ahmed Abdisalan Ibrahim in their submissions to the Committee stated that they did not see Hon. Fatuma Gedi receiving any kind of a letter or document from Mr. Noor Mohammed at that time and also disputed having read the letter as alleged by Hon. Fatuma Gedi;
- (f) Although Hon. Fatuma Gedi stated in her oral testimony that she had instructed Mr. Noor to give a copy of the letter to the driver and further that Mr. Noor told her that he had given a copy of the letter to her driver, Mr. Jacob Kipkemboi, the driver of Hon. Fatuma Gedi denied having received any letter for Hon. Fatuma Gedi and further that he did not even know the said Mr. Noor; and
- (g) In the oral testimony of Hon. Fatuma Gedi, on the first day of interacting with Mr. Noor, she only read the contents of the letter as shown by Mr. Noor but the following day she insisted on getting a copy of the letter. The Committee observed that it was curious that the Member insisted on getting a copy of a letter which she had already read and obtained the information.

(9) In light of the foregoing, it was therefore untrue and did not make sense from her conduct that she would leave the letter that she earnestly sought for at the Members' Lounge unattended.

MIN.NO.60/NACoPP/2019: ADJOURNMENT

The Chairperson adjourned the meeting at 1:15 pm. The next meeting would take place on Friday 15th November 2019 at 3:15 pm.

Sign..... 
(Chairperson)
Date..... 19/11/19.

**MINUTES OF THE ELEVENTH MEETING OF THE NATIONAL ASSEMBLY
COMMITTEE OF POWERS AND PRIVILEGES HELD IN THE SPEAKER'S
BOARDROOM ON 13TH NOVEMBER 2019 AT 10:00AM**

PRESENT

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson
2. The Hon. Peter Mungai Mwathi, MP
3. The Hon. Vincent Kemose Mogaka, MP
4. The Hon. Gladwell Jesire Cheruiyot, MP
5. The Hon. Marselino Malimo Arbelle, MP
6. The Hon. Francis Chachu Ganya, MP
7. The Hon. Andrew Mwadime, MP
8. The Hon. Beatrice Pauline Cherono Kones, MP
9. The Hon. Danson Mwakuwona Mwashako, MP
10. The Hon. Jude L. Kangethe Njomo, MP
11. The Hon. Vincent Kipkurui Tuwei, MP
12. The Hon. James Mathew Onyango K' Oyoo, MP
13. The Hon. Omar Mwinyi Shimbwa, MP
14. The Hon. Anthony Githiaka Kiai, MP

APOLOGIES

1. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP

IN-ATTENDANCE

1. The Hon. Fatuma Gedi, MP
2. The Hon. Purity Ngirici, MP
3. The Hon. Abdikhaim Osman, MP
4. Mr. Michael Wiso (DCI Staff) - Witness

SECRETARIAT

1. Mr. Kipkemoi arap Kirui - Deputy Director, Legislative Services
2. Ms. Jemimah Waigwa - Legal Counsel I
3. Ms. Anne Shibuko - Clerk Assistant II
4. Ms. Esther Ngechu - Sergeant at Arms

MIN.NO. 55/NACoPP/2019: PRELIMINARIES

The Hon. Speaker called the meeting to order at 10:40 am and invited Hon. Vincent Kemose Mogaka who said the prayer.

MIN. NO. 56/NACoPP/2019: STATUS OF THE INQUIRY INTO ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

(a) Preliminaries

The Chairperson informed Members that the witness from Directorate of Criminal Investigations, Mr. Michael Wiso, Legal Advisor, was ready to appear before the Committee.

(b) Oral Submission by Mr. Michael Wiso

The Committee Chairperson welcomed Mr. Michael Wiso and directed that an Oath be administered to the witness as required under Section 20 of the Parliamentary Powers and Privileges Act, 2017 and Standing Order 191(2). Thereupon, an Oath was administered to him in the form prescribed in the Sixth Schedule to the Standing Orders.

Upon being briefed on the inquiry being undertaken by the Committee, Mr. Michael Wiso, submitted as follows:-

- (i) That, he is a Senior Superintendent of Police;
- (ii) That he heads the Capital Markets Unit at the Directorate of Criminal Investigations;
- (iii) That he received instructions from the Director of Criminal Investigations to write a letter to the Clerk of the National Assembly summoning the four Members of the National Assembly;
- (iv) That he is therefore the author of the letter dated 21st February, 2019;
- (v) That the case relating to the defaming video that had gone viral relating to Hon. Fatuma Gedi was handed over to him by the Director of Criminal Investigations so that he could carry out the investigations;
- (vi) That Hon. Fatuma Gedi in her recorded statement did not mention any Member of Parliament or indeed any suspect;
- (vii) That Hon. Fatuma Gedi recorded her statement on 22nd December, 2018;
- (viii) That he was not at liberty to disclose his sources of information on how he arrived at the four Members of Parliament as the investigations were not complete;
- (ix) That the letter by Mr. John Kariuki dated 26th July, 2019 baffled him as he was assigned to investigate the matter under instructions and authority of the Director of Criminal Investigations;

- (x) That it is not true that he was not pursuing the matter further as there are prime suspects that he had identified following investigations and the four Members of Parliament were also still under investigation and not off the hook;
- (xi) That following investigations on the matter, a young man had been arrested and arraigned in court where he was held for fourteen days pending completion of investigations but was later released as there was no sufficient evidence to sustain the custodial orders;
- (xii) That the suspect still reports to the Directorate of Criminal Investigations;
- (xiii) That the delay in completing the matter had been occasioned by failure to get the IP Address so that the DCI can be in a position to identify the source and origin of the video;
- (xiv) That the Director of Criminal Investigations, Mr. George Kinoti has never told him to stop the investigations on the matter;
- (xv) That the Director of Criminal Investigations is aware of his letter dated 21st February, 2019;
- (xvi) That the Director of Criminal Investigations never requested to see the letter as he was already authorized to write the letter on his behalf;
- (xvii) That he wishes not to be associated with anything Mr. John Kariuki averred in his letter dated 26th July, 2019;
- (xviii) That he is the lead investigator and he reports directly to the Director of Criminal Investigations;
- (xix) That the investigations on the matter were still active;
- (xx) That no disciplinary action has ever been taken against him concerning the matter;
- (xxi) That the Director of Criminal Investigations has full knowledge on the status of the investigations;
- (xxii) That he was not required to give the Director of Criminal Investigations a copy of his letter dated 21st February, 2019 as he had written the letter having been authorized by the Director of Criminal Investigations;
- (xxiii) That the rules and procedures for summoning Members of Parliament are well established and known within the Directorate of Criminal Investigations;
- (xxiv) That, he was aware that Hon. Fatuma Gedi came to the Directorate and recorded her statement;
- (xxv) That the viral video case was different from the matter relating to alleged murder of a person in Ganda and perhaps this explained the difference in the manner in which the arrest of the Member for Malindi Constituency was done. However, he noted that he was not privy to the facts of the case and wished not to comment further;

- (xxvi) That the delay in concluding on the investigations is not related to the action by Mr. John Kariuki of writing the letter dated 26th July, 2019;
- (xxvii) That it is true that additional officers were assigned to him just as is the routine in other investigations;
- (xxviii) The witness also informed the Committee that previously there were relying on the Kenya Information and Communications Act Cap 411A prior to the passage of Computer Misuse and Cyber Crimes Act, 2018 which has also since been suspended by the High Court. The witness stated that he was hopeful that once the ruling on the Computer Misuse and Cyber Crimes Act, 2018 is made in January 2020 it would assist the Directorate of Criminal Investigations fast track such cases;
- (xxix) That none of the four Members have recorded statements at the DCI;
- (xxx) Asked whether he knew Hon. Fatuma Gedi before, the witness stated that he did not know Hon. Fatuma Gedi before the case that he was investigating.
- (xxxi) Asked whether he had ever received any interferences in the process of executing his mandate pertaining to the case, the witness told the Committee that he had never received any kind of pressure from anyone;
- (xxxii) Asked whether he had received any form of distraction from Mr. John Kariuki, the witness told the Committee that he was authorized to execute the case by the Director of Criminal Investigations;
- (xxxiii) Asked what was the impact of the letter by Mr. John Kariuki disowning his letter summoning the four Members on the grounds that the letter was done without the authority of the Director of Criminal Investigations, the witness informed the Committee that he was not happy on learning about the letter by Mr. John Kariuki and that the letter was done without his knowledge;
- (xxxiv) Asked whether he had a chance to see the letter by Mr. John Kariuki disowning his letter, the witness told the Committee that he learnt of the letter by Mr. John Kariuki later on and walked to the office of Mr. John Kariuki and requested for a copy of it and that is when he saw it;
- (xxxv) That the DCI relies on recorded statements and the use of Occurrence Book Number is being phased out and is only used at the police stations;
- (xxxvi) That he does not share official correspondence and letters with other persons;
- (xxxvii) That he delivered the letter dated 21st February, 2019 in person to the office of the Clerk of the National Assembly;
- (xxxviii) That the video appears to have been made in the United States but they still needed to confirm the IP address;
- (xxxix) That the command structure is well organized and established at the DCI.

- (xi) On being asked why upon the summons being issued on Thursday, 21st February, 2019 and upon the summons being leaked to the media on 23rd February, 2019 and having seen Members of Parliament on various media platforms alleging the summons were fake an officer of his standing and experience had not concluded investigations nearly nine months later, the witness informed the meeting that the delay was not occasioned by any ill intention nor interference by any person.
- (xli) The witness also informed the meeting that he would now focus on concluding the investigations starting the following week and promised to pursue the matter to finality.

MIN. NO. 57/NACoPP/2019: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 12.15 pm. The next meeting would take place on Friday 15th November 2019 at 09.00 am.

Sign: 
.....
(Chairperson)

Date: 19/11/19
.....

**MINUTES OF THE TENTH MEETING OF THE NATIONAL ASSEMBLY COMMITTEE
OF POWERS AND PRIVILEGES HELD IN THE COUNTY HALL ON 11TH
NOVEMBER 2019 AT 2:00PM**

PRESENT

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson
2. The Hon. Peter Mungai Mwathi, MP
3. The Hon. Vincent Kemose Mogaka, MP
4. The Hon. Gladwell Jesire Cheruiyot, MP
5. The Hon. Marselino Malimo Arbelle, MP
6. The Hon. Francis Chachu Ganya, MP
7. The Hon. Andrew Mwadime, MP
8. The Hon. Beatrice Pauline Cherono Kones, MP
9. The Hon. Danson Mwakuwona Mwashako, MP
10. The Hon. Jude L. Kangethe Njomo, MP
11. The Hon. Vincent Kipkurui Tuwei, MP
12. The Hon. James Mathew Onyango K' Oyoo, MP
13. The Hon. Omar Mwinyi Shimbwa, MP

APOLOGIES

1. The Hon. Anthony Githiaka Kiai, MP
2. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP

IN-ATTENDANCE

1. The Hon. Fatuma Gedi, MP
2. Mr. Michael Wiso (DCI Staff) - Witness
3. Mr. John Kariuki (DCI Staff) - Witness

SECRETARIAT

1. Mr. Kipkemoi arap Kirui - Deputy Director, Legislative Services
2. Ms. Jemimah Waigwa - Legal Counsel II
3. Ms. Anne Shibuko - Clerk Assistant II
4. Ms. Esther Ngechu - Sergeant at Arms

MIN.NO. 52/NACoPP/2019: PRELIMINARIES

The Hon. Speaker called the meeting to order at 02:00pm.

MIN. NO. 53/NACoPP/2019: STATUS OF THE INQUIRY INTO ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

(a) Preliminaries

The Chairperson informed Members that the two witnesses from Directorate of Criminal Investigations, Mr. Michael Wiso, Legal Advisor and Mr. John Kariuki, Director, Investigation Bureau were ready to appear before the Committee.

(b) Oral Submission by Mr. Michael Wiso

The Committee Chairperson welcomed Mr. Michael Wiso and directed that an Oath be administered to the witness as required under Section 20 of the Parliamentary Powers and Privileges Act, 2017 and Standing Order 191(2). Thereupon, an Oath was administered to him in the form prescribed in the Sixth Schedule to the Standing Orders.

Upon being briefed on the inquiry being undertaken by the Committee, Mr. Michael Wiso, submitted as follows:-

- 1) That, he was the Investigatory and Legal Advisor to the Director for Criminal Investigations;
- 2) That, he was the author of the letter dated 21st February 2019 addressed to the Clerk of the National Assembly seeking that the four Members of Parliament appear before DCI two on 25th and two on 26th February, 2019;
- 3) That, the complaint by Hon. Fatuma Gedi was recorded as a statement in the Occurrence Book but unfortunately, he could not clearly remember the Occurrence Book number;
- 4) That, he received the complaint from the complaints section;
- 5) That, after conducting his preliminary investigations, he wrote to the Clerk of the National Assembly with names of four Members who were required to report to DCI Headquarters;
- 6) That, he received communication from the Clerk of National Assembly that the matter at hand was of criminal nature and did not take place within the Parliament and that he ought to continue pursuing the matter without his involvement;
- 7) That, the Director of Criminal Investigations had not yet communicated on continuing with the investigations and summoning the four Members;

8) That, the four Members were yet to appear and record their statements with the DCI.

The Committee noted with concern that the witness was rude, uncooperative, contemptuous, seemed unprepared and acted in a manner unbecoming of the office that he held. The Committee unanimously directed that Mr. Michael Wiso be given time to prepare himself by going through the relevant documentation regarding the complaint and be invited to appear before the committee on Wednesday 13th November 2019 at 10.00 am.

The witness was dismissed.

(c) Oral Submission by Mr. John Kariuki

The Committee Chairperson welcomed Mr. John Kariuki to the Committee meeting and directed that an oath be administered to the witness as required under Section 20 of the Parliamentary Powers and Privileges Act, 2017 and Standing Order 191(2). Thereupon, an oath was administered to him in the form prescribed in the Six Schedule to the Standing Orders.

Upon being briefed on the inquiry being undertaken by the Committee, Mr. John Kariuki, submitted as follows:-

- 1) That, he is in charge of investigations at the headquarters of the Directorate of Criminal Investigations and his duties include initiating any case within the Republic or taking over ongoing cases as well as issuance of status updates of ongoing investigations;
- 2) That, he was aware that Hon. Fatuma Gedi came to the Directorate and recorded her statement;
- 3) That, the Director of Criminal Investigations called him on the weekend that the leakage of the information happened and asked him whether he was aware of the summons of the four Members of Parliament but he stated that he was not aware;
- 4) That, he received phone calls from two of the Members who had been summoned in the afore- mentioned letter one of whom he did not know and the other was Hon. Adan Keynan;
- 5) That, he informed the Members that they could not be arrested as they were VIPs and if they were to be summoned, he was the one who would call them in his official capacity;
- 6) That, it was later established that Mr. Wiso was the officer who wrote the letter summoning the four Members upon which the Director of Criminal Investigations summoned him to explain the circumstances under which he had issued the summons;

- 7) That, he was the author of the letter to the Clerk of the National Assembly, dated 26th July, 2019 stating that Mr. Wiso did not have the authority of the Director of Criminal Investigations to write the letter summoning the four Members of Parliament, and that he did the letter under the direction, instructions and authority of the Director of Criminal Investigations;
- 8) That, all the contents of the letter disowning the letter by Mr. Michael Wiso were as instructed, directed and dictated by the Director for Criminal Investigations;
- 9) That, the Director for Criminal Investigations instructed him to stay any further action on the case awaiting his further directions;
- 10) That, the case file was still open but pending because the four Members who were deemed to be persons of interest in the case had not yet recorded their statements to help further probe into the matter.

In reacting to the submissions by the witness, the Members sought clarification from the witness on the following-

- 1) On the question of who from the Directorate of Criminal Investigations is authorized to write letters on behalf of the DCI, the witness confirmed that any officer in the Directorate has the powers to write and summon on behalf of the Director for Criminal Investigations;
- 2) Asked why the two Members of Parliament called him and not any other officer at the Directorate, the witness informed the Committee that by the virtue of being a public officer, very many members of public consult him without him knowing them personally and he is always happy to assist them. He however admitted having known Hon. Adan Keynan personally over a long period since his rank as an Inspector;
- 3) Asked on when he was planning to invite the four Members afresh, the witness confirmed to the Committee that he was working under instructions of the Director of Criminal Investigations and that he would issue fresh invitation to the four Members if instructed;
- 4) The witness also informed the Committee that some sections of the recently enacted Computer Misuse and Cyber Crime Act of 2018 had been suspended by the courts, making it difficult to investigate cybercrime cases. He was hopeful that once the ruling is made in January 2020 it would assist the Directorate of Criminal Investigations to fast track such cases.

MIN. NO. 54/NACoPP/2019: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 04.15 pm. The next meeting would take place on Wednesday 13th November 2019 at 10.00 am.

Sign: Ba
(Chairperson)

Date: 19/11/19

MINUTES OF THE NINTH MEETING OF THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES HELD IN THE COUNTY HALL ON MONDAY, 11TH NOVEMBER 2019 AT 11:30AM

PRESENT

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson
2. The Hon. Peter Mungai Mwathi, MP
3. The Hon. Vincent Kemose Mogaka, MP
4. The Hon. Gladwell Jesire Cheruiyot, MP
5. The Hon. Marselino Malimo Arbelle, MP
6. The Hon. Francis Chachu Ganya, MP
7. The Hon. Andrew Mwadime, MP
8. The Hon. Beatrice Pauline Cheron Kones, MP
9. The Hon. Danson Mwakuwona Mwashako, MP
10. The Hon. Jude L. Kangethe Njomo, MP
11. The Hon. Vincent Kipkurui Tuwei, MP
12. The Hon. James Mathew Onyangø K' Oyoo, MP
13. The Hon. Omar Mwinyi Shimbwa, MP

APOLOGIES

1. The Hon. Anthony Githiaka Kiai, MP
2. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP

IN-ATTENDANCE

1. The Hon. Fatuma Gedi, MP
2. The Hon. Ahmed Kolosh, MP – Witness
3. Mr. George Kinoti, DG, DCI – Witness

SECRETARIAT

1. Mr. Kipkemoi arap Kirui – Deputy Director, L & P Services
2. Ms. Jemimah Waigwa – Legal Counsel I
3. Ms. Anne Shibuko – Clerk Assistant II
4. Ms. Esther Ngechu – Serjeant at Arms

MIN.NO. 49/NACoPP/2019: PRELIMINARIES

The Chairperson called the meeting to order at 11:40am and welcomed Hon. Andrew Mwadime to say the prayers, after which Members of the Committee introduced themselves.

MIN. NO. 50/NACoPP/2019: STATUS OF THE INQUIRY INTO ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

(a) Preliminaries

The Chairperson informed Members that the witnesses, being Mr. George Kinoti, Director of Criminal Investigations, Mr. John Kariuki, Director of the Investigation Bureau, Mr. Michael Wiso, Legal Advisor, Directorate of Criminal Investigations and Hon. Ahmed Kolosh, MP were ready to appear before the Committee.

The Members of the Committee introduced themselves to the witnesses after which the witnesses introduced themselves to the Committee.

The Committee decided to hear submissions from Mr. George Kinoti and Hon. Ahmed Kolosh, MP first. In the meantime, the two officers accompanying the Director from the Directorate of Criminal Investigations were asked to leave the room.

(b) Oral Submission by Mr. George Kinoti, Director for Criminal Investigations

The Committee Chairperson welcomed Mr. George Kinoti, the Director of Criminal Investigations and directed that an oath be administered to the witness as required under Section 20 of the Parliamentary Powers and Privileges Act, 2017 and Standing Order 191(2). Thereupon, an oath was administered to him in the form prescribed in the Six Schedule to the Standing Orders.

Upon being briefed on the inquiry being undertaken by the Committee, Mr. George Kinoti, submitted as follows:-

- 1) That, he was the Director of Criminal Investigations;
- 2) That, Hon. Fatuma Gedi filed a complaint of cyber-crime through a fake video to him in person and she demonstrated to him that the video was fake;
- 3) That, even before the complaint was filed, he had seen the viral video that circulated on social media and was disturbed by the acts of injustice and distress that had been subjected to Hon. Fatuma Gedi;
- 4) That upon receiving the complaint, he immediately instructed the investigation bureau to take up the matter;
- 5) That, he instructed Mr. Michael Wiso to be the head of the investigation;

- 6) That, he saw the information from the media that four Members of Parliament were to be summoned to appear before him, and sought to establish the origin of the letter summoning the Members;
- 7) That, shortly thereafter he got information that some Members of Parliament had been harassed by the Directorate of Criminal Investigations;
- 8) That, after inquiry, he confirmed that Mr. Michael Wiso was the author of the letter dated 21st February 2019 addressed to the Clerk of the National Assembly seeking that the four Members of Parliament appear before DCI two on 25th and two on 26th February, 2019;
- 9) That, he instructed Mr. John Kariuki to immediately write to the Clerk of the National Assembly, to disassociate the first letter summoning Members on the grounds that it was done without his authority;
- 10) That, he was therefore aware of the letter written by Mr. John Kariuki on 26th July, 2019 as it was done under his authority;
- 11) That, he decided to initiate disciplinary actions on Mr. Michael Wiso by summoning him;
- 12) That, upon summoning Mr. Wiso, he learnt that Mr. Michael Wiso obtained the four names from the preliminary investigations which he had authorized him to undertake and that the four Members were persons of interest in the case;
- 13) That, he concluded the matter had been misconstrued and hence advised Mr. Wiso to continue with the investigations;
- 14) That, Mr. Wiso had authority to write the letter dated 21st February, 2019;
- 15) That, the four Members did not honour the invitation to appear before the Directorate of Criminal Investigations hence impeding progress of the case; and
- 16) That, consequently, the case file is still open pending the appearance of the four Members.

In reacting to the submissions by the witness, Members sought clarification from the witness as follows -

- 1) Asked whether in her complaint, the Hon. Fatuma Gedi had mentioned name(s) of persons she thought might have been behind the fake video, the witness confirmed that there were no names that were mentioned in her complaint;
- 2) Asked who has the power to write letters and summon people, he stated that any investigation officer in the Directorate of Criminal Investigation has powers to write and summon;
- 3) Asked whether Mr. John Kariuki and Mr. Michael Wiso, had authority to write correspondences on his behalf, the witness maintained that both are duly authorized to do so;

- 4) Asked on the criteria for summoning VIPs as opposed to other Members of the public, the witness informed the Committee that if the summons involves State Officers/ VIPs, an official call is usually done to the person and by virtue of the office they hold and their stature in society, they are expected to honour the summons. This procedure for summoning of Members of Parliament is adopted as there is no risk of flight by Members of Parliament. However, when dealing with members of the public, the witness informed the meeting that the DCI usually arrests suspects as there exist a risk of flight;
- 5) Asked why then the four Members of Parliament were summoned through writing to the Clerk of the National Assembly, Mr. Kinoti admitted that there had been difficulties reaching the Members as they had sought protection, hence the decision to write to them through the Clerk of the National Assembly for his intervention;
- 6) Asked why he told Mr. John Kariuki to write to the National Assembly disowning the letter by Mr. Michael Wiso, the witness said that he saw the need to do so after realizing he had not been apprised of the matter despite the fact that he ordinarily took keen interest and personally guided on the manner of conducting investigations where Members of Parliament are involved due to the sensitivity of the matters;
- 7) On why the case has remained unresolved without any feedback of its progress to the complainant, the witness stated that it was because the four Members were yet to honour invitations and record statements that would help establish the evidence to use in arresting and charging the culprits;
- 8) Asked why his office had not yet received the statements from the four Members, the witness purported to seek permission from the Committee, a request that was not honoured on the grounds that his office is an independent institution with powers vested on it by the Constitution to do all that appertains to crime investigations and the matter at hand was of criminal in nature and did not concern Parliament as an institution;
- 9) Asked why he did not take personal initiative to invite the four Members upon the realization that they would not show up following the summons, the witness confirmed that since he had given Mr. Michael Wiso authority to pursue the investigations, he had not received any information from Mr. Wiso indicating whether or not he had met the four Members; and
- 10) Asked on where the complainant should seek redress if the Directorate of Criminal Investigations has failed to continue further investigations on the matter, the witness stated that the case had not stalled, the file was open only that the case was pending after failure of the four Members to honour the invitations and promised to proceed with the investigations to finality and ensure that justice is served.

(c) Oral Submission by Hon. Ahmed Kolosh, MP

The Chairperson welcomed Hon. Ahmed Kolosh to the Committee meeting and directed that an oath be administered to the witness as required under Section 20 of the Parliamentary Powers and Privileges Act, 2017 and Standing Order 191(2). Thereupon, an Oath was administered to him in the form prescribed in the Sixth Schedule to the Standing Orders.

Upon invitation, Hon. Ahmed Kolosh, submitted as follows:-

1. That, he knows Hon. Fatuma Gedi well as a friend who they consulted widely with;
2. That she is the women representative in his county;
3. That, he knows Mr. Noor Hassan well as a parliamentary staff who gave him his first copy of the Standing Orders even before he was sworn in as a Member of Parliament;
4. That, he has on many occasions been in the Members Lounge with Hon. Fatuma Gedi and other Members discussing various issues at different times;
5. That, he remembers very well one day early in the year, while seated at the Members Lounge, he saw Mr. Noor Hassan approach Hon. Fatuma Gedi who stood up to meet Mr. Noor Hassan and they had a conversation; and
6. That, he did not see Hon. Fatuma Gedi receive any kind of a letter or document from Mr. Noor Hassan at that time, as they were not seated at the same table.

In reacting to the submissions by the witness, Members sought clarification from the witness the following-

- 1) Asked on what exactly happened on the material day at the members Lounge, he informed the Committee that initially they were just seated at the Members Lounge and they were not in any meeting when Mr. Noor Hassan approached and walked towards Hon. Fatuma Gedi; and
- 2) Asked on the implication of the statement "*na tukaisoma*" in the submissions by Hon. Fatuma Gedi, he averred that it was an incorrect statement because he did not see, read or discuss any letter in the company of Hon. Fatuma Gedi on the material day at the Members Lounge and maintained that Noor Hassan came and met Hon. Fatuma Gedi and had a brief discussion beside him.

MIN. NO. 51/NACoPP/2019: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 1.00 pm. The next meeting would take place on Monday 11th November 2019 at 2.00 pm.

Sign: Bat
(Chairperson)
Date: 19/11/19

**MINUTES OF THE EIGHTH MEETING OF THE NATIONAL ASSEMBLY
COMMITTEE OF POWERS AND PRIVILEGES HELD IN COUNTY HALL MINI
CHAMBER ON MONDAY 4TH NOVEMBER 2019 AT 11:00AM**

PRESENT

1. **The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson**
2. The Hon. Peter Mungai Mwathi, MP
3. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
4. The Hon. Gladwell Jesire Cheruiyot, MP
5. The Hon. Francis Chachu Ganya, MP
6. The Hon. Anthony Githiaka Kiai, MP
7. The Hon. Vincent Kipkurui Tuwei, MP
8. The Hon. Beatrice Pauline Cherono Kones, MP
9. The Hon. Danson Mwakuwona Mwashako, MP

APOLOGIES

1. The Hon. Vincent Kemose Mogaka, MP
2. The Hon. Marselino Malimo Arbelle, MP
3. The Hon. Andrew Mwadime, MP
4. The Hon. Jude L. Kangethe Njomo, MP
5. The Hon. James Mathew Onyango K' Oyoo, MP
6. The Hon. Omar Mwinyi Shimbwa, MP

IN ATTENDANCE: MEMBERS OF PARLIAMENT

- | | | |
|-----------------------------------------|---|-------------|
| 1. The Hon. Fatuma Gedi, MP | - | Accused |
| 2. The Hon. Ahmed Abdisalan, MP | - | Witness |
| 3. The Hon. Purity Wangui Ngirici, MP | - | Complainant |
| 4. The Hon. Abdihakim Osman Mohamed, MP | - | Complainant |
| 5. The Hon. Rehema Dida Jaldesa, MP | - | Complainant |

SECRETARIAT

1. Mr. Kipkemoi arap Kirui – Deputy Director, L & P Services
2. Mr. Salem Lorot – Legal Counsel II
3. Mr. Benson Inzofu – Clerk Assistant II
4. Ms. Anne Shibuko – Clerk Assistant II
5. Ms. Esther Ngechu – Serjeant at Arms

MIN.NO. 43/NACoPP/2019: PRELIMINARIES

The Hon. Speaker called the meeting to order at 11:00am and invited Hon. Danson Mwakumwona Mawashako to the prayers.

MIN.NO. 44/NACoPP/2019: ADOPTION OF AGENDA

The committee unanimously adopted the proposed agenda.

MIN.NO. 45/NACoPP/2019: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

The Minutes of the Seventh Sitting of the Committee held on Wednesday 30th October, 2019 were confirmed as a true record of the proceedings, having been proposed by the Hon. Peter Mwathi, MP and seconded by Hon. Vincent Tuwei, MP.

MIN.NO. 46/NACoPP/2019: EVIDENCE - ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

(a) Preliminaries

The Chairperson informed members that Hon. Ahmed Kolosh had registered his apology as he was indisposed.

The Director of Criminal Investigations, Mr. George Kinoti, had written to the Clerk requesting the Committee to reschedule the taking of evidence to a later date since the concerned officers Mr. Wiso J. M. and Mr. John Kariuki were unable to attend the meeting owing to official assignments abroad. It was proposed that evidence from the Director Mr. George W. Kinoti, Mr. Wiso J. M. and Mr. John Kariuki of the Directorate of Criminal Investigations be taken on Monday 11th November 2019 at 11.00 am. The Committee discussed and agreed that the proposed dates would allow for sufficient time for the secretariat to compile the requisite documentation ahead of the report writing workshop scheduled for 14th to 17th November, 2019.

(b) Oral Evidence - Hon. Ahmed Abdisalan, MP

Upon taking oath as per Section 20 of the Parliamentary Powers and Privileged Act, 2017 and Standing Order 191(2), the Hon. Ahmed Abdisalan submitted as follows-

- (i) That, he knew Hon. Fatuma Gedi well as a friend and the women representative of his county of origin;

- (ii) That, he did not personally know the parliamentary officer, Mr. Hassan Noor who had been mentioned by Hon. Fatuma Gedi, but had learnt that the officer came from his constituency;
- (iii) That, he can remember a day when, while seated in the Members Lounge, he saw Mr. Hassan Noor pass around the lobby but he does not recall him delivering any letter;
- (iv) That, he had been in the lobby area at the same time with Hon. Ahmed Kolosh and Hon. Fatuma Gedi, but does not remember any communication delivered to Hon. Fatuma Gedi in his presence as they were not seated at the same table;

Reacting to the evidence, Members sought further clarifications on the following-

- (i) On whether Hon. Fatuma Gedi was his friend, Hon. Ahmed Abdisalan confirmed that Hon. Fatuma Gedi was his friend, a Woman Representative from his county and that they did not have any personal differences;
- (ii) Asked whether he was aware of some Members in the National Assembly who were to be summoned by the Directorate of Criminal Investigations, the witness said he was indeed aware since the matter had been widely reported in the media that Hon. Aden Keynan, Hon. Abdihakim Osman Mohamed, Hon. Rehema Dida Jaldesa and Hon. Purity Wangui had been summoned by the DCI early in the year to record statements pertaining to some charges;
- (iii) Asked whether he thought that Hon. Fatuma Gedi misled the Committee by saying in her submissions that he, Hon. Ahmed Abdisalan, was in her company together with Hon. Ahmed Kolosh when she received the alleged letter from Mr. Hassan Noor, the witness said that he couldn't say that Hon. Fatuma Gedi misled the Committee since they had been at the Members Lounge together on many occasions;
- (iv) On being made aware of a testimony by Hon. Fatuma Gedi on Hansard claiming "*na tukaisoma*", loosely translated, "*and we then read*" to mean that he, Hon. Ahmed Abdisalan, in the company of Hon. Fatuma Gedi may have read the documents in question, the member maintained that he does not recall being in the company of Hon. Fatuma Gedi when she received any letter nor has he ever seen nor discussed the contents of any such letter.

The Hon. Ahmed Abdisalan and complainants the Hon. Purity Wangui Ngirici, the Hon. Abdihakim Osman Mohamed and the Hon. Rehema Dida Jaldesa were thereafter allowed to leave.

MIN.NO.47/NACoPP/2019: ANY OTHER BUSINESS

Workshop on Ethics

The Committee was reminded of the Workshop on Ethics supported by the House Democracy Partnership of the US Congress through the National Democratic Institute (NDI) scheduled for

7th to 9th November, 2019 at Hilton Garden Inn, Mombasa Road, Machakos County. The meeting was also informed that the Hon. Peter Mwathi, the Hon. Vincent Kemose Mogaka, Hon. Anthony Githiaka Kiai, and the Hon. Danson Mwakuwona Mwashako would be discussants for the various sessions. The Committee learnt that preparations for the workshop were almost ready and a program would be shared.

MIN.NO.48/NACoPP/2019: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 12:00 noon. The next meeting would take place on Monday 11th November 2019 at 11:00 am.

Sign.....
(Chairperson)
Date.....

**MINUTES OF THE SEVENTH MEETING OF THE NATIONAL ASSEMBLY
COMMITTEE OF POWERS AND PRIVILEGES HELD IN THE SPEAKER'S
BOARDROOM ON WEDNESDAY 30TH OCTOBER 2019 AT 11:00AM**

PRESENT

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson
2. The Hon. Peter Mungai Mwathi, MP
3. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
4. The Hon. Vincent Kemose Mogaka, MP
5. The Hon. Gladwell Jesire Cheruiyot, MP
6. The Hon. Marselino Malimo Arbelle, MP
7. The Hon. Francis Chachu Ganya, MP
8. The Hon. Andrew Mwadime, MP
9. The Hon. Anthony Githiaka Kiai, MP
10. The Hon. Vincent Kipkurui Tuwei, MP
11. The Hon. Beatrice Pauline Cheron Kones, MP
12. The Hon. Danson Mwakuwona Mwashako, MP

APOLOGIES

1. The Hon. Jude L. Kangethe Njomo, MP
2. The Hon. James Mathew Onyango K' Oyoo, MP
3. The Hon. Omar Mwinyi Shimbwa, MP

SECRETARIAT

1. Mr. Kipkemoi Arap Kirui – Principal Clerk Assistant
2. Ms. Jemimah Waigwa – Legal Counsel II
3. Ms. Anne Shibuko – Clerk Assistant III
4. Ms. Esther Ngechu - Serjeant at Arms

MIN.NO. 38/NACoPP/2019: PRELIMINARIES

The Hon. Speaker called the meeting to order at 10:30am and said the prayers.

MIN.NO. 39/NACoPP/2019: ADOPTION OF AGENDA

The committee unanimously adopted the proposed agenda.

MIN.NO. 40/NACoPP/2019: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

The Minutes of the Sixth Sitting of the Committee held on Tuesday, 15th October, 2019 were confirmed as a true record of the proceedings, having been proposed by the Hon. Chachu Ganya, MP and seconded by Hon. Didmus Barasa Mutua, MP.

MIN.NO. 41/NACoPP/2019: HEARING ON ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

(a) Preliminaries

The Chairperson informed members that, the witness, Mr. Jacob Kipkemboi, driver to the Hon. Fatuma Gedi, was ready to appear before the Committee.

Upon invitation by the Chairperson, the Secretariat briefed the Committee of the inconsistencies noted in the oral and written submissions by the Member.

(b) Oral Submission by Mr. Jacob Kipkemboi

The Committee Chairperson welcomed Mr. Jacob Kipkemboi, the personal driver assigned to Hon. Fatuma Gedi to the Committee meeting and directed that an oath be

administered to the witness as required under Section 20 of the Parliamentary Powers and Privileges Act, 2017 and Standing Order 191(2). Thereupon, an oath was administered to him in the form prescribed in the Sixth Schedule to the Standing Orders.

Upon invitation, Mr. Jacob Kipkemboi, submitted as follows-

- (i) That, he has served under the National Police service for 9 years ;
- (ii) That, the Hon. Fatuma Gedi is well known to him since 16th January 2019 when he was assigned to her on secondment by the National Police Service as her driver;
- (iii) That, as at the time of his appearance before the Committee he was still employed by the Member in the same capacity;
- (iv) That, Hon. Ahmed Kolosh was well known to him but he was not sure if he knew Hon. Ahmed Abdisalan unless he physically sees him;
- (v) That, no parliamentary staff has ever been sent to him to deliver any correspondence and that he did not know any parliamentary staff by the name Hassan Noor neither has he ever met him before;
- (vi) That, whenever he is within the precincts of Parliament, he usually sits in the vehicle or around the parking yards with his fellow drivers and he has entered the precincts only in the cases where Hon. Fatuma Gedi has sent him;
- (vii) That, all official communication meant for Hon. Fatuma Gedi has always been given to the Honourable Member directly or to her office through the personal assistant or secretary;

- (viii) That, he has no personal relations with any officer working under the Directorate of Criminal Investigations;
- (ix) That, on 29th October 2019 he received a call from a member of the Committee Secretariat that the Powers and Privileges Committee had resolved to invite him to appear before it for a hearing on issues pertaining his duties;
- (x) That, upon enquiry on the issues he was advised to consult the Member since she was the one who had submitted his name;
- (xi) That, he contacted the Member through a phone call to ascertain the reason for the invitation but the Honourable Member told him that she has been having some issues since early this year, issues that she didn't disclose to him;
- (xii) That, upon failure to obtain a satisfactory answer from the Hon. Fatuma Gedi, he decided to reach the Secretariat of the Committee again and was told that he would be informed of the details of the meeting on appearing before the Committee;
- (xiii) That, shortly afterwards, he came across Hon. Fatuma Gedi within the precincts of Parliament and again made an enquiry on the nature of his invitation but the Honourable member who appeared to be hurrying for a meeting told him that she had mentioned his name before the Committee in a previous sitting but the Committee would give him the details once he appeared before it.

In reacting to the submissions by the witness, Members sought clarification from the witness on the following-

- (i) On whether he has ever met Hassan Noor, the witness maintained that he had never met him and that he did not also know anyone in the Parliamentary Service by that name;
- (ii) Asked whether Hon. Fatuma Gedi has ever sent him on personal or official errands on her behalf, he clarified that most of his errands involved picking guests for the Member and not any official letters and that the only document he has ever received on behalf of the Member was a wedding invitation for a Member of Parliament;
- (iii) Asked whether any of Hon. Fatuma Gedi's friends has ever been given him anything to deliver to the Honourable Member, he maintained that none of the friends of the Honourable Member had given him anything to deliver to the Member;
- (iv) Asked whether he has ever visited DCI Headquarters, he admitted that, earlier this year on a day he couldn't recall accurately but he was still new to his assignment as a personal driver to Hon. Fatuma Gedi, he together with the bodyguard, accompanied the Honourable Member to the Directorate of Criminal Investigation Headquarters at around 2:00 pm;


In view of the foregoing, the Committee resolved as follows:-

- (i) That, the submissions by Hon. Gedi's driver were satisfactory; and
- (ii) That, Hon. Ahmed Kolosh and Hon. Ahmed Abdisalam having been mentioned by Hon. Fatuma Gedi in her submissions, be invited to appear before the

Committee on 4th November 2019 since they were mentioned in the submissions that were given by Hon. Fatuma Gedi before the Committee.

MIN.NO.42/NACoPP/2019: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 11:40 pm. The next meeting would take place on Monday 4th November 2019 at 10:00 am.

Sign.....
(Chairperson)
Date..4 (11/19).....

MINUTES OF THE SIXTH MEETING OF THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES HELD IN THE SPEAKER'S BOARDROOM ON 15TH OCTOBER 2019 AT 11:00AM

PRESENT

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson
2. The Hon. Peter Mungai Mwathi, MP - Chairing
3. The Hon. Vincent Kemose Mogaka, MP
4. The Hon. Anthony Githiaka Kiai, MP
5. The Hon. Gladwell Jesire Cheruiyot, MP
6. The Hon. Marselino Malimo Arbelle, MP
7. The Hon. James Mathew Onyango K' Oyoo, MP
8. The Hon. Francis Chachu Ganya, MP
9. The Hon. Danson Mwakuwona Mwashako, MP
10. The Hon. Vincent Kipkurui Tuwei, MP

APOLOGIES

1. The Hon. Andrew Mwadime, MP
2. The Hon. Beatrice Pauline Cheron Kones, MP
3. The Hon. Jude L. Kangethe Njomo, MP
4. The Hon. Omar Mwinyi Shimbwa, MP
5. The Hon. Capt. (Rtd.) Didmus Wekesa Barasa Mutua, MP

SECRETARIAT

1. Mr. Kipkemoi Arap Kirui – Deputy Director, L&P Services
2. Ms. Jemimah Waigwa – Legal Counsel I
3. Mr. Benson Inzofu – Clerk Assistant II

4. Ms. Anne Shibuko – Clerk Assistant II
5. Ms. Esther Ngechu – Serjeant at Arms

MIN.NO. 32/NACoPP/2019: PRELIMINARIES

The Vice Chairperson, Hon. Peter Mwathi, MP called the meeting to order at 11:30am and invited the Hon. Gladwell Cheruiyot, MP to say the prayers.

MIN.NO. 33/NACoPP/2019: ADOPTION OF AGENDA

The Committee unanimously adopted the proposed agenda, having been proposed by the Hon. Vincent Mogaka, MP and seconded by the Hon. Gladwell Cheruiyot, MP.

MIN.NO. 34/NACoPP/2019: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

The Minutes of the Fifth Sitting of the Committee held on Wednesday, 9th October, 2019 were confirmed as a true record of the proceedings, having been proposed by the Hon. Chachu Ganya, MP and seconded by the Hon. Marselino Arbelle, MP.

MIN. NO. 35/NACoPP/2019: INQUIRY INTO ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

Upon invitation by the Chairperson, the Secretariat briefed the Committee of the following timeline of chronology of events and witness statements (*Annex I*).

The brief noted events preceding the inquiry, the details of the inquiry including a chronology of events, oral and statements written submissions and relevant correspondences.

The Committee noted the report and observed as follows:-

- (i) there exist inconsistencies in the oral and written testimony of Hon. Fatuma Gedi in terms of timelines of when she inquired from the Clerk about the letter and when she received the letter.

- (ii) there also exist inconsistencies in the oral and written testimony of Hon. Fatuma Gedi in terms of the role of her driver in receiving the letter. It was also notable that the witness has failed to furnish the Committee with details of the driver;
- (iii) there also exist inconsistencies in the testimony of Hon. Fatuma Gedi and that of Mr. Noor, the Parliamentary officer as to where they met and the time of meeting;
- (iv) that in the testimony of Hon. Fatuma Gedi, Mr. Noor is the one who called her to inform her about the letter. However, Mr. Noor indicates that it is Hon. Fatuma Gedi who called at least three times where he succumbed to pressure and gave a copy of the letter;
- (v) that the Committee needs to confirm what documents were leaked as the witness appear to suggest it is only the letter that Mr. Noor handed over to Hon. Fatuma Gedi, yet an analysis of the Media house footage shows both the letter and Internal Memo;
- (vi) there also exist inconsistencies in the oral and written testimony of Hon. Fatuma Gedi in terms of how she first became aware of the alleged summons by DCI to the four Members; and
- (vii) that the letter allegedly making a formal complaint to the DCI was not submitted to the Committee by Hon. Fatuma Gedi. It was also notable that Hon. Mohammed Abdulhakim stated in his testimony that Mr. John Kariuki, the Deputy Director of Criminal Investigations had informed him that he was not aware of the summons as he had heard about it in the television.

In view of the foregoing, the Committee resolved as follows:-

- (i) that the Hon. Fatuma Gedi, MP be asked to furnish the Committee with particulars of the driver she alluded to during her testimony on Wednesday 3rd April, 2019, and have the driver appear before the Committee at its next sitting scheduled to be held on Wednesday, 30th October, 2019;
- (ii) that, the Director for Criminal Investigations be summoned to appear before the Committee in person on Monday 4th November, 2019 to give evidence on the matter, particularly the contradictory communication from the Directorate;
- (iii) that, the Director for Criminal Investigations be asked to provide a copy of the formal complaint filed by the Hon. Fatuma Gedi, MP;
- (iv) that, both Mr. Wiso J.M. and Mr. John Kariuki be summoned to appear before the Committee on Monday 4th November, 2019 to give evidence on the letters they respectively signed on behalf of the Director for Criminal Investigations;
- (v) that, the complainants of the matter: Hon. (Dr.) Adan Keynan, CBS, MP, Hon. Purity Wangui Ngirici, MP, Hon. Abdikhaim Osman Mohamed, MP and Hon. Rehema Dida Jaldesa, MP be invited to the proceedings scheduled for Monday 4th November, 2019;
- (vi) that, the Hon. Fatuma Gedi be allowed to attend to the proceedings scheduled for Monday 4th November, 2019;
- (vii) that, the secretariat generates guiding questions for the Committee based on the contradictory information; and
- (viii) that the County Hall chamber be secured in good time as a venue for the hearings.

MIN. NO. 36/NACoPP/2019: ANY OTHER BUSINESS

Report writing workshop of the Committee

The Committee discussed and agreed to hold a Report Writing Workshop from 14th to 17th November, 2019 in Mombasa to consider the following:-

1. The Report on the Inquiry into alleged misuse of official information by a Member;
2. The Report of a Study Visit to the Parliament of Botswana, 6th to 10th May 2019;
3. The Report of a Study Visit to the Parliament of Uganda, 12th to 16th August 2019; and
4. The Report of a Study Visit to the Parliament of Isle of Man, 21st to 25th October 2019.

MIN. NO. 37/NACoPP/2019: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 12:30 pm. The next meeting would take place on Wednesday, 30th October 2019 at 10.00 am.

Sign:

(Chairperson)

Date: 30/10/19.....

MINUTES OF THE FIFTH MEETING OF THE NATIONAL ASSEMBLY
COMMITTEE OF POWERS AND PRIVILEGES HELD IN THE SPEAKER'S
BOARDROOM ON 9TH OCTOBER 2019 AT 11:00AM

PRESENT

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson
2. The Hon. Peter Mungai Mwathi, MP
3. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
4. The Hon. Vincent Kemose Mogaka, MP
5. The Hon. Gladwell Jesire Cheruiyot, MP
6. The Hon. Marselino Malimo Arbelle, MP
7. The Hon. Francis Chachu Ganya, MP
8. The Hon. Andrew Mwadime, MP

APOLOGIES

1. The Hon. Anthony Githiaka Kiai, MP
2. The Hon. Jude L. Kangethe Njomo, MP
3. The Hon. Vincent Kipkurui Tuwei, MP
4. The Hon. Beatrice Pauline Cheron Kones, MP
5. The Hon. James Mathew Onyango K' Oyoo, MP
6. The Hon. Danson Mwakuwona Mwashako, MP
7. The Hon. Omar Mwinyi Shimbwa, MP

SECRETARIAT

1. Mr. Kipkemoi Arap Kirui – Principal Clerk Assistant
2. Ms. Jemimah Waigwa – Legal Counsel II

3. Mr. Benson Inzofu – Clerk Assistant III
4. Ms. Anne Shibuko – Clerk Assistant III

MIN.NO. 25/NACoPP/2019: PRELIMINARIES

The Hon. Speaker called the meeting to order at 11:30am and invited the Hon. Peter Mwathi, MP to say the prayers.

MIN.NO. 26/NACoPP/2019: ADOPTION OF AGENDA

The committee unanimously adopted the proposed agenda.

MIN.NO. 27/NACoPP/2019: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

The Minutes of the Fourth Sitting of the Committee held on Tuesday, 16th July, 2019 were confirmed as a true record of the proceedings, having been proposed by the Hon. Andrew Mwadime, MP and seconded by the Hon. Chachu Ganya, MP. There were no matters arising.

MIN. NO. 28/NACoPP/2019: STATUS OF THE INQUIRY INTO ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

Upon invitation by the Chairperson, the Secretariat briefed the Committee as follows regarding the status of the inquiry: -

(a) Authenticity of the Letter from the Director of Criminal Investigations (DCI)

- (i) On 16th April 2019, the Clerk wrote to the Director of Criminal Investigations (DCI) requesting him to ascertain the authenticity of the letter from DCI dated 21st February 2019 and signed by one Mr. Wiso J.M, requiring the Clerk to convey summonses to four Members of the National Assembly;
- (ii) At the time the Committee met again on Tuesday 16th July, 2019 to review the matter, the DCI had not responded to the letter. The Committee

instructed the Clerk to write a follow-up letter to the DCI, demanding a response on the matter;

- (iii) On 23rd July 2019, the Clerk wrote a follow-up letter to the Director for Criminal Investigations, requesting him to urgently ascertain the authenticity of the said letter so as to enable the Committee to make a determination on the matter, within the statutory timelines;
- (iv) On 26th July, 2019, the Director of Criminal Investigations responded to the Clerk's letter, through a letter signed by one Mr. John M. Kariuki, HSC, indicating that the four Members were summoned by Mr. Wiso J.M. without the authority of the Directorate of Criminal Investigations and that disciplinary action had since been taken against the said officer and that was why the matter (summons) was never pursued any farther by the DCI; and
- (v) In terms of the letter by Mr. John M. Kariuki, HSC, the letter by Mr. Wiso J.M., which is the basis of the inquiry by the Committee was not authentic.

(b) Invitation to the driver to Hon. Fatuma Gedi, MP

- (i) Following a resolution of the Committee, the Clerk of the National Assembly, by way of a letter dated 23rd July 2019, wrote to Hon. Gedi requesting her to avail details of the driver for purposes of being invited to the Committee to give evidence;
- (ii) The Member has never responded to the letter and even in her written submission, which she tendered with the Clerk on 30th July 2019 (being later than the required date of 12th April 2019), she mentioned a "driver" but never provided the name of that driver; and
- (iii) Consequently, the Clerk has not been able to invite the said "driver" as directed by the Committee.

The Committee noted the report and observed as follows –

- (i) that the response from the Directorate of Criminal Investigations was given under the hand of a Mr. John M. Kariuki, acting for the Director;
- (ii) that both the letters, one containing summonses to four Members of the National Assembly and the one responding to the letter from the Clerk, indicating that the earlier letter (containing summonses) was not authentic were not signed by the Director himself, but by his subordinates (*Mr. Wiso J.M. and Mr. John Kariuki, respectively*) purporting to have acted in his behalf;
- (iii) that claim by DCI that the earlier letter by Mr. Wiso J.M. was not formally authored and the contradicting communication by two officers communicating on behalf of the same institution raises questions on the authenticity of the subsequent letter by Mr. John Kariuki and the general manner in which the DCI handles matters drawn to its attention;
- (iv) that the response issued by the DCI was unsatisfactory to the extent that it did not disclose the nature of disciplinary action preferred on Mr. Wiso J.M. for authoring a letter without the authority of the Director for Criminal Investigations, which letter had severely injured the character of the four affected Members;
- (v) that the letter dated 26th July 2019, responding to the request by the Committee for authentication of the letter by Mr. Wiso J.M. is signed by Mr. John Kariuki, whom the Hon. Abdikarim Osman, MP claimed when he appeared before the Committee on 3rd April 2019 that he had called him on Sunday, 24th February 2019, requesting whether he could appear at the DCI for questioning on that Sunday instead of Monday, since he was travelling out of Nairobi that evening; and

(vi) that the fact that the letter is signed by an officer who was contacted by one of the complainants on the matter under inquiry, hence fully aware of circumstances of the matter, raises questions as to whether the said officer acted under the instructions of the DCI or not.

In view of the foregoing, the Committee resolved as follows –

- (i) that, the matter be investigated further with a view to getting to the bottom of the circumstances under which the two contradicting letters by different officers acting for the same institutions were authored;
- (ii) that, at a later stage of the inquiry, the the Director for Criminal Investigations be summoned to appear before the Committee in person to give evidence on the matter, particularly the contradictory communication from the Directorate;
- (iii) that, both Mr. Wiso J.M. and Mr. John Kariuki be summoned to appear before the Committee to give evidence on the letters they respectively signed on behalf of the Director for Criminal Investigations;
- (iv) that, the secretariat prepares a draft Report of the chronology of events relating to the matter under inquiry and identify the inconsistencies in evidence submitted to the Committee, for consideration by the Committee in the subsequent meeting. The chronology and inconsistencies would assist the Committee to decide on subsequent actions and determination of the matter;
- (v) that, a letter be written to the Hon. Fatuma Gedi, MP, reminding her to avail the driver she mentioned in her submission to the Committee in person or provide his/her details for invitation to appear before the Committee on a day to be decided by the Committee in the next meeting.

**MIN. NO. 30/NACoPP/2019: BRIEF ON COMPLAINT BY
PARLIAMENTARY JOURNALIST (MR.
DAVID OMWERE) OVER THREATS BY THE
HON. MILLIE ODHIAMBO, MP**

The Committee was informed of a complaint filed by Mr. David Mwere, a Parliamentary Journalist, against the Hon. Millie Odhiambo, MP for allegedly threatening and hurling expletives at him. The complainant had claimed as follows-

- (i) that on April, 11, 2019 while he was in the office at Nation Centre, he received a call from the then Principal Media Relations Officer who informed him that an MP whom he did not introduce wanted to speak to him;
- (ii) that Hon. Millie Odhiambo hurled insults at him on phone allegedly over a story he had done and which had been published in the Daily Nation;
- (iii) that his colleagues who were working in Parliament on the material day also called and narrated how the Member had stormed the media center and said that she wanted to teach him a lesson; and
- (iv) that the Member repeated the insults as she was contributing on the floor of the House.

The Committee noted the report and observed as follows –

- (i) that the alleged conduct of the Member that the journalist had complained against did not happen within the precincts of Parliament as it relates to an alleged telephonic conversation between the Member (within Media Centre) and the journalist (while at Nation Centre) through a phone allegedly belonging to the then Principal Media Relations Officer at Parliament (Mr. Martin Mutua);

- (ii) that, the claim by the journalist that the said Member went to Media Centre from where she was hulling abuses and threats to his life is based on information he alleges to have obtained from his colleagues;
- (iii) that the complainant is raising matters which may not amount to conduct constituting breach of privilege in terms of section 16 of the Parliamentary Powers and Privileges Act, 2017; and
- (iv) that, the compliant relates to alleged threats and intimidation by the Member, matters of criminal or civil nature, which fall outside the jurisdiction of the Committee as there exist adequate legal redress mechanisms that the complainant can pursue.

In view of the foregoing, the Committee resolved not to consider the compliant as it does not fall within its jurisdiction and the fact be notified to the complainant.

(Action: Secretariat)

MIN. NO. 31/NACoPP/2019: BRIEF ON UPCOMING ACTIVITIES

(i) Study tour to the Parliament of Uganda

The leader of delegation, Hon. Vincent Mogaka, MP reported that the study visits to the counterpart Committees of Parliament of Uganda from 12th to 16th August, 2019 and Parliament of Botswana from 6th to 10th May, 2019 were successful and a reports thereof was ready. The Committee resolved that a retreat be scheduled to consider the reports and make recommendations to the House.

(ii) Study tour to the Tynwald of the Isle of Man

The committee was notified that the study tour to Tynwald of the Isle of Man that had been scheduled to take place from 21st to 25th October 2019. The Chairperson informed the Committee that the delegation he had selected in May would still undertake the visit to the Isle of Man.

(iii) The Speaker's Round Table Retreat between KEPSA and the National Assembly

The Committee was informed that the Speaker's Round Table Retreat between the Kenya Private Sector Alliance (KEPSA) and the National Assembly would take place from 17th to 19th October in Mombasa County and that the Committee had been invited to nominate five r to attend the Retreat. The following Members present volunteered to represent the Committee –

- i. The Hon. Andrew Mwadime, MP;
- ii. The Hon. (Capt.) Didmus Baraza, MP;
- iii. The Hon. Arbelle Malimo, MP; and
- iv. The Hon. Chachu Ganya, MP (*to confirm later*).

The Secretariat was tasked to contact other Members so as to obtain the fifth representative of the Committee to the said Retreat.

(iv) Request by the chair to the Kenya Office of the National Democratic Institute (NDI) for technical assistance on Ethics

The Committee was informed that the Kenya Office of the National Democratic Institute (NDI) had acceded to a proposal to engage experts from its headquarters in Washington DC to provide technical assistance and training to the Committee on ethics and integrity, with the support of the House Democracy Partnership (HDP) of the USA Congress.

Th committee noted that the legal framework on ethics and integrity is a new and a developing one in Kenya and that there exists multiplicity of applicable Acts of Parliament, namely, the Leadership and Integrity Act, the Public Officers Ethics Act, the Parliamentary Powers and Privileges Act, providing for overlapping Codes of Conduct that the National Assembly Committee of Powers and Privileges. Considering that the committee is responsible for ethics and had

scheduled reviewing the existing framework into a single legislation, the Committee welcomed the proposal and agreed that the workshop be scheduled from 7th to 9th November, 2019, in Machakos County, preferably at Hilton Garden Inn, Mombasa Road.

(Action: Secretariat)

MIN. NO. 32/NACoPP/2019: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 1.20 pm. The next meeting would take place on Tuesday 15th October 2019 at 10.00 am.

Sign:


(Chairperson)

Date:

15/10/2019

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT
THIRD SESSION

BRIEF TO THE COMMITTEE OF POWERS AND PRIVILEGES

TIMELINE OF CHRONOLOGY OF EVENTS AND WITNESS
STATEMENTS

This brief narrates the chronology of events and witness statements pertaining to the complaint of alleged misuse of official information. In this regard, we wish to observe as follows-

A. Events preceding the inquiry

1. **On or about 19th December, 2018** a video clip went viral in the internet containing pornographic content of a woman in a compromising situation with an unidentified man that was widely circulated on social media.
2. **On 21st February, 2019**, one Mr. Wiso J. M wrote to the Clerk of the National Assembly informing him that the DCI was investigating an alleged case of defamation and four Members namely Hon. (Dr.) Adan Keynan, Hon. Purity Wangui Ngirici,

Hon. Abdikhaim Osman Mohamed and Hon. Rehema Dida Jaldesa had been mentioned adversely. The said officer requested that the Clerk does therefore inform the said four Members to report to DCI Headquarters Kiambu road at 1000 hours on 25th and 26th February, 2019 to facilitate investigations.

3. **On the same day 21st February, 2019**, the Directorate of Litigation and Compliance Services wrote a memo to the Clerk advising him on the request made by Mr. Wiso, J.M from the DCI. In the memo, the Directorate advised the Clerk that noting the case under investigations did not arise from performance of duties of a Member, the DCI should inform the Members directly. Further, the Memo indicated that the request by DCI did not fall within the scope of duties of the Clerk and also contravened the principles of parliamentary powers, privileges and immunities.
4. **On 23rd February, 2019**, the contents of the advisory internal memo and letter appeared as a news item on NTV and in the Daily Nation and Standard on **24th February, 2019**.
5. **On 25th February, 2019**, Hon. Adan Keynan wrote to the Speaker expressing his displeasure with the leakage of letter from DCI and sought to inquire among other things on what action was being taken against the staff or member involved in the matter. To this end, he requested that the matter be investigated and be brought to a logical conclusion.
6. **On 25th February, 2019**, Hon. Abdikhaim Osman Mohamed wrote to the Clerk expressing his displeasure with the leakage of letter from DCI and sought to know the names of the persons who leaked the letter.
7. **On 27th February, 2019**, the Office of the Clerk received a letter from Hon. Rehema Dida Jaldesa also expressing her displeasure

with the leakage of letter from DCI and sought to know the details of the members of the staff who colluded with the media in circulating the fabricated allegations.

8. On **28th February, 2019**, Hon. Purity Ngirici wrote to the Clerk of the National Assembly. In the letter, the Member **observed** that on **23rd February, 2019** alleged summons from the Directorate of Criminal Investigations were published in main stream media. She expressed her displeasure with the staff working in the office of the Clerk for breach of her privacy and requested to know the details of the staff.
9. On **20th March, 2019**, the Committee of Powers and Privileges held its first meeting and was informed as follows-
 - (1) Complaints had been filed by Hon. (Dr.) Adan Keynan, Hon. Purity Wangui Ngirici, Hon. Abdikhaim Osman Mohamed and Hon. Rehema Dida Jaldesa expressing their displeasure with leakage of purported summons from the DCI.
 - (2) The DCI had written a letter to the Clerk dated 21/2/2019 requesting the Clerk to inform the four members of the summons by DCI, two of whom were to appear on 25/2/2019 and two others on 26/2/2019.
 - (3) The said letter from DCI was committed to the Directorate of Litigation and Compliance.
 - (4) On 21/2/2019 the Directorate advised the Clerk that since the case did not arise from performance of his duties the DCI should write directly to the members.
 - (5) The Clerk signed the memo and letter communicating the same to DCI. **The letter was received by the Directorate of Litigation on Friday 22/2/2019 at around 5.00pm, and**

the same was transmitted to the relevant authorities on Monday 25th February, 2019.¹

- (6) On 23rd February, 2019 the detailed contents of the letter and memo appeared as a news item in NTV and in both Daily Nation and Standard on 24th February, 2019.
- (7) On 26th February, 2019, the Clerk wrote to the officer who had been assigned to transmit the letter and internal memo from the Clerk's Office to the Directorate of Litigation and Compliance requiring him to clarify the circumstances under which the contents of the documents were leaked.
- (8) On 27th February, 2019, the officer responded to the letter and tendered his apology and cited having been under duress from Hon. Fatuma Gedi. He also averred that the member approached him in confidence and asked if he could locate the documents from DCI. The officer initially declined as he found it "absurd, difficult and irregular" but he eventually handed the documents to the Member reluctantly after she persistently and repeatedly indicated that she intended to use for Parliamentary business.
- (9) Section 22 of the Leadership and Integrity Act, 2012 provides that -
- (1) A State officer shall not directly or indirectly use or allow any person under the officer's authority to use any information obtained through or in connection with the office, which is not available in the public domain, for the furthering of any private interest, whether financial or otherwise.*
- (2) The provisions of subsection (1), shall not apply where the information is to be used for the purposes of—*

¹ See the minutes of 20th March, 2019.

(a) *furthering the interests of this Act; or*

(b) *educational, research, literary, scientific or other purposes not prohibited by law.*

(10) In light of the foregoing, the Committee resolved-

(a) To invite Mr. Noor Mohamed Adan, the parliamentary Officer who admitted to sharing the documents with Hon. Fatuma Gedi to further explain the circumstances of the situation;

(b) The Hon. Fatuma Gedi Ali to give comprehensive details of the allegations against her.

10. Consequently, **on 21st March, 2019**, the Clerk of the National Assembly wrote to Mr. Noor Mohammed inviting him to appear before the Committee on **27th March, 2019** with a view of providing information to the Committee in relation to complaints filed by four Members of Parliament regarding alleged unauthorised release and misuse of information through leakage of summons from the Directorate of Criminal Investigations.

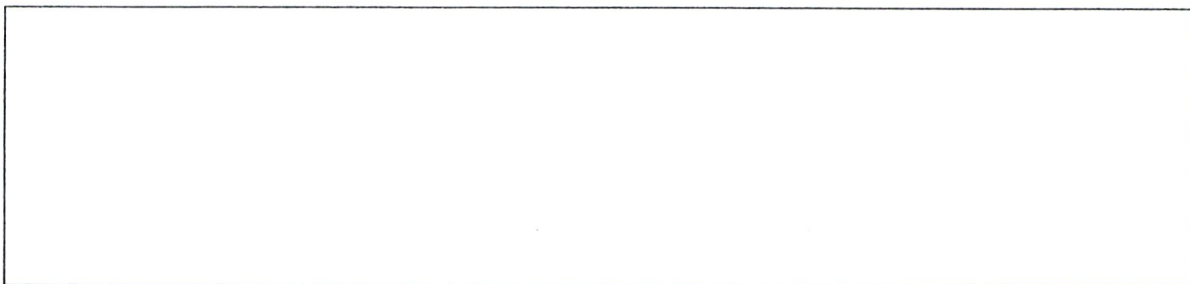
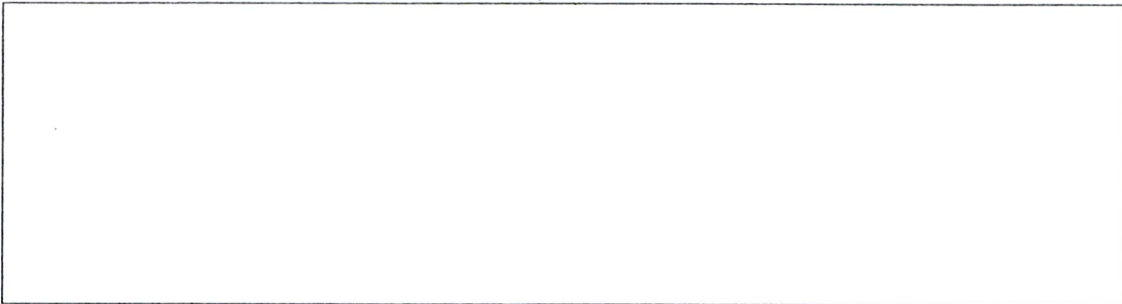
11. On **21st March, 2019**, the Clerk of the National Assembly wrote to Hon. Fatuma Gedi inviting her to appear before the Committee on 27th March, 2019 with a view of providing information to the Committee in relation to complaints filed by four Members of Parliament regarding alleged unauthorised release and misuse of information through leakage of summons from the Directorate of Criminal Investigations.

B. Possible timelines based on the chronology of events.

➤ On Thursday **21st February, 2019** DCI writes to Clerk requesting him to inform 4 members of the summons.



➤ Clerk forwards the request to Directorate of Litigation for advice.
➤ On the same day 21st February, 2019, the Directorate advises clerk that the request outside the scope of his duties and advises him to request DCI to write directly to the Members.



D. Proceedings of 27th March, 2019

12. On 27th March, 2019, the Committee proceeded to hear Mr. Noor Mohammed Adan who informed the Committee as follows-

- (1) That, he is a Parliamentary Officer attached to the Office of the Director, Legislative and Procedural Services (National Assembly) as an Office Attendant, and that his duties include circulation of correspondences and documents to relevant Offices;
- (2) That on **Friday, 22nd February 2019**, he was tasked to extend the service to the Office of the Clerk, since the designated Officer had been excused to attend to personal matters;
- (3) That, **while dispatching letters from the Office of the Clerk**, he coincidentally met the Member for Wajir County, Hon, Fatuma Gedi, MP, at **around 4.00 p.m., along the way to Protection House;**²
- (4) That the Member stopped him and inquired about documents relating to a request by the Directorate of Criminal Investigations (DCI) to question certain Members of Parliament. He checked and indeed confirmed that, the internal memo on the matter Hon. Gedi had inquired about was indeed among those documents that he had;
- (5) That he was reluctant to give the Member a copy of the letter as it was not addressed to her, but the Member impressed upon him that she (Hon. Gedi) was a Vice-Chairperson of a

² It is notable that the officer met Hon. Fatuma Gedi at around 4 pm along the way to protection.

Committee and she needed a copy of the document for parliamentary business;

- (6) That, he firstly declined the request and proceeded to circulate the documents to relevant offices. Thereafter, the Member called him **three times** asking to be given a copy of the said document for parliamentary business.
- (7) That, succumbing to pressure from the Member, he obtained a copy of the said letter from the file and gave it to the Member, in good faith and without influence of any form of inducement from the Member;
- (8) That, considering it **was late in the evening on that Friday**, and there was no senior officer in the Office to authorise the release of the documents;
- (9) That, the Member did not sign a delivery book to signify receipt of the document, since the letter was not meant for her. He understood it was against work ethics to give the Member the copy of that letter but proceeded to do so in good faith on the understanding that his role is to facilitate Members of Parliament in their parliamentary business;
- (10) That, **soon thereafter, he learnt that the copy of the letter** he had given to Hon. Fatuma Gedi was being circulated in social media. He reported the fact to the Personal Assistant to the Clerk, Mr. John Mutega and acknowledged that he had given the letter to the Member who had maintained that she needed it for parliamentary business;
- (11) That, he later received a letter from the Clerk of the National Assembly requesting him to offer an explanation on how and why the letter he handled during dispatch found itself in wrong hands. He sought audience with the Clerk and

explained the circumstances and also did a letter, regretting the action and seeking to be forgiven for the mistake;

(12) That, even though the Hon. Fatuma Gedi, MP, is indeed his County Member of Parliament to the National Assembly, they are not related. Further that, his decision to give her a copy of the letter in question was not informed by the fact that they come from the same County; it was purely out of the duress that the Member exerted to him; and

(13) That, he has been a diligent officer and that regretted the mistake he committed under duress. He pleaded for leniency from the Committee and undertook that he would not repeat such a mistake.

13. It is noteworthy that on the same day the Committee had invited Hon. Fatuma Gedi to also appear and give her testimony but she did not appear. Consequently, the Committee resolved that the witness be invited for a second time to appear on **Wednesday, 3rd April 2019 at 10.00am**, failure to which the Committee shall invoke the sanctions of section 19 of the Parliamentary Powers and Privileged Act.

14. On **27th March, 2019**, Hon. Adan Keynan wrote to Clerk of the National Assembly raising issues with the fact that the proceedings of the Committee held on 27th March, 2019 had been held in camera.

15. On **28th March, 2019**, the Clerk of the National Assembly wrote again to Hon. Fatuma Gedi inviting her to appear before the Committee on 3rd April, 2019 with a view of providing information to the Committee in relation to allegations of misuse of official information. In the letter, the Clerk noted that the Member had failed to honour the previous invitation to appear before the Committee and advised the Member that failure to

honour the Committee's invitation would compel the Committee to issue summons.

16. **On 28th March, 2019** the Parliamentary Service Commission in its 260th meeting considered the discipline case against Mr. Noor and resolved to reprimand him as evidenced by a letter dated **15th April, 2019** to the said officer.
17. **On 1st April, 2019**, the Office of the Clerk wrote to each of the four complainants namely Hon. (Dr.) Adan Keynan, Hon. Purity Wangui Ngirici, Hon. Abdikhaim Osman Mohamed and Hon. Rehema Dida Jaldesa to attend the Committee meeting scheduled to be held on **3rd April, 2019** for taking of evidence of Hon. Fatuma Gedi.

E. Witness Statements: Proceedings of 3rd April, 2019

18. **On 3rd April, 2019**, the Committee proceeded to hear Hon. Fatuma Gedi who informed the Committee as follows³-
 - (1) That there are ongoing investigations concerning the circulation of the video and several persons including bloggers had been arrested.
 - (2) That she did not mention the four members to DCI but she only complained to the DCI to protect her integrity.
 - (3) That the DCI on conducting investigations came to a conclusion and gave out names of many people including the four Members of Parliament.
 - (4) That she wanted to clear her name therefore she followed up the matter with the DCI.
 - (5) That the DCI told her that he had written to the Clerk for the Members to be summoned.

³ See from page 10-11 of the record of the evidence taken on 3rd April, 2019.

- (6) That she went to the Serjeant-At-Arms and the Clerk's Office to inquire whether there was letter that was delivered to the Members to be summoned. The Serjeant-At-Arms stated that there had been no letter delivered.
- (7) That she proceeded to the Clerk's Office where she met two secretaries there.
- (8) That the Clerk was not in the office.
- (9) That on her way out she met a gentleman and she informed him that she was looking for the Clerk.
- (10) That he then asked her what she was looking for and she replied that she was looking for a letter.⁴
- (11) That she asked him whether it was delivered to the Clerk's Office and he replied that he had not seen it.
- (12) That she then left and that was three days before he showed her the letter.⁵
- (13) That later that afternoon while she was seated at the lounge, the officer called and asked her whether she was looking for something three days ago.
- (14) That the officer told her that he had seen the letter and took the letter to her.
- (15) That the officer showed her the letter but did not give her the letter.
- (16) That she told him to give her a copy but he did not and he thereafter left.
- (17) That after a day he went and told her that he had given the letter to the driver.

⁴ See page 11-12.

⁵ See page 12.

(18) That she told him not to give it to the driver. "*Nikamwambia asipatie driver alete nione*".

(19) That he then took the letter to her where she read it and left it there.

(20) That she did not leak the letter to the media.

F. Witness statements during cross examination: Proceedings of 3rd April, 2019

19. On the same day **3rd April, 2019**, Hon. Fatuma Gedi was cross examined by the Committee and the aforementioned four Members and the witness informed the Committee as follows⁶-

- (1) That she had **written a letter to DCI** and arrests had been made and the letter that the Clerk had received from DCI was as result of the investigations.⁷
- (2) That she was with other MPs when she received the documents and these were Hon. Kolosh and Hon. Abdisalam.
- (3) On the question of whether she had reported the four Members to DCI she stated that the investigations by DCI had led to their summons but she was the one who reported the matter.
- (4) That the member of staff gave her the letter **after two days** after asking him whether there was a letter from DCI.⁸
- (5) That she had met Mr. Noor around between **2.30pm to 3.00pm** on a weekday **on Thursday or Friday, end or middle of the week but she needed to check to confirm on the exact day.**

⁶ See from page 10 of the record of the evidence taken on 3rd April, 2019.

⁷ We have no proof of this letter.

⁸ See page 15.

- (6) That she knew Mr. Noor as they hail from the same County being Wajir County and that he was his voter.
- (7) That the day Mr. Noor took the letter to her was different from the day she met him at the Clerk's Office.⁹
- (8) That the letter issuing summons to the Members was from DCI because she was present at a meeting where the DCI issued instructions for members to be summoned.¹⁰
- (9) On the question of why she would leave a letter that she has earnestly sought for, she stated that the reason for her to follow up on the letter was just to confirm that the letter had reached the four members.¹¹
20. Hon. Mohammed Abdikhaim in cross examining the witness also stated that he had called the Deputy Director of Criminal Investigations Mr. John Kariuki.¹²
21. That he informed him that he had seen his name being mentioned in the media and that the DCI wanted him on Sunday and hence wanted to avail himself so that he could be arrested.
22. That Mr. John Kariuki stated that the Member was a VIP and he could not be arrested without due procedure.
23. That DCI would communicate with him and that he was not aware of the matter as he had heard about it in *the previous evening on television*.¹³

G. Witness written submissions.

24. **On 23rd July, 2019**, the Clerk wrote to Hon. Fatuma Gedi requesting her to provide the details of his driver, which to date she has not provided.

⁹ See page 17.

¹⁰ See page 20.

¹¹ See page 22.

¹² See page 45.

¹³ See page 45-46.

25. **On 24th July, 2019**, the witness filed written submissions in which she observed as follows-

- (1) That on 19th December, 2019 while she was out of the country on official duty a fabricated video went viral on the internet.
- (2) That she lodged a formal complaint on the same with the DCI.
- (3) That some suspects were arrested on or about 27th December 2018 and charged before Kiambu Law Court.
- (4) That other persons mentioned adversely in the preliminary investigations included four Members of Parliament.
- (5) That she made up follow ups with DCI on the same and she was made to understand that the Members would be summoned.¹⁴
- (6) That she went to the Clerk to inquire whether or not his office was in receipt of the letter of summons from DCI requiring the four members to avail themselves at DCI.
- (7) This was about three months down the line after the DCI was seized of the matter.
- (8) That on her way from Clerk's office she met a gentleman by the name Hassan Noor.
- (9) That the parliamentary officer inquired about her visit where she told him that she was looking for the Clerk to know whether some letter in relation to the investigations had been delivered to the office, of which he responded that **he was not aware of the same**.
- (10) That while seated at the lounge along side Hon. Kolosh and Hon. Abdisalam, she received a call from Noor who informed **her he had seen the letter**.¹⁵

¹⁴ No mention of a meeting.

¹⁵ The officer was not earlier aware of the letter including its contents.

(11) That Mr. Noor then went to the lounge, showed her the letter but declined to give her a copy.

(12) That **the following day**, he again told her that he had seen her driver and wanted to give to the driver but she told him to give the letter personally at the lounge.

(13) That she read the letter and inadvertently left there.

H. Other relevant correspondences

26. On 16th April, 2019 the Clerk wrote to DCI requesting for information on authenticity of a letter 21/2/2019 by one Mr. Wiso J.M allegedly issuing summons to the four Members of Parliament.

27. On 23rd July, 2109 the Clerk wrote again to DCI requesting for information on authenticity of a letter 21/2/2019 by one Mr. Wiso J.M allegedly issuing summons to the four Members of Parliament.

28. On 26th July, 2019, Mr. John N. Kariuki wrote to the Clerk informing him that the letter that had been issued by one Wiso J. M was done without authority of the DCI and disciplinary action had been taken against the officer.

I. Issues arising

1. There exist inconsistencies in the oral and written testimony of Hon. Fatuma Gedi in terms of timelines of when she inquired from the Clerk about the letter and when she received the letter.

2. There also exist inconsistencies in the oral and written testimony of Hon. Fatuma Gedi in terms of the role of her

- driver in receiving the letter. It is also notable that the witness has failed to furnish the Committee with details of the driver.
3. There also exist inconsistencies in the testimony of Hon. Fatuma Gedi and that of Mr. Noor as to where they met and the time of meeting.
 4. That in the testimony of Hon. Fatuma Gedi, Mr. Noor is the one who called her to inform her about the letter. However, Mr. Noor indicates that it is Hon. Fatuma Gedi who called at least three times where he succumbed to pressure and gave a copy of the letter.
 5. That the Committee need to confirm what documents were leaked as the witness appear to suggest it's only the letter that Mr. Noor handed over to Hon. Fatuma Gedi.
 6. There also exist inconsistencies in the oral and written testimony of Hon. Fatuma Gedi in terms of how she first became aware of the alleged summons by DCI to the four Members.
 7. That letter allegedly making a formal complaint to the DCI was not submitted to the Committee by Hon. Fatuma Gedi. It also notable that Hon. Mohammed Abdulhakim stated in his testimony that Mr. John Kariuki, the Deputy Director of Criminal Investigations had informed him that he was not aware of the summons as he had heard about it in the television.¹⁶

Submitted for consideration.

¹⁶ See page 45-46.

**MINUTES OF THE FOURTH MEETING OF THE NATIONAL ASSEMBLY
COMMITTEE OF POWERS AND PRIVILEGES HELD IN THE
SPEAKER'S BOARDROOM ON 16TH JULY 2019 AT 11:00AM**

PRESENT

1. **The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson**
2. The Hon. Anthony Githiaka Kiai, MP
3. The Hon. Jude L. Kangethe Njomo, MP
4. The Hon. Vincent Kipkurui Tuwei, MP
5. The Hon. Beatrice Pauline Cheron Kones, MP
6. The Hon. Gladwell Jesire Cheruiyot, MP
7. The Hon. Marselino Malimo Arbelle, MP
8. The Hon. Francis Chachu Ganya, MP
9. The Hon. Omar Mwinzi Shimbwa, MP
10. The Hon. Andrew Mwadime, MP

APOLOGIES

11. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
12. The Hon. Peter Mungai Mwathi, MP
13. The Hon. James Mathew Onyango K' Oyoo, MP
14. The Hon. Danson Mwakuwona Mwashako, MP
15. The Hon. Vincent Kemose Mogaka, MP

SECRETARIAT

- | | | |
|----------------------------|---|---------------------------|
| 1. Mr. Kipkemoi Arap Kirui | – | Principal Clerk Assistant |
| 2. Ms. Jemimah Waigwa | – | Legal Counsel II |
| 3. Mr. Benson Inzofu | – | Clerk Assistant III |
| 4. Ms. Anne Shibuko | – | Clerk Assistant III |

MIN.NO. 18/NACoPP/2019: PRELIMINARIES

The Hon. Speaker called the meeting to order at 11:00am and invited the Hon. Gladwell Cheruiyot, MP to say the prayers.

MIN.NO. 19/NACoPP/2019: ADOPTION OF AGENDA

The committee unanimously adopted the proposed agenda, having been proposed by the Hon. Anthony Kiai, MP and second by the Hon. Vincent Tuwei, MP.

MIN.NO. 20/NACoPP/2019: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

The Minutes of the Third Sitting of the Committee held on 3rd April, 2019 were confirmed as a true record of the proceedings as proposed by Hon. Gladwel Jesire, MP and seconded by the Hon. Omar Mwinyi, MP.

MIN.NO. 21/NACoPP/2019: MATTERS ARISING

Arising from Min. No. 16/NACoPP/2019(b) regarding submissions by Hon. Fatuma Gedi, MP, the meeting noticed inconsistencies in Hon. Gedi's evidence-in-chief and evidence upon cross-examination, with particular regard to the manner in which she obtained a copy of the letter from the Directorate of Criminal Investigations (DCI) that was later leaked. In her oral submission, she claimed it was delivered to her in person and on cross-examination, she stated that it was given to her driver who delivered to her.

Accordingly, the Committee resolved to invite the driver as a witness at the next meeting of the Committee to shed light on the matter and enable the Committee to corroborate the claims. The Committee directed that the witness be contacted to provide the name of the driver for a formal invitation to be made.

(Action: Secretariat)

MIN. NO. 22/NACoPP/2019: BRIEF ON THE STATUS OF THE INQUIRY INTO ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER

Upon invitation by the Chairperson, the Secretariat briefed the Committee as follows regarding the status of the inquiry: -

- a) that the Director, DCI had not responded to the letter from the Clerk of the National Assembly wrote to the Director, requesting that he authenticates the letter from DCI containing alleged summonses to four Members of Parliament for questioning. Upon follow up, the Office of the DCI reported to the Secretariat that the Director was out of the country and would be requested to respond to the letter when he returns on Tuesday, July 16, 2019;
- b) that the Hon. Fatuma Gedi, MP did not deliver to the Clerk of the National Assembly a written submission within seven (7) days as directed by the Committee when she appeared as a witness on Wednesday April 3, 2019 and communicated to her in writing by the Clerk on Monday, April 8, 2019. The Member did not deliver the submission even after the lapse of the seven-day window;
- c) that the parliamentary staffer, Mr. Adan Noor Mohamed, who was involved in the alleged release of the document and who appeared before the Committee as a witness on March 27, 2019 had already been disciplined by the Parliamentary Service Commission in accordance with Commission staff disciplinary procedure. The Secretariat presented to the Committee a letter of reprimand on account of insubordination, dishonesty and negligence contrary to Regulation 26(a), (b) and (c) of the Parliamentary Service Commission Regulations, 2002; and a warning for severe disciplinary action if the misconduct was to be repeated;

The Committee noted the report and resolved as follows –

- (i) that, a reminder be done to the Director, DCI requesting his response and citing the statutory timeline within which the Committee must conclude the matter.

(ii) that, the Committee would proceed to consider and make a determination on the matters under inquiry on the basis of the oral statement made by the Hon. Gedi since she had not tendered a written submission as requested; and

(iii) that, a letter be done to Hon. Fatuma Gedi to ask her to provide the details of her driver that she claimed was involved in the exchange of the documents under inquiry so that he/she can be invited to appear before the committee.

MIN. NO. 23/NACoPP/2019: BRIEF ON UPCOMING ACTIVITIES

Upon invitation by the Chairperson, the Secretariat briefed the Committee on the upcoming Committee activities –

(i) Hosting a delegation from the Parliament of Ghana

The Hon. Speaker had acceded to a request from the Committee of Privileges from Parliament of Ghana to benchmark with the Committee from 5th to 9th August, 2019. Members of the Committee were requested to create time and engage with the delegation in a session on Wednesday, 7th August 2019 and for a farewell dinner at the Carnivore restaurant on Thursday, 8th August 2019. Hon. Peter Mwathi would lead the team.

(ii) Study tour to the Parliament of Uganda

The Committee was informed that a request for the Committee to benchmark with the counterpart Committee of Parliament of Uganda had been accepted and the visit would take place from 12th to 16th August, 2019. The Chairperson read out to the Committee a delegation that he had appointed to represent the Committee on the study tour.

(iii) Study tour to the Tynwald of the Isle of Man

The committee was also notified that the Tynwald of the Isle of Man had agreed to reschedule the benchmarking visit that had been planned in May to take place from 21st to 25th October 2019. The Chairperson informed the Committee that

the delegation he had selected in May would still undertake the visit to the Isle of Man.

MIN. NO. 24/NACoPP/2019: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 12.30 pm. The date of the next meeting would be communicated by notice.

Sign:

(Chairperson)

Date: 9/10/19

MINUTES OF THE THIRD MEETING OF THE NATIONAL ASSEMBLY
COMMITTEE OF POWERS AND PRIVILEGES HELD ON WEDNESDAY 3RD
APRIL, 2019 IN COMMITTEE ROOM 12, MAIN PARLIAMENT BUILDINGS
AT 10.00 A.M

PRESENT

1. **The Hon. Peter Mungai Mwathi, MP** - **Ag. Chairperson**
2. The Hon. Anthony Githiaka Kiai, MP
3. The Hon. Vincent Kipkurui Tuwei, MP
4. The Hon. Beatrice Pauline Cheron Kones, MP
5. The Hon. Gladwell Jesire Cheruiyot, MP
6. The Hon. Marselino Malimo Arbelle, MP
7. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
8. The Hon. James Mathew Onyango K' Oyoo, MP
9. The Hon. Vincent Kemose Mogaka, MP
10. The Hon. Andrew Mwadime, MP

APOLOGIES

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker/Chairperson
2. The Hon. Jude L. Kangethe Njomo, MP
3. The Hon. Francis Chachu Ganya, MP
4. The Hon. Omar Mwinyi Shimbwa, MP
5. The Hon. Danson Mwakuwona Mwashako, MP

IN ATTENDANCE: MEMBERS OF PARLIAMENT

1. The Hon. Fatuma Gedi, MP - Witness
2. The Hon. (Dr.) Adan Keynan, CBS, MP - Complainant
3. The Hon. Purity Wangui Ngirici, MP - Complainant
4. The Hon. Abdihakim Osman Mohamed, MP - Complainant
5. The Hon. Rehema Dida Jaldesa, MP - Complainant
6. The Hon. Catherine Waruguru, MP - Friend of the Committee

IN-ATTENDANCE: PARLIAMENTARY STAFF

1. Mr. Kipkemoi arap Kirui - Principal Clerk Assistant I
2. Mr. Ronald Walala - Legal Counsel I
3. Mr. Inzofu Mwale - Clerk Assistant III

4. Ms. Anne Shibuko - Clerk Assistant III
5. Ms. Jane Serem - Audio Officer
6. Ms. Hilda Changwony - Serjeant-at-Arms

MIN.NO. 13/NACoPP/2019: PRELIMINARIES

The Acting Chairperson called the meeting to order at ten minutes to Eleven O'clock and invited the Hon. Marselino Arbelle, MP to say the prayers.

MIN.NO. 14/NACoPP/2019: ADOPTION OF AGENDA

The meeting adopted the proposed Agenda to constitute business for the meeting. The Agenda was proposed by Hon. Vincent Mogaka, MP and seconded by Hon. Beatrice Kones, MP.

MIN.NO. 15/NACoPP/2019: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

Minutes of the Second Meeting of the Committee in the Third Session, held on Wednesday, 27th March 2019, were confirmed as a true record of the proceedings. They were proposed by Hon. Gladwell Cheruiyot, MP and seconded by Hon. Didmus Barasa MP. there were no matters arising.

MIN. NO. 16/NACoPP/2019: HEARING ON ALLEGED MISUSE OF OFFICIAL INFORMATION THROUGH LEAKAGE OF A PURPORTED SUMMONS FROM THE DIRECTORATE OF CRIMINAL INVESTIGATIONS (DCI) TO THE MEDIA

(a) Preliminaries

The Acting Chairperson informed Members that, the witness, Hon. Fatuma Gedi Ali, MP, was duly invited and had confirmed her appearance before the Committee. He also read to the Committee a letter, addressed to the Speaker/Chairperson of the Committee, by one of the complainants in the matter, the Member for Eldas Constituency (Hon. (Dr.) Adan Keynan, MP), requesting that—

- (i) the proceedings of the Committee on the matter be open to the media and the public; and
- (ii) the four (4) complainants be accorded the opportunity to be present, in person or through legal representative, at the meetings of the Committee during which the witnesses would appear.

He informed the Committee that the Speaker had acceded to both requests. The Committee deliberated on the matter and agreed that the proceedings be open to the public and the media and that the complainants be admitted to the meeting, provided that—

- (i) any complainant wishing to adduce evidence before the Committee on the matter would have to do so before the Hon. Gedi's submissions; and
- (ii) any question posed by the complainants to the Hon. Gedi would have to be relevant to the inquiry, subject to the direction of the Chairperson.

Having ascertained that none of the complainants was desirous of appearing as a witness, the Committee proceeded to admit the following Members (complainants in the matter) to the meeting:

- (i) The Hon. (Dr.) Adan Keynan, CBS, MP
- (ii) The Hon. Purity Wangui Ngirici, MP
- (iii) The Hon. Abdihakim Osman Mohamed, MP
- (iv) The Hon. Rehema Dida Jaldesa, MP

(b) Submission by the Hon. Fatuma Gedi, MP

The Ag. Chairperson, welcomed the Hon. Fatuma Gedi, MP to the meeting and directed that an oath be administered to the witness as required under Section 20 of the Parliamentary Powers and Privileges Act, 2017 and Standing Order 191(2). Thereupon, an oath was administered to her in the form prescribed in the Sixth Schedule to the Standing Orders.

The Ag. Chairperson read out to the Hon. Fatuma Gedi, MP the basis for the Committee's invitation to appear before it as contained in the letters of complaint filed by the following Members:

- (i) The Hon. (Dr.) Adan Keynan, CBS, MP
- (ii) The Hon. Purity Wangui Ngirici, MP
- (iii) The Hon. Abdihakim Osman Mohamed, MP
- (iv) The Hon. Rehema Dida Jaldesa, MP

He stated that the four Members (complainants) had claimed that the alleged misuse of official information had damaged their reputation and character. The Ag. Chairperson

also informed the witness that a Parliamentary staffer, Mr. Adan Noor Mohamed, who appeared before the Committee on 27th March 2019 had admitted to the Committee that he had handed the alleged documents to her (Hon. Gedi) under duress. The Ag. Chair informed the witness that the purpose of her appearance was for her to shed light on the allegations linking her to the alleged misuse of official information and provide information that would enable the Committee to make a determination on the matter.

Upon invitation, the Hon. Fatuma Gedi, MP, submitted as follows—

- (i) That, sometime in December 2018, an alleged fake video containing pornographic content involving a person bearing her likeness was widely circulated on social media, including among Members of the National Assembly;
- (ii) That, as the aggrieved party, she reported the matter to the Police and the investigations that were launched by the Directorate of Criminal Investigations (DCI) revealed that four Members of Parliament were among the persons behind the said video. The four Members were summoned by the DCI to record statements;
- (iii) That, having been informed that the suspected Members had been summoned to DCI, she inquired from the Serjeant-At-Arms whether any summonses in respect of the four Members had been received and passed to the Members. After being informed that none had been received, she proceeded to the Clerk's Office to enquire on the same;
- (iv) That, she did not find the Clerk in his office but as she was leaving, she met Mr. Noor Mohamed, a staffer, who was well known to her as he comes from Wajir, the County that she represents in Parliament;
- (v) That, she informed the officer she had wished to meet the Clerk to establish if he had received a letter from the DCI summoning four Members to write statements regarding circulation of the alleged fake video involving a person bearing her likeness. She asked Mr. Noor whether he had seen the letter and if so, whether he could give her a copy. The officer responded that he had not seen that letter;
- (vi) That, two days later, the officer called her, informing her that he had seen the letter by the DCI summoning the four Members of Parliament in the Office of the

Clerk. The officer inquired where the Member was so that he could show her the letter. The officer met the Member and showed her the letter but declined to hand a copy to her at the first instance. A day later, she asked the officer to give a copy of the letter to her driver and also take a copy to her at the Members' Lounge;

(vii) That, when she got the letter, she read it and upon completion, she left it on the table where she was seated at the Members' Lounge and went on with her other business;

(viii) That, she was not responsible for the leakage and circulation of the contents of the letter to the media.

In reacting to the submissions by the witness, Members sought clarifications from the witness on the following matters—

- a) On whether the Member influenced the DCI to write to the Clerk issuing summonses to the four complainants - the witness informed the Committee that she had been closely following up on the progress of the investigations to have the makers of the alleged video brought to book and that she had visited the office of the DCI where she was informed that the letter had been done and dispatched to the Clerk;
- b) Asked where she was when the officer took the letter to her and whether she was in the company of any other Members at the time the officer went to her with the letter, the witness informed the Committee that she was in the company of the Hon. Ahmed Kolosh Mohamed, MP and the Hon. Ahmed Abdisalan Ibrahim, MP in the Members' Lounge at about 2.30 pm when the officer showed her the letter;
- c) Asked whether she obtained from the officer the document alleged to have been leaked with ease on account of them being acquaintances from the same County, the witness acknowledged knowing Mr. Adan Noor Mohamed (staff) since they hail from the same County but denied having approached him for the document on account of him being one of her voters;
- d) The witness denied the claim that she used her position as Vice-Chairperson of the Committee on Delegated Legislation to intimidate the officer to hand over to her the document alleged to have been leaked;

- e) Asked why she left a letter she had sought so earnestly on the table after reading, when she would ordinarily have been expected to safeguard it dearly, the witness said that her interest was only to confirm receipt of the letter by the Clerk;
- f) Asked why she never reported to the Speaker for action the suspicion she had that four Members of the National Assembly had masterminded creation and circulation of the alleged fake pornographic video of a person bearing her likeness, the witness informed the Committee that she did not do so since the DCI was at the time already investigating the matter;
- g) On the claims that she may have initiated the summonses by DCI for the four Members to settle personal differences informed by an existing vendetta including her ouster as Chair of Caucus 47 by the Hon. Purity Ngirici, MP, the witness clarified that she had no personal differences but was pursuing justice and that the four Members were identified by the DCI through investigation;
- h) On how she got a copy of the letter containing the leaked information, she stated that the officer gave it to her driver, who then handed it over to her; and
- i) Regarding claims that the letter from the DCI summoning the four Members was fake and was authored by a junior officer at the DCI under her instructions, she denied having influenced any officer to write the letter and challenged the Member claiming so or the Committee to authenticate the letter with the DCI.

Having concluded the hearing, the Acting Chairperson released the witness and complainants from the meeting. Thereafter, the Committee resolved that the witness be instructed to submit, to the Clerk, written submissions within seven (7) days to enable the Committee corroborate the submissions she made orally before making a determination on the matter.

MIN.NO. 17/NACoPP/2019: ADJOURNMENT

There being no other business, the Acting Chairperson adjourned the meeting at twenty minutes past Two O'clock. The date for the next meeting would be communicated by notice.

Sign:..... 

(Chairperson)

Date:..... 

MINUTES OF THE SECOND MEETING OF THE NATIONAL ASSEMBLY
COMMITTEE OF POWERS AND PRIVILEGES HELD ON WEDNESDAY 27TH
MARCH, 2019 IN THE SPEAKER'S BOARDROOM, MAIN PARLIAMENT
BUILDINGS AT 10.00 A.M

PRESENT

1. The Hon. Peter Mungai Mwathi, MP (Chairing)
2. The Hon. Anthony Githiaka Kiai, MP
3. The Hon. Jude L. Kangethe Njomo, MP
4. The Hon. Vincent Kemose Mogaka, MP
5. The Hon. Vincent Kipkurui Tuwei, MP
6. The Hon. Beatrice Pauline Cherono Kones, MP
7. The Hon. Gladwell Jesire Cheruiyot, MP
8. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
9. The Hon. James Mathew Onyango K' Oyoo, MP
10. The Hon. Danson Mwakuwona Mwashako, MP
11. The Hon. Andrew Mwadime, MP

APOLOGIES

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker/Chairperson
2. The Hon. Marselino Malimo Arbelle, MP
3. The Hon. Francis Chachu Ganya, MP
4. The Hon. Omar Mwinyi Shimbwa, MP

IN-ATTENDANCE-PARLIAMENTARY STAFF

1. Ms. Serah Kioko - Deputy Clerk, National Assembly
2. Mr. Kipkemoi arap Kirui - Principal Clerk Assistant I
3. Ms. Jemimah Waigwa - Legal Counsel I
4. Mr. Inzofu Mwale - Clerk Assistant III
5. Ms. Esther Ngechu - Serjeant-at-Arms

IN ATTENDANCE-PARLIAMENTARY STAFF

Mr. Noor Mohamed Adan, Office Attendant (DL&P, NA) - Witness

MIN.NO. 07/NA CoPP/2019: PRELIMINARIES

The Acting Chairperson called the meeting to order at quarter to Eleven O'clock and invited the Hon. Jude Njomo, MP to say the prayers.

MIN.NO. 08/NA CoPP/2019: ADOPTION OF AGENDA

The meeting adopted the proposed Agenda to constitute business for the meeting. The Agenda was proposed by Hon. Capt. Rtd. Didmus Barasa, MP and seconded by Hon. Beatrice Kones, MP.

MIN.NO. 09/NACoPP/2019: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

Minutes of the First Meeting of the Committee in the Third Session, held on Wednesday, 20th March 2019, were confirmed as a true record of the proceedings. They were proposed by Hon. Vincent Tuwei, MP and seconded by Hon. Andrew Mwadime, MP. There were no matters arising.

MIN. NO. 10/NACoPP/2019: INQUIRY INTO THE MATTER OF ALLEGED MISUSE OF OFFICIAL INFORMATION

The Acting Chairperson informed Members that, two witnesses, Mr. Noor Mohamed Adan, the Parliamentary Officer attached to the Office of the Director, Legislative and Procedural Services (National Assembly) and the Hon. Fatuma Gedi Ali, MP were scheduled to appear before the Committee. He also reported that the Office of the Clerk of the National Assembly had invited both witnesses and that both acknowledged receipt of the invitation letters.

The Committee proceeded to hear the witnesses as follows:

1. Mr. Noor Mohamed Adan, the Parliamentary Officer

The Ag. Chairperson welcomed the witness to the meeting and read out to him the basis for appearance before the Committee as contained in the invitation letter addressed to him and complaints filed by various Members affected by the alleged misuse of official information. He clarified that the purpose of the invitation was for the officer, and without prejudice to a subsisting administrative action pending before a Committee of

the Parliamentary Service Commission, to provide information that would enable it determine the matter before it.

Upon invitation, Mr. Noor Mohamed Adan submitted as follows:

- (i) That, he is a Parliamentary Officer attached to the Office of the Director, Legislative and Procedural Services (National Assembly) as an Office Attendant, and that his duties include circulation of correspondences and documents to relevant Offices;
- (ii) That on Friday, 22nd February 2019, he was tasked to extend the service to the Office of the Clerk, since the designated Officer had been excused to attend to personal matters;
- (iii) That, while dispatching letters from the Office of the Clerk, he coincidentally met the Member for Wajir County, Hon, Fatuma Gedi, MP, at around 4.00 p.m., along the way to Protection House;
- (iv) That the Member stopped him and inquired about documents relating to a request by the Directorate of Criminal Investigations (DCI) to question certain Members of Parliament. He checked and indeed confirmed that the internal memo on the matter Hon. Gedi had inquired about was indeed among those he had been assigned to dispatch;
- (v) That he was reluctant to give the Member a copy of the letter as it was not addressed to her, but the Member insisted that she (Hon. Gedi) was a Vice-Chairperson of a Committee and she needed a copy of the document for purposes parliamentary business;
- (vi) That, he firstly declined the request and proceeded to circulate the documents to relevant offices. Thereafter, the Member called him three times asking to be given a copy of the said document for parliamentary business.

- (vii) That, succumbing to pressure from the Member, he obtained a copy of the said letter from the file and gave it to the Member, in good faith and without influence of any form of inducement from the Member;
- (viii) That, it was late in the evening of the Friday and there was no senior officer in the Office at the time to authorize the release of the documents;
- (ix) That, the Member did not sign a delivery book to signify receipt of the document, since the letter was not meant for her. He understood it was not ethical to give the Member the copy of that letter without authority but proceeded to do so on the understanding that his role is to facilitate Members of Parliament in their parliamentary business;
- (x) That, soon thereafter, he learnt that the copy of the letter he had given to Hon. Fatuma Gedi was being circulated in social media and in radio and TV stations. He reported the fact to the Personal Assistant to the Clerk, Mr. John Mutega and acknowledged that he had given the letter to the Member who had maintained that she needed it for parliamentary business;
- (xi) That, he later received a letter from the Clerk of the National Assembly requesting him to explanation the circumstances under which the letter and internal memos he handled during dispatch found ended up in wrong hands. He sought audience with the Clerk and explained the circumstances and also did a letter, regretting the action and seeking to be forgiven for the mistake;
- (xii) That, even though the Hon. Fatuma Gedi, MP, is indeed his County Member of Parliament to the National Assembly, they are not related. Further that, his decision to give her a copy of the letter in question was not informed by the fact that they come from the same County but that it was purely out of the duress that the Member exerted on him; and
- (xiii) That, he has been a diligent officer and that he regretted the mistake he made albeit under duress. He pleaded for leniency from the Committee and undertook never to repeat such a mistake.

The Acting Chairperson thanked the witness for his submissions and released him from the meeting.

2. The Hon. Fatuma Gedi Ali, MP

The Acting Chairperson reported to the Committee that the witness had been invited vide a letter whose receipt was duly acknowledged by the Member's Office. He informed the Committee that the witness had neither appeared nor offered an explanation for her failure to honour the invitation.

The Committee noted the report and resolved that the witness be invited for a second time to appear on Wednesday, 3rd April 2019 at 10.00am, failure to which the Committee shall invoke the sanctions under section 19 of the Parliamentary Powers and Privileged Act.

MIN.NO. 11/NACoPP/2019: CONSIDERATION OF THE PROPOSED WORKPLAN

Upon invitation by the Acting Chairperson, the Secretariat presented to the Committee the proposed thematic areas on which the Work Plan would be based. The Committee noted and approved the proposal to be translated into a Work Plan.

MIN.NO. 12/NACoPP/2019: ADJOURNMENT

There being no other business, the Acting Chairperson adjourned the meeting at five minutes past noon. The next meeting will be held on Wednesday, 3rd April 2019 at 10.00 am in the Speaker's Board Room.

Sign:.....

(Chairperson)

Date:.....

03/04/2019

MINUTES OF THE FIRST MEETING OF THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES HELD ON WEDNESDAY 20TH MARCH, 2019 IN THE SPEAKER'S BOARDROOM, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M

PRESENT

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson
2. The Hon. Peter Mungai Mwathi, MP
3. The Hon. Vincent Kipkurui Tuwei, MP
4. The Hon. Beatrice Pauline Cheronon Kones, MP
5. The Hon. Gladwell Jesire Cheruiyot, MP
6. The Hon. Marselino Malimo Arbelle, MP
7. The Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
8. The Hon. Francis Chachu Ganya, MP
9. The Hon. Omar Mwinyi Shimbwa, MP
10. The Hon. James Mathew Onyango K' Oyoo, MP
11. The Hon. Danson Mwakuwona Mwashako, MP
12. The Hon. Andrew Mwadime, MP

ABSENT WITH APOLOGIES

1. The Hon. Anthony Githiaka Kiai, MP
2. The Hon. Jude L. Kangethe Njomo, MP
3. The Hon. Vincent Kemose Mogaka, MP

IN ATTENDANCE- PARLIAMENTARY STAFF

- | | | |
|----------------------------|---|--------------------------------|
| 1. Mr. Michael Sialai | - | Clerk of the National Assembly |
| 2. Mr. Kipkemoi arap Kirui | - | Principal Clerk Assistant I |
| 3. Ms. Anne Shibuko | - | Clerk Assistant III |
| 4. Ms. Esther Ngechu | - | Sergeant-at-Arms |

MIN.NO. 01/NACoPP/2019: PRELIMINARIES

The Chairperson called the meeting to order at half past Ten O'clock and invited the Hon Danson Mwakuwona Mwashako, MP to say the prayers.

MIN.NO. 02/NACoPP/2019: ADOPTION OF AGENDA

The meeting adopted the proposed Agenda to constitute business for the meeting as proposed by Hon. Danson Mwakuwona Mwashako, MP and seconded by Hon. Beatrice Kones, MP.

MIN.NO. 03/NACoPP/2019: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

Minutes of the Twenty Eighth Meeting of the Committee, held on Saturday, 17th November 2018, were confirmed as a true record of the proceedings. They were proposed by Hon. Chachu Ganya, MP and seconded by Hon. Vincent Tuwei, MP.

MIN. NO. 04/NACoPP/2019: INQUIRY INTO THE MATTER MISUSE OF OFFICIAL INFORMATION

The Clerk of the National Assembly brought to the attention of the Committee complaints filed by:-

- a) The Hon. (Dr.) Adan Keynan, CBS, MP (Eldas Constituency) through a letter dated 25th February 2019;
- b) The Hon. Purity Wangui Ngirici, MP (Kirinyaga County) through a letter dated 28th February 2019;
- c) The Hon. Abdihakim Osman Mohamed, MP (Fafi Constituency) through a letter dated 25th February 2019; and
- d) The Hon. Rehema Dida Jaldesa, MP (Isiolo County) through a letter dated 27th February 2019.

The complaints cited displeasure against the leakage of a purported summons from the Directorate of Criminal Investigations (DCI) which was addressed to the Clerk of the National Assembly.

The Secretariat outlined the background of the matter as follows:-

1. The Directorate of Criminal Investigations (DCI) vide a Letter dated 21st February 2019 requested that the Clerk of the National Assembly informs the four Members of Parliament to report at the DCI headquarters at Kiambu road at 10.00 hrs. Two Members were required to appear on Monday, 25th February 2019 and two others on Tuesday 26th February 2019.
2. The said letter was committed to the Directorate of Litigation and Compliance for advice.
3. On 21st February 2019, the Directorate of Litigation and Compliance vide a Memo advised the Clerk that since the case did not arise from performance of duties of a Member of Parliament, the DCI should correspond directly with the said Members.

4. The advisory Memo was forwarded to the Clerk who upon reviewing the Memo signed the letter communicating the same to the DCI. The letter having been received by the Directorate of Litigation and Compliance on Friday, 22nd February 2019 at around 5.00 pm, the same was to be transmitted to the relevant authorities on Monday 25th February 2019.
5. On Saturday 23rd February 2019, detailed contents of the Letter and the advisory Internal Memo appeared as a news item in NTV and in both The Daily Nation and The Standard newspapers of 24th February 2019.
6. On 26th February 2019, the Clerk wrote to the officer who had been assigned to transmit the letter and the Internal Memo from the Clerk's Office to the Directorate of Litigation and Compliance requiring him to clarify the circumstances under which the contents of the documents could have leaked;
7. On 27th February 2019, the officer responded to the letter tendering his apology and citing that he was under duress by the Member for Wajir County (Hon. Fatuma Gedi Ali, MP) who is also the Vice Chairperson of the Committee on Delegated Legislation. The officer, who also happens to come from Wajir County, the County the Member represents. The Member approached the officer and confidently asked if he could locate a document from the DCI addressed to the Clerk. The officer initially declined as he found it "**absurd, difficult and irregular**", but he eventually handed the document to the Member reluctantly after she persistently and repeatedly indicated that she intended to use it for Parliamentary business.

At this point, the Clerk of the National Assembly formally recused himself from the meeting to allow deliberation of the matter by the Committee.

In considering the matter, the Committee was guided by the provisions of section 22 of the Leadership and Integrity Act (*Misuse of Official Information*) provides that:-

1. *A State officer shall not directly or indirectly use or allow any person under the officer's authority to use any information obtained through or in connection with the office, which is not available in the public domain, for the furthering of any private interest, whether financial or otherwise.*
2. *The provisions of subsection (1), shall not apply where the information is to be used for the purposes of—*

- a) *furthering the interests of this Act; or*
- b) *educational, research, literary, scientific or other purposes not prohibited by law*

In light of the foregoing, the Committee resolved that it had jurisdiction to consider the matter and sought to establish how the Media got a copy of an internal advisory memo and thereafter take necessary remedial measures. The Committee resolved to invite:-

- (a) Mr. Noor Mohamed Adan, the Parliamentary Officer who admitted to sharing the document with the Hon. Fatuma Gedi Ali, MP to further explain the circumstances of the situation;
- (b) The Hon. Fatuma Gedi Ali, MP to give comprehensive details of the allegations against her; and
- (c) Any other person within the Parliamentary Service who would be named by either party.

The Committee resolved that there was no need to invite the Media as they were under no obligation to disclose their sources.

The Chairperson, who is also the Speaker of the National Assembly and Chairperson of the Parliamentary Service Commission, also recused himself since the matter of the conduct of the officer who released the official information may be a subject matter for consideration by the Commission.

MIN.NO. 05/NACoPP/2019: ANY OTHER BUSINESS

a. Work Plan of the Committee

The meeting discussed and agreed that there was need to formulate a Work Plan early in the Session, which would provide guidance and schedules for various Committee activities. The work plan would also assist the Committee in monitoring the implementation of its budgetary provisions. A draft work plan would be presented to the Committee at its next meeting for consideration.

b. Appointment of a Member to represent the National Assembly Committee of Powers and Privileges in the Liaison Committee

The Committee registered a need for its involvement in decision making as well as monitoring and implementation of its budgetary allocation. To this end, Members unanimously agreed that the Hon.

Peter Mungai Mwathi, MP would represent the National Assembly Committee of Powers and Privileges in the Liaison Committee.

c. Benchmarking by the Committee

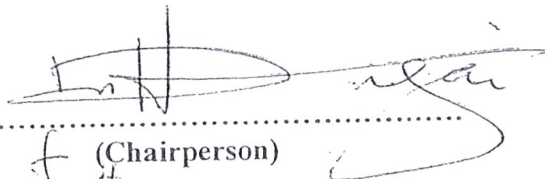
Members of the Committee expressed concern over the lack of benchmarking opportunities since the beginning of the 12th Parliament. They expressed the need to benchmark with other jurisdictions on matters relating to privileges and immunities, ethics and integrity, including disciplinary action and investigative techniques.

The Clerk of the National Assembly, having been recalled to the meeting, explained that his office had made efforts to give exposure to Members by including them in delegations to other jurisdictions that were nominated by the Speaker. The Clerk further undertook to actively seek Parliamentary Privileges related opportunities to enhance the capacity of the Committee and get back to the Committee as soon as possible.

MIN.NO. 06/NACoPP/2019: ADJOURNMENT

The Chairperson adjourned the meeting at half past noon. The next meeting will be held on Wednesday, 27th March 2019 at 10.00 am in the Speaker's Board Room.

Sign:.....



f (Chairperson)

Date:.....

27th 03. 2019

**APPENDIX III: HANSARD RECORD OF
THE PROCEEDINGS**

**RECORD OF EVIDENCE TAKEN BEFORE THE NATIONAL ASSEMBLY
COMMITTEE ON POWERS AND PRIVILEGES MEETING HELD ON WEDNESDAY,
3RD APRIL 2019, IN COMMITTEE ROOM 2, PARLIAMENT BUILDINGS.**

The Acting Chairman, (Hon. Peter Mwathi (Limuru, JP):

MEMBERS PRESENT

- | | | | |
|----|-----------------------------------------|---|--------|
| 1. | Hon. Marselino Malimo Arbelle, MP | - | Member |
| 2. | Hon. Captain (Rtd.) Didmus W. Baraza MP | - | Member |
| 3. | Hon. Andrew Mwadime, MP | - | Member |
| 4. | Hon. Beatrice P. Kones, MP | - | Member |
| 5. | Hon. Vincent K. Mogaka, MP | - | Member |
| 6. | Hon. Gladwell Jesire Cheruiyot, MP | - | Member |
| 7. | Hon. Vincent K. Tuwei, MP | - | Member |
| 8. | Hon. Anthony Githiaka Kiai, MP | - | Member |
| 9. | Hon. Onyango Oyoo, James, MP | - | Member |

SECRETARIAT

- | | | | |
|----|---------------------|---|------------------------|
| 1. | Kipkemoi Arap Kirui | - | Senior Principle Clerk |
| 2. | Anne Shibuko | - | Clerk III |
| 3. | Benson Inzofu | - | Clerk III |
| 4. | Ronald Walawa | - | Legal Counsel |
| 5. | Jane Serem | - | Audio Officer |

WITNESSES

1. Hon. (Ms.) Fatuma Gedi
2. Hon. Adan Keynan
3. Hon. (Ms.) Rehema Dida Jaldesa
4. Hon. Mohamed Abdikhaim Osman
5. Hon. (Ms.) Purity Wangui Ngirici

(The Committee convened at 11.00 a.m.)

PRAYER

*(The Acting Chairman (Hon. Peter Mwathi, Mungai) introduced
himself and other Members of the Committee)*

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): We were to proceed and to listen to Hon. Fatuma Gedi, but there is a letter specifically written by Hon. Keynan which has come to the Speaker who is the substantive Chair of this Committee. He has issued the following directions thus.

The Members are welcome to listen to the proceedings provided they will not be giving evidence. So Members, if you desire to give evidence then Hon. Fatuma will allow us pick the evidence from Members. ~~This is so that they can tell us what it is that has infringed on their rights or what it is that is contained in the letter. Thereafter we will listen to you.~~

If that is not the case, if Hon. Members do not wish to give evidence, they will be allowed to sit in and listen to the evidence of Hon. Fatuma Gedi. So, as we proceed, Hon. Members who complained can consult or give their views as to whether they would wish to give evidence. As we ponder on that, I will allow Members of the Committee to introduce themselves.

Please proceed.

That is our composition and we will now ask Members to give their views in turns. I am sorry that is why we kept consulting with the Legal Department so we know how to proceed.

Hon. Adan Keynan (Eldas, JP): Hon. Acting Chairman. Thank you so much for giving us an opportunity. However, before I make my informed position on this, I am the one who wrote to the Hon. Speaker on two occasions. Let me put it on record that it is extremely unfortunate that we are here before you ceased with a subject matter that is extremely unfortunate. It is also unfortunate that I Hon. Aden Keynan I am also here assaulted with the same issue. It is painful but all the same we are human and must accept the way things unfold. I am pained to even contemplate on how such things could ever find themselves at our door step.

I would like to get from you some guidance from the Hon. Speaker because I am also very familiar with the parliamentary practice. Is there a written letter from the Hon. Speaker on how we should proceed? We will appreciate to go through it before I make my own informed position on how I think I would like this submission to be done. So, Mr. Kirui and the Chair, if you have such a letter, please guide us.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): His question was very straight forward. The Hon. Speaker has given direction that you are allowed to sit in and listen to the evidence, if you are not going to give evidence. However, if you desire to give evidence then we allow the complainants to first give the evidence before Hon. Fatuma Gedi, then she will follow. So, should you proceed to give evidence then she will excuse you first to proceed with the evidence one after the other.

However, if you do not desire to, we will allow he to give evidence in your presence.

Hon. Adan Keynan (Eldas, JP): So, the Hon. Speaker's directive is verbal and not through communication. Mr. Kirui as a senior legislative officer, you know how Parliament works. Is it through verbal communication which can easily be contested? Correct, let us be fair because even the Hon. Speaker tomorrow will say he is not party to this. I wrote to him and he wrote back through the Clerk saying that we would be appearing. I do not want to waste your time because this is a very simple matter. I also do not want to complicate it.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): The letter which was written by Hon. (Dr.) Keynan to the Hon. Speaker is here with us. It has been initialled by the Hon. Speaker, who says it be taken to the Committee. He asked for a procedure to be followed and the clerk says he advises the Members to attend the sitting be held in public and that all complainants should sit in the proceedings. That is what you found us discussing. The Committee asked if the complainants are going to sit in and they will later on give evidence then in terms of procedure form our legal counsel and the practice in law, will not be fair.

Hon. Adan Keynan (Eldas, JP): Hon. Acting Chairman, I now realise the right procedure, because I was trying to run away from the Hon. Speaker's verbal communication. The Committee has inherent constitutional rights pursuant to Article 125 to make such a decision that you have just alluded to and so I agree with you. What I was reluctant about was invoking the Hon. Speaker's name on issues that he may not have adjudicated on.

However, what you have made now is clear. So, I have personally complained about Parliament and the leakage of information. Not necessarily about Hon. Fatuma Gedi but the leakage of information.

This is not related to why we are here but allow me to say this off the curve. You can imagine all of you, I am your commissioner. We all have your files including mine. If there is one thing that we are diligently and dutifully remained committed to is the secrecy of everything that goes around about MPs and the staff.

So, it is in all our interests because we have your history and what we are very particular about is a situation where all our documents are with the secretariat who are human. Tomorrow, somebody because of political interests will get Hon. Mwathi's file and avail the information to the public.

You can imagine how painful that can be. That is the only area where I have complained. Whoever it is, be it a Member of staff or MP who has leaked that particular information of whatever nature, that person must be dealt with ruthlessly because anybody can be a victim.

This is a big institution with about 417 MPs. We have close to 1000 staff here and you can imagine the risks if that opening was allowed. That is the only complaint I have because I feel am comfortable. I will not give evidence we will listen and participate. Let my sister say whatever she has to and we will leave it at that.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Very well, it is on record that Hon. Keynan will not give evidence. To the other Members, you are welcome.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you, Hon. Acting Chairman. I just want to echo what my colleague Hon. Keynan has said. I want to emphasise that this Committee is meeting because of the letters we wrote. We based our complaint on Section 22 of the Leadership and Integrity Act. We felt that the hon. Member used official information for certain unclear motives; which in my view feels like it has injured me as a leader of this country, a mother and a family woman.

Hon. Chairman, I also just want to say that under Section 191 of the Standing Order, the Powers and Privilege Committee is bestowed with all the powers similar to the High Court. Therefore, we expect Hon. Fatuma Gedi to give her evidence under oath. Having said that hon. Chairman, I just want your direction. In as much as we may not have any evidence in the first place to give before the Committee, we were mentioned. We want to understand what we are accused of. That is why I want the member by the Standing Order to give evidence under oath. Secondly, I want your guidance Hon. Acting Chairman on whether we will be allowed to ask question as we seat through and listen. That is my submission.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): But you do not desire to give evidence thereafter?

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): I desire to ask questions. I do not have any evidence to give. I do not even understand why I am here and what I am accused of. So after the hon. Member has given her submission I would like to be allowed to ask questions.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Alright Hon. Ngirici.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Thank you Hon. Acting Chairman, I would like to echo the sentiments of my colleagues. I wish to state that I do not wish to give any evidence but ask questions.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Hon. Mohamed Osman.

Hon. Mohamed Abdikhaim (Fafi, KANU): Thank you Hon. Acting Chair, I am the Member of Parliament for Fafi. I am a married man with seven kids' four daughters and three sons. It was very unfortunate to see my name in the media accused of making a pornographic video which I am not aware of. I do not know how and where it was made. I was summoned by the Director of Criminal Investigations (DCI) and forced to be arrested for an allegation that I am not party to. As I have said earlier I am an elected Member of Parliament, I have integrity and a family to protect, kids who look up to me as their mentor in the future. I do not want to give any evidence now. But I want to request the Committee to allow me to come with my lawyer or to postpone this meeting or give me another date because I want my lawyer to be here with me.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): So you personally desire to give evidence that is where this is headed.

Hon. Mohamed Abdikhaim (Fafi, KANU): Yes in the presence of my lawyer. On a point of order, Hon. Acting Chairman.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Sorry you have raised a weighty issue that is why we have to consult.

Hon. Mohamed Abdikhaim (Fafi, KANU): On a point of order, Hon. Acting Chairman. After some consultation I think I have something to inform the Committee.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Proceed.

Hon. Mohamed Abdikhaim (Fafi, KANU): I just want to withdraw giving of evidence. I want the meeting on Hon. Fatuma Gedi to continue.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Yes, thank you. I have just been informed that if you are desiring to go that direction then you would have to give evidence with your counsel. We would allow her to leave then we call her another time and tell her of the allegations so she can respond to them. You have now changed the position to just sitting in. Therefore, the question we now have to determine is, are you going to be allowed to ask questions. The answer is yes but, we have to approve the kind of questions that you will ask.

The question as to whether evidence is going to be taken on oath we had already made a decision before the request. This is because this is a weighty matter like Hon. Keynan said. Then this should be under oath and it is very important that whatever he says is collaborated with that of the member of staff who has already given evidence. Therefore, this will be collaborated with whatever else we have as evidence.

Hon. Adan Keynan (Eldas, JP): Hon. Acting Chairman, point of clarification because I think we are still engaged in the preliminary. I personally do not want to appear nuisance in what we are doing because this is a very exercise. At the end of the day we will remain members of the same family and MPs. Therefore, whatever we do or the outcome must be seen in the interest of Parliament first and foremost not an individual's because this is a bigger institution.

I also appreciate the fact that Chairman enjoys the same powers as the Speaker when chairing a Committee. Therefore on the issue of questions the Speaker and the Chair of the Committee are at liberty to allow whether a question is admissible or not. On the issue of whether the question should be given in advance and approved, I think that should not happen. Personally, I will not submit to this because it will be an infringement on individual rights as a member. This is learning process which maybe you may not be familiar with. When a member shoots a question the Chair will look at it, if it is offensive he can rule it out of order.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): That is the directions we were going not that we need questions in advance.

Hon. Adan Keynan (Eldas, JP): This is a House of records and I was going by your statement that you need to approve the questions. Certainly I will be the last person to ever accept such a process where my thoughts will be micro-managed. So if you have retracted that I have no problem. We will ask questions, if you think they are offensive--- I am sure we will be moderate because at the end of the day Hon. Fatuma Gedi is my sister. So as much as possible we want to be guided by the facts not anything that will be offensive. Now that you have retracted just put it on record because this is HANSARD you never know where it will end up. So it should not appear that the Chairman has made a ruling...

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): That is not the understanding Hon. Keynan the answer was approval on admissibility. That is what we are going to deal with. Not

that you give me the question so I approve and then you ask. This is not possible because I do not know what you will ask and it is not written.

Hon. Adan Keynan (Eldas, JP): Thank you Chairman.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): If there are no any other issues arising we will then proceed to take evidence. Therefore, I request that Hon. Fatuma Gedi be sworn in so we can start our proceeding.

(Hon. (Ms.) Fatuma Gedi took oath)

Hon. Adan Keynan (Eldas, JP): On a point of order, Hon. Chairman.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Yes, Hon. Keynan.

Hon. Adan Keynan (Eldas, JP): I thought in terms of taking oath, unless the standard has changed, to the best of my parliamentary recollection we have four forms which are the Bible, the Quran, the Hindu scripture and African tradition. You can also say I am an atheist.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I have it here, Hon. Chairman. It was here, unless you did not see.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): She did. I also saw her place the hand on the Quran. I hope that is admissible. We have a legal counsel there. The legal counsel is confirming to me. Thank you so much.

So, Hon. Fatuma Gedi and the other Members, welcome to this hearing. It is important to know that we have four Hon. Members who, by way of letter, have complained that their documents were leaked to the Press by Hon. Gedi having picked those documents of a member of staff of this institution. Those documents not being public, you proceeded to make them public contrary to the provisions of Section 22 of the Leadership and Integrity Act, which reads as follows:

Misuse of official information

A state officer (for this matter you are state officer) shall not directly or indirectly use or allow any person under the officer's authority to use any information obtained through or in connection with the office which is not available in the public domain for furthering of any private interest whether financial or otherwise.

That is the provision. The letters which we have from the four Members allude to the fact that you indeed gave those documents to the fourth estate. You will tell us how you got the documents and how you leaked them to the press if you actually did or not. Then we shall be able to make our judgement on that. Proceed.

Hon. Adan Keynan (Eldas, JP): On a point of order, Hon. Chairman. I think it is a point of clarification. Hon. Chairman, you are seated there enjoying the same powers and privileges as the Speaker. It is also good to have facts right. I have the privilege of having the four letters here.

At the time when I was writing, I did not have Hon. Fatuma Gedi in mind. We were complaining about the institution of Parliament and who authorised, because they had confidential documents. It is good to have this clearly. I want the Chair to be knowledgeable as much as possible in the way you make your pronouncement. I want to read my letter to the Members who have not seen. I want to read what my letter says. I have the letters from the other Members. We have to fair because I think this is the fourth mistake you are making as the Chair of the Committee and I do not want us to escalate this to... This is a Committee of records.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): I will read the letter. I will read the one we have because I do not know which one you are reading. Please allow us to read what we have in the file, for record purposes.

Hon. Adan Keynan (Eldas, JP): Ok read.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): The letter dated 25th February 2019 from Hon. (Dr.) Adan Keynan in regards to character defamation, character assassination and reputation damage reads as follows:

The above matter refers.

I wish to register my displeasure and utmost discomfort against the leakage of the purported letter from the Director of Criminal Investigation (DCI) dated 21st February 2019 under reference CID/CEC/COLCA/4/4/Vol1A/44 which was addressed to the Clerk of the National Assembly and subsequently released to the media in a parliamentary memo indicating origin from the Clerk's office with disregard to my status as a senior member of the House, my image in the eyes of the electorate I represent and the nation at large.

Sir, the damaging story is a well-coordinated and sustained scheme by my political detractors to tarnish my good name and reputation which I have built in the last 30 years within and without Parliament. It is malicious of someone to publish or cause the publication of my name in the media or an issue I know nothing about without due consideration to the level of psychological and mental disturbance it could cause, which directly interferes with the performance of my duties as a Member of Parliament in the House, my constituency and the nation at large.

As a ranking member of the House, expect the contents of the said letter to be brought to my attention in order for me to give a response regarding the same. As such, I am asking:

- (a) Which office in Parliament received the letter first?
- (b) Why the said letter was not brought to my attention if at all someone did not intend ill will.
- (c) Who in Parliament leaked the letter to the media?
- (d) What action is the Commission/Parliament taking against the staff or staffs and member or members involved in this libellous and scandalous issue?

(e) How secure are parliamentarians and members of staff if such correspondence can be handled casually and released to the media sensationally without protecting the image of the institution of Parliament?

(f) The security of information and lives of Members of Parliament will be endangered if such incidences are allowed to happen and continue hence the need to protect Members from external threat and interference thus as the chairperson of both the Parliamentary Service Commission and the Powers and Privileges Committee of the House, you should investigate this serious matter to its logical conclusion and bring culprits involved to book and constitute the necessary disciplinary action against them. This will deter such occurrences from happening in the future.

This is, therefore, to request your swift action on the issue
The letter is signed by Hon. (Dr.) Keynan.

Hon. Adan Keynan (Eldas, JP): Hon. Chairman, that is clear.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): I agree with you. I think for consistency then we should read the others. The next letter I have is from Hon. Purity Wangui Ngirici, MP under the title "Gross misconduct of parliamentary staff". It says:

Following the publication and airing of my alleged summon by the DCI in the mainstream media on 23rd February 2019, I write explicitly to register my frustrations and discontentment over the staff working in or within your office leaking my confidential information to the public with the sole intention of character assassination and ruining my reputation is grossly against my privacy and violation of parliamentary standing orders in regard staff code of conduct and work ethics.

Therefore, I currently but urgently request you to provide me with details of the individuals behind the circulation of misinformed allegations by end of Wednesday 6th March 2019. Thank you for your cooperation.

The letter is signed by Hon. Purity Wangui Ngirici.

Hon. Chairman: Very well. We will then proceed to read the one from Hon. Rehema Dida Jaldesa, MP.

The letter is titled: *Complaints against Conduct of Parliamentary Staff*. I am perturbed and shocked by the conduct of parliamentary staff in regards to the recent leaking of my alleged summons by the Directorate of Criminal Investigations (DCI) to the media. This goes contrary to the parliamentary staff code of conduct and work ethics. As Members of Parliament, we are protected by the law in regard to our privacy and I feel these alleged summonses were leaked to the media with the sole intent of injuring my reputation and character. I, therefore, request the Clerk of the National Assembly to provide me with the details of the staff who colluded with the media in circulating the fabricated allegations before close of business on 27th February 2019. Your assistance will be highly appreciated. It is signed by Hon. Rehema Jaldesa.

The final one is the one by Hon. Abdikhaim Mohamed Osman titled: Demand Letter. It reads as follows: I am shocked and taken aback by the letter that was purportedly written by the DCI and leaked to the media. This has enabled evil-minded people to persecute me in the media. I demand to know the names of the people who leaked the letter and suspension and prosecution of the same in the next one week. It is copied to several people, including the Speaker.

For the record, Hon. Members, is each letter I have read what you sent to the Speaker?

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Yes, Chair.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Thank you.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Yes it is.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Commissioner?

Hon. Adan Keynan (Eldas, JP): Correct Chairman.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Mheshimiwa Osman?

Hon. Mohamed Abdikhaim (Fafi, KANU): Yes, Chairman.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Thank you. Now we have seen more light. What then comes across is that pursuant to what you wrote, investigations commenced and identified a member of staff who had leaked the documents. The member of staff is the one then who mentioned that the documents were requested by Hon. Fatuma Gedi. That record is correct.

Hon. Member: Thank you, Chair. I think that makes more sense now.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): We will then proceed from there. With the benefit of the information that we have read and what I have said, *Mheshimiwa* Fatuma Gedi is ready to proceed. Just one minute.

(The Chairman consulted with the Clerks)

I want to proceed to mention all the documents which were leaked to the press so that we know what got to the press. We should not just label them all as documents. The documents which were leaked are as follows:

- (1) There is a letter from the DCI. I cannot see the date or the reference but it is addressed and referenced as follows: Attendance to DCI headquarters:
 - (a) Hon. Adan Keynan, MP, Eldas;
 - (b) Hon. Abdikhaim Osman Mohamed, MP, Fafi;
 - (c) Hon. Rehema Dida Jaldesa, Women's Representative Isiolo; and,
 - (d) Hon. Purity Wangui Ngirici, Kirinyaga CWR.

That letter is part of the documents which were leaked by the member of staff who says that, that was requested by Hon. Fatuma Gedi.

- (2) The next one was an internal memo from the Clerk of the National Assembly requesting for advice from the Legal Department dated 21st February 2019.

~~Those are the two documents which were leaked. We want to hear evidence from Hon. Fatuma Gedi. Having had the documents, heard the complaints and the connecting factor between the complaints to the institution, the staff and yourself, you may proceed to give evidence.~~

Hon. Didmus Barasa (Kimilili, JP): On a point of order, Hon. Chairman. Before you give an opportunity to Hon. Fatuma, it is paramount that you quote the Section of the Leadership and Integrity Act that she is alleged to have contravened by leaking those documents. Someone may ask what the problem is if they give the documents to the media.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): I already did. Unless you want me to repeat!

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes, I heard it.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): I can say it again. It breaks no bone. It is Section 22 (1) of the Leadership and Integrity Act on misuse of official information which says that a State Officer shall not directly or indirectly use or allow any person under the officer's authority to use any information obtained through or in connection with the office which is not available in the public domain for furthering of any private interests, whether financial or otherwise.

Proceed.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Chairman, the letter I have is titled the alleged misuse of information. I will strictly respond to what is before me. You said that the witness who came before gave evidence and said that I compelled him to give me the letter, if I heard you right.

How did the letter end up in this Parliament? That is question No. 1. It is as a result of the video that had my face that was circulated inside the Chamber and within the fora of Parliament. The four Members of Parliament before me circulated the video. There are ongoing investigations which are being conducted by the Director of Criminal Investigations (DCI). Enough evidence is there. If needed, we will get it. Who circulated that letter before it came to Parliament? There is a serious investigation by the DCI because I reported the matter to him. When I took my complaint, few people were arrested. Some bloggers were arrested. The manufacturers of the video were arrested. They mentioned people. ICT Department, cybercrime unit and the DCI did the investigations. I want to correct what Hon. Keynan said. I am not the one who mentioned the four Members of Parliament. I only complained because the same way they are protecting their integrity, I also have integrity to protect. I am also a mother and woman leader. I do not deserve the kind of embarrassment on that video that was circulated in the Chamber. One of the Members sent me the video and he is seated here. I was out of the country. We have witnesses in Parliament whom we can bring here.

Hon. Adan Keynan (Eldas, JP): Point of order, Hon. Temporary Deputy Chairman.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): The Member is giving a foundation. We shall finally come to the misuse of information.

Hon. Adan Keynan (Eldas, JP): Remember that there is something called relevance in our Standing Orders.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Irrelevance. I know. She is giving the foundation. Hon. Member, do not dwell so much on that. We understand. After giving that foundation, then come to the misuse of the information.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): On the issue of the video...

Hon. (Ms.) Rehema Jaldesa (Isiolo (CWR), JP): Hon. Temporary Deputy Chairman, I also want to raise a point of order but not on what she is explaining. I want clarity. She said that she did not complain about us.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Hon. Members, let us listen to her.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Hon. Temporary Deputy Chairman, I want that position to be confirmed by Hon. Fatuma.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I cannot respond to that, Hon. Temporary Deputy Chairman.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Please do not respond. Proceed to finish and then we shall interrogate you.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Temporary Deputy Chairman, the video that was widely circulated originated from Parliament. It happened inside the Chamber. I was out of the country. My duty was to follow the issue, clear my name and get to the bottom of this matter. I complained to the DCI. He came to a conclusion and gave out names of many people, including the four Members of Parliament who are here. I had an interest in it because my name was being tarnished. I had to follow the DCI on the matter. When I went to him and asked him how far he had reached, people were arrested. Some are from the county governments. Some are close allies and relatives of a Member of Parliament. I am the complainant here. I wanted my name to be cleared. It cost me a lot. So, I followed that matter to the DCI. That is when he told me that he wrote to the Clerk for Members to be summoned. The people who are not Members of Parliament were arrested and others were taken to court. Whatever information that you require, there are investigations. All the evidence that you need is with the DCI.

There is also the issue of the letter. I had an interest and I wanted to clear my name. I wanted to know how far these investigations had reached. I went to the Clerk's Office and the Serjeant-at-Arms Office to inquire whether there was a letter that was delivered there for Members to be summoned. I wanted to get to the bottom of this matter. I did not tell the Serjeant-at-Arms anything about the letter. I asked him whether he received any communication from the DCI but he said that he did not. I went to the Clerk's Office and met two secretaries there. I did not tell them anything because I wanted to see the Clerk. But he was not in the office. When I was coming from the Clerk's Office, I met a gentleman. I told him that I was looking for the Clerk. That issue was a burden and unfortunate. He asked me what I was looking for. I told him that I

was looking for a letter. I asked him whether it was delivered at the Clerk's Office. He told me that he had not seen it. I left. That was three days before he showed me the letter.

~~He called me in the afternoon while I was seated in the lounge. He asked me whether I was looking for something three days ago. I told him that I was. He told me that he had seen the letter. That letter stayed there. The Members of Parliament were summoned by the DCI. That matter was huge and critical. At that point in time, clashes could have happened in my county. Communities could fight because of this issue. As a leader, I told my people to wait for the ongoing investigation. The young man brought the letter to me. It had witnesses who are seated next to me. He showed me the letter but he did not give it to me. He asked me whether that was what I was looking for and I told him it was. Because I had an interest, I told him to give me a copy. He told me that he could not do that and left. After a day, he came and told me that he had given the letter to my driver. *Nikamwambia asipatie* driver *alete niione*. When I was just seated there, he brought the letter. I had no intention of giving it to the media. *Nikaisoma*. I was with very many Members of Parliament. *Tukaisoma*. I left it there. I misplaced that letter. From there, I do not know what happened. I left it there.~~

I do not know who leaked the letter to the media. I did not do it. Maybe, people who had an interest on it took it and gave it to the media. From there, I just left everything on that table. My integrity, name and character are more than what we are discussing here. I have enough evidence from the DCI. There are ongoing investigations. If you take me to that route, I will provide the evidence that I have.

It was a humiliation and embarrassment because people manufactured a fake video and put my face on it. We even have evidence of what happened: money was collected, the people who were used, the telephone conversations and the messages that were sent. I have all that and I will provide it.

Thank you, Hon. Chairman.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Hon. Members, we have had the first evidence from a member of staff. The minutes you have will apprise you properly so that you are able to interrogate the matter.

You mentioned about a member of staff. Is this member of staff known to you? What is the name of the member of staff?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): He is called Hassan Noor. I know him as Noor. He comes from my county.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): On which date and time did you meet him?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I met him on several occasions.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Is there a specific one when you got the document?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I think it was on 16th. I cannot remember the day. It was on a weekday. I can check my calendar to confirm the date.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Please check as we proceed. We will proceed in this manner. For the friends of the Committee who have just joined us, we will give the Committee Members the first preference to ask questions, and then I will allow you to proceed after that. Members of the Committee, it is your chance. Let us have Hon. Arbelle.

Hon. Marselino Arbelle (Laisamis, JP): Hon. Fatuma Gedi, we have heard your submission. When the Members who appeared before the Committee as witnesses gave their submission, they said that they have actually written to the Speaker about their frustration on being summoned to appear before the Directorate of Criminal Investigations (DCI). I do not know whether you used the same path by writing to the Hon. Speaker addressing your frustration on how the video was being played out. Have you written to the Speaker?

Secondly, we are not seated here because of the porn video because the Speaker did not put this to this Committee. We are here in regard to the letter or the misuse of letters or confidential matters within the precincts of Parliament that were passed on to a third party without following due process. That is where the problem is. Did you take the precautions or did you understand the veracity of this matter if such information were to be released to the public? Thank you.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Hon. Members, please, let us constrain ourselves to matters to do with misuse of information. So, we should not go to the video. That is outside the mandate of the Committee and is being handled outside.

Hon. Marselino Arbelle (Laisamis, JP): Had she written a letter regarding the video?

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Let us constrain ourselves to the matter of misuse of information.

Hon. Didmus Barasa (Kimilili, JP): Let her answer my short question.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Okay. Proceed to answer it.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Chairman, let it be on record that I have not leaked the letter. But, as I said at the beginning, I had interest in this matter because my name was at stake. On whether I wrote a letter to the DCI, yes, I did and arrests were done. The DCI's investigations have come to a conclusion and the letter the Clerk received from the DCI is as a result of the investigations they did. So, I wrote to the DCI.

You also asked whether I knew about the consequences of leaking the letter. I have not leaked any letter. But at that moment, I had frustrations. I was frustrated and I wanted justice.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): There is some important information we need from the Hon. Member, because I am reminded that you mentioned that there were

other MPs who were present when you received the documents, can you tell us who the MPs are?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Chairman, I will not say their names here. Maybe, I can say it in the Committee.

Hon. Didmus Barasa (Kimilili, JP): Hon. Chairman, this is a Committee of Parliament. When we ask a question, the Hon. Fatuma Gedi should answer it the way it has been asked because there is a reason we are interrogating this matter. We are not here casually. The answer must be provided.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Let me put it this way. In giving evidence, you mentioned that there are some people who were present when you received the documents. It is only fair you tell the people who were present when you received the documents. This is the Committee and those sitting here as friends of the Committee are not giving evidence. So, we are actually in the Committee.

Let me remind you that you are on Oath and you swore to tell us the truth.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Chairman, I was with Hon. Kolosh and Hon. Abdisalam.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Hon. Didmus Barasa.

Hon. Didmus Barasa (Kimilili, JP): Hon. Chairman, I have very short questions and I would like to get short answer of either yes or no.

Hon. Fatuma, can you confirm that you are the person who reported the four Hon. Members to the DCI to be investigated?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Chairman, I complained about the video.

Hon. Didmus Barasa (Kimilili, JP): I just want a yes/no answer? Are you the one who reported the matter to the DCI and the DCI went ahead to summon them? Are you the one who reported the matter to the DCI?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): You have heard me right. I said that the investigations of the DCI led to their summoning. So, it is the DCI who did the investigations.

Hon. Didmus Barasa (Kimilili, JP): Hon. Chairman, my question is this: Is she the one who reported the matter to the DCI? Let her provide a yes or no answer.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Of course, I am the one who reported the matter.

Hon. Didmus Barasa (Kimilili, JP): Thank you. In your evidence, you have said that when you asked the member of staff about the letter, the staff refused but you insisted. How many times did you insist?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I did not say that the member of staff refused and I did not say that I insisted. I asked the member of staff whether there was a letter from the DCI and he told me that he has not seen it. After two days, he came and showed me the letter. That is what I said.

Hon. Didmus Barasa (Kimilili, JP): Hon. Chairman, the Hon. Member is on HANSARD. I heard her very well. She said that she insisted. So, I want to know how many times she insisted.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Chairman, I do not remember saying that I insisted.

Hon. Didmus Barasa (Kimilili, JP): Thank you. I have put it to you that insisting meaning persisting. It means the member of staff was not willing to give you the document.

Let me put it to you that I have information that the letter purported to have come from the DCI never came from that office.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): There is one issue which is also coming out. Then, I will give chance to the other Members. Indeed, you are a Vice Chair of a Committee. Is that correct? Are you a Vice Chair of a Committee? Which Committee is that?

Hon. (Ms.) Fatuma Gedi (Wajir (CWR) PDR): Yes, I am a Vice Chair of the Committee on Delegated Legislation.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): All right. Is it the case that you use that position to threaten the officer, being who you are, and that you would deal with him if you are not given those documents? Could that be the case?

Hon. (Ms.) Fatuma Gedi (Wajir (CWR) PDR): It is not the case. That Clerk is not with us in the Committee.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): He comes from your county.

Hon. (Ms.) Fatuma Gedi (Wajir (CWR) PDR): Yes, he comes from my county.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): That is a very important Committee, just like the others are, yet you are telling us you cannot remember the days and times you were getting all these documents and when you are interacting with the member of staff? Is that likely to be the case?

Hon. (Ms.) Fatuma Gedi (Wajir (CWR) PDR): I said I want to check and confirm. I want to give you accurate dates and time.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): All right. *Mheshimiwa* Kiai.

Hon. Anthony Kiai (Mukurweini, JP): Thank you.

I just wanted *Mheshimiwa* to confirm some few things. Please, for clarity purposes, tell us what time you met Noor.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I think it was around between 2:30 p.m. to 3:00 p.m.

Hon. Anthony Kiai (Mukurweini, JP): What day of the week was it?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): It was a weekday. I think it was a Thursday.

Hon. Anthony Kiai (Mukurweini, JP): Please try to remember.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I will check. It was Thursday or Friday, around there. I think it was end or middle of the week.

Hon. Anthony Kiai (Mukurweini, JP): Can we say it was on a Thursday?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I have to check because I can get it.

Hon. Anthony Kiai (Mukurweini, JP): Please check as we move on. Are you confirming that Noor is from your county, he is from Wajir and you are also Wajir?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes.

Hon. Anthony Kiai (Mukurweini, JP): Had you known him before you came to Parliament? Had you dealt with him before?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Of course, yes. He is my voter and, I know him.

Hon. Anthony Kiai (Mukurweini, JP): You know him. Are you related?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No, we are not.

Hon. Anthony Kiai (Mukurweini, JP): Okay. If he came to us and told us that you met him on the corridors of Parliament and, using your position, you intimidated him to give you the documents, would he be telling the truth?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No. He is lying.

Hon. Anthony Kiai (Mukurweini, JP): Is he lying?

Hon. (Ms.) Fatuma Gedi (Wajir (CWR) PDR): Yes.

Hon. Anthony Kiai (Mukurweini, JP): Are you aware of what he does here in Parliament?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Really, I do not know which department he is in but I know he is a Clerk.

Hon. Anthony Kiai (Mukurweini, JP): Okay. But, you do not know what he does?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I know he is a Clerk.

Hon. Anthony Kiai (Mukurweini, JP): But, obviously, he respects you because you are the county MP and he comes from your county. Is that not it?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I have known him before he became a Member of Parliament.

Hon. Anthony Kiai (Mukurweini, JP): Is it true that you are the one who demanded, by menace, to get the letter?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): That is not true, it is lying. The last one we give the other members...

Hon. Anthony Kiai (Mukurweini, JP): That is not true. Did you threaten to have him sacked when he declined? That is what he said.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No. I cannot sack him; I am not the employer. What I did is that I came to the Office of the Clerk. I was looking for the Clerk. So, I met him at the corridor, yes. Then, he told me "what are you looking for?" I told him I was coming to see the Clerk, he is not here. I was following a letter from the Director of Criminal Investigations (DCI).

Hon. Anthony Kiai (Mukurweini, JP): So, you met got him at the corridor, not the Lounge.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No, the first time. Remember I said two things. The day he brought the letter to me is different from the day I met him at the Clerk's. So, then, maybe he received the letter. Now, the time he called me he told me "I have the letter you are looking for". I told him "yeah, okay." He actually met me. I was seated inside the Lounge at that time, with two other MPs.

Hon. Anthony Kiai (Mukurweini, JP): Let us get it clear. You met him at the corridor the first time and the second time it was in the Lounge, he came to the Lounge.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): He came to the Lounge; he called me. He told me "I have the letter you are looking for".

Hon. Anthony Kiai (Mukurweini, JP): It is the second time that he gave you the letter.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yeah, yes. It is actually the second time when he gave me the letter. It was when I was seated with MPs.

Hon. Anthony Kiai (Mukurweini, JP): Had he already made copies?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Here I do not whether he made the copies. He just brought a letter to me. I do not know whether it was a copy or....

I do not know whether it was a copy or....

Hon. Anthony Kiai (Mukurweini, JP): What you received was a copy. Right?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Of course, it was not the original.

Hon. Anthony Kiai (Mukurweini, JP): What you received was a copy.

Finally, I want to believe that you knew what he was doing was not right when he was doing all ~~this; giving you information that was not supposed to be given to you. Is that it? Let me put it as~~
a question, the other way round: Was the letter addressed to you?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No.

Hon. Anthony Kiai (Mukurweini, JP): Was it supposed to be delivered to you?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No.

Hon. Anthony Kiai (Mukurweini, JP): It was supposed to be delivered to a different person.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yeah.

Hon. Anthony Kiai (Mukurweini, JP): But, he gave you a copy along the way.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes.

Hon. Anthony Kiai (Mukurweini, JP): Did you, by any chance, go to the Clerk of the National Assembly or any other institution to report what that member of staff had done?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No.

Hon. Anthony Kiai (Mukurweini, JP): Did you deem it necessary? Was it right?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Sorry.

Hon. Anthony Kiai (Mukurweini, JP): Was it right for him to do that and for you to receive official communication that was not directed to you?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Okay. I did not know the implication of that. I did not know whether it was right for him to give it. For me, that time, I had an interest the way I have said. The letter was majorly concerning me.

Hon. Anthony Kiai (Mukurweini, JP): Is it your testimony that, after reading the letter, you left it just like that?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes.

Hon. Anthony Kiai (Mukurweini, JP): So, you do not know who handed it to the press?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I do not know who took the letter. When I saw it, I think I even forgot. I just left it. I had a lot of things to do and a lot of patients??? For me to handle.

Hon. Anthony Kiai (Mukurweini, JP): Thank you.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Very well. Let us have the last two and then we give chance to the other Members who are waiting. We have Hon. Didmus and Arbelle. Both of you will ask then she will answer then we can go to other Members.

Hon. Didmus Barasa (Kimilili, JP): Thank you.

Hon. Member, are you aware of who is like the CEO of the National Assembly or the senior most person in terms of operations of the National Assembly?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes.

Hon. Didmus Barasa (Kimilili, JP): Who is he?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): The Clerk

Hon. Didmus Barasa (Kimilili, JP): The Clerk of the National Assembly. At the time you were looking at/for that document, being a Vice Chair of a Committee, did it not click when you were going for the document that the person who should get you the document is the Clerk of the National Assembly?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I was coming to the Clerk of the National Assembly and I did not find him in the office.

Hon. Didmus Barasa (Kimilili, JP): Thank you. The second question is this: You have said it was two times you met Noor. The first time.... When that letter to summon three honourable Members of Parliament was written, the four MPs, you were there. Basically, the procedure when you go to any police station or the office of the DCI is that you record a statement, they begin investigations then you go. So, at what point were you witnessing the said letter being written, signed and dispatched?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chairman, this incident happened in 14th of December. The time the Clerk received the letter, I thin, it is February.

Hon. Didmus Barasa (Kimilili, JP): My question is....

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I am answering your question. Relax.

Hon. Didmus Barasa (Kimilili, JP): I just need short questions??? Did they ask you to accompany them when they were writing or you insisted to follow them?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I did not accompany them and I have not insisted. But, the Member... This incident happened in December and the letter arrives in February. How many months are those in between? It is three months without any action.

Hon. Didmus Barasa (Kimilili, JP): My second question: During your opening remarks you expressed the frustrations that you went through by that video being circulated. You indicated that the four MPs were the ones circulating the video. We live in an era where people just share videos every time they hear them coming. Do you know of a section of the law that prohibits anybody from circulating an information on social media around?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chair, this House, the National Assembly, has 359 MPs.

Hon. Didmus Barasa (Kimilili, JP): The officer who did that letter is on discipline somewhere. I want you to know that. I have no other question.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chair, can I respond to that?

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Do you want to respond to that? You ~~might not know because nobody knows where the letter came from.~~

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chair, I challenge the Members of this Committee that the letter came from the DCI.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): So you are aware that the letter came from the DCI?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes, and when he was giving instructions for Members to be summoned, I was in the meeting.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Did the DCI give you a copy of the same letter?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No, I do not have a copy.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): At that point, did you receive a copy from the DCI?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chair, they cannot give me a copy. The copies came to the Clerk.

Hon. Didmus Barasa (Kimilili, JP): You need to clarify. The person who signed that letter signed on behalf of the DCI, George Kinoti, but the information I have is that George Kinoti never authorised that letter to be signed and the junior officer who signed that letter is undergoing disciplinary action somewhere.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Then, we need to bring evidence. I have the evidence to that.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Probably, you would not know. He is only putting a matter on the table which can be verified otherwise.

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): Hon. Chairman, further on that... It is on the same matter.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): I had given the chance to Hon. Kemosi. Let me start with Hon. Kemosi.

Hon. Vincent Kemosi (West Mugirango, FORD-K): Thank you, Hon. Chairman. Hon. Fatuma Gedi, you have spoken of the staff, who brought you the letter. Where particularly did you think the letter was delivered to?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Chairman, I have a point of order. I do not want the media on these proceedings. That is what you ruled.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): This is an open sitting. The media has been here. I mentioned that behind there are members of the Fourth Estate. It has been approved and it is open to the public and the media, please.

Hon. Vincent Kemosi (West Mugirango, FORD-K): The Hon. Member has indicated to this Committee that the member of staff brought the letter to her. Where did the member of staff deliver the letter to? Where were you?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Inside the Members' Lounge.

Hon. Vincent Kemosi (West Mugirango, FORD-K): Which lounge? Where we take tea or lunch?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Where we normally sit and relax. The one next to the Chambers.

Hon. Vincent Kemosi (West Mugirango, FORD-K): Can you remember the date and time?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): It was afternoon around 2.30 p.m. to 3 p.m.

Hon. Vincent Kemosi (West Mugirango, FORD-K): Were you alone or with other Members?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): With the other two Members that I mentioned.

Hon. Vincent Kemosi (West Mugirango, FORD-K): Thank you. Let me follow up on what Barasa has indicated and that is what I have written down. You said you insisted to get a copy. That is your evidence and HANSARD has it. How many times did you insist to get a copy from this particular member of staff?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I said I do not remember since I insisted on getting a letter from the clerk.

Hon. Vincent Kemosi (West Mugirango, FORD-K): Remember you are on oath, and therefore, you must be responsible for the evidence you are giving.

Thank you, Chairman.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Hon. Gladwell.

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): Thank you, Hon. Chairman. I wanted to follow up on the question Hon. Didmus asked on the exact person who wrote the letter. By saying that the DCI wrote a letter to the Clerk summoning the Members to go and write some statements on some issues, it only insinuates that the DCI is not aware of the privileges that Members of Parliament enjoy because there is no way a letter can come externally to Parliament summoning Members through the Clerk. It is questionable. According to facts that you found - if they were to be facts - some two hours after the letter reached you, the said letter was in the media. It only seems so unless otherwise stated that immediately you people received that letter, you read and delivered it to the media. Is it true or not?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): May I ask what time that was and when because when you say immediately, I do not know what immediately means.

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): It is you to tell us because we asked you some questions. You know the time and the date because it is you people who received it and two hours later from the time you received, it was all over.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I want to take you back to what I said. I said I did not leak the letter to the media. So when you ask me that question, I am not in a position to answer you. I said that I saw the letter and left it there. So, I do not know what happened after I left.

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): Hon. Chairman, following on the same, I respect you, Hon. Gedi, you know that, but I am not persuaded by your information saying that you read a letter and just left it there yet it is something that you are asking for with some concern because of the infringement of your rights. How would you just read the letter and just leave it there as if it was just a love note or something not affecting you? How can you say that you just read and left it there without knowing where it went? It is somehow questionable.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Chairman, I wanted to confirm. Actually, I had no interest in the media at that time. Mine was to confirm whether a letter reached the four members of Parliament who were involved in the porn video. I was so much interested with the Members being summoned. That is why I was following the letter.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Well, I heard you say that the matter had injured your reputation so much that you were not at ease. That is why you were looking for this document and then all of a sudden, when you get the document, it does not matter. You leave it somewhere lying and in two hours' time, it is on the social media and everywhere. Could that be the passion that you had to follow up the issues that were affecting you?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): The passion was to get justice. The only way I could get justice is the four Members who have been mentioned to appear and record a statement at the DCI and be taken to court. I was seeking justice. I wanted to clear my name on that. My conscience was not clear until I saw the letter. I thought the investigation by the DCI was just like the normal ones. That eased my pain, at least, there was justice and the DCI was doing something.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): At that point, you got satisfied and you did not want to pursue the matter again, so you left the letter lying somewhere?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I got satisfied because when I was at the DCI, the officers were called to write a summon letter. Sorry I was at the DCI a week before I saw the letter and I have been going there every day to know progress of the investigations. To me, it was more about getting justice and clearing my name than anything else.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): There is one issue which is also coming out. Then, I will give chance to the other Members. Indeed, you are a Vice Chair of a Committee. Is that correct? Are you a Vice Chair of a Committee? Which Committee is that?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes, I am a Vice Chair of the Committee on Delegated Legislation.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): All right. Is it the case that you use that position to threaten the officer, being who you are, and that you would deal with him if you are not given those documents? Could that be the case?

Hon. (Ms.) Fatuma Gedi (Wajir (CWR) PDR): It is not the case. That Clerk is not with us in the Committee.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): He comes from your county.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes, he comes from my county.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): That is a very important Committee, just like the others are, yet you are telling us you cannot remember the days and times you were getting all these documents and when you are interacting with the member of staff? Is that likely to be the case?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I said I want to check and confirm. I want to give you accurate dates and time.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): All right. *Mheshimiwa* Kiai.

Hon. Anthony Kiai (Mukurweini, JP): Thank you.

I just wanted *Mheshimiwa* to confirm some few things. Please, for clarity purposes, tell us what time you met Noor.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I think it was around between 2:30 p.m. to 3:00 p.m.

Hon. Anthony Kiai (Mukurweini, JP): What day of the week was it?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): It was a weekday. I think it was a Thursday.

Hon. Anthony Kiai (Mukurweini, JP): Please try to remember.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I will check. It was Thursday or Friday, around there. I think it was end or middle of the week.

Hon. Anthony Kiai (Mukurweini, JP): Can we say it was on a Thursday?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I have to check because I can get it.

Hon. Anthony Kiai (Mukurweini, JP): Please check as we move on. Are you confirming that Noor is from your county, he is from Wajir and you are also Wajir?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes.

Hon. Anthony Kiai (Mukurweini, JP): Had you known him before you came to Parliament? Had you dealt with him before?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Of course, yes. He is my voter and, I know him.

Hon. Anthony Kiai (Mukurweini, JP): You know him. Are you related?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No, we are not.

Hon. Anthony Kiai (Mukurweini, JP): Okay. If he came to us and told us that you met him on the corridors of Parliament and, using your position, you intimidated him to give you the documents, would he be telling the truth?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No. He is lying.

Hon. Anthony Kiai (Mukurweini, JP): Is he lying?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes.

Hon. Anthony Kiai (Mukurweini, JP): Are you aware of what he does here in Parliament?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Really, I do not know which department he is in but, I know he is a Clerk.

Hon. Anthony Kiai (Mukurweini, JP): Okay. But, you do not know what he does?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I know he is a Clerk.

Hon. Anthony Kiai (Mukurweini, JP): But, obviously, he respects you because you are the county MP and he comes from your county. Is that not it?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I have known him before he became a member of Parliament.

Hon. Anthony Kiai (Mukurweini, JP): Is it true that you are the one who demanded, by menace, to get the letter?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): That is not true, it is lying. The last one we give the other members...

Hon. Anthony Kiai (Mukurweini, JP): That is not true. Did you threaten to have him sacked when he declined? That is what he said.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No. I cannot sack him; I am not the employer. What I did is that I came to the Office of the Clerk. I was looking for the Clerk. So, I met him at the corridor, yes. Then, he told me "what are you looking for?" I told him I was coming to see the Clerk, he is not here. I was following a letter from the Director of Criminal Investigations (DCI).

Hon. Anthony Kiai (Mukurweini, JP): So, you met got him at the corridor, not the Lounge.

Hon. (Ms.) Fatuma Gedi (Wajir (CWR) PDR): No, the first time. Remember I said two things. The day he brought the letter to me is different from the day I met him at the Clerk's. So, then, maybe he received the letter. Now, the time he called me he told me "I have the letter you are looking for". I told him "yeah, okay." He actually met me. I was seated inside the Lounge at that time, with two other MPs.

Hon. Anthony Kiai (Mukurweini, JP): Let us get it clear. You met him at the corridor the first time and the second time it was in the Lounge, he came to the Lounge.

Hon. (Ms.) Fatuma Gedi (Wajir (CWR) PDR): He came to the Lounge; he called me. He told me "I have the letter you are looking for".

Hon. Anthony Kiai (Mukurweini, JP): It is the second time that he gave you the letter.

Hon. (Ms.) Fatuma Gedi (Wajir (CWR) PDR): Yeah, yes. It is actually the second time when he gave me the letter. It was when I was seated with MPs.

Hon. Anthony Kiai (Mukurweini, JP): Had he already made copies?

Hon. (Ms.) Fatuma Gedi (Wajir (CWR) PDR): Here I do not whether he made the copies. He just brought a letter to me. I do not know whether it was a copy or....

Hon. Anthony Kiai (Mukurweini, JP): What you received was a copy, right?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Of course, it was not the original.

Hon. Anthony Kiai (Mukurweini, JP): What you received was a copy.

Finally, I want to believe that you knew what he was doing was not right when he was doing all this; giving you information that was not supposed to be given to you. Is that it? Let me put it as a question, the other way round: Was the letter addressed to you?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No.

Hon. Anthony Kiai (Mukurweini, JP): Was it supposed to be delivered to you?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No.

Hon. Anthony Kiai (Mukurweini, JP): It was supposed to be delivered to a different person.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yeah.

Hon. Anthony Kiai (Mukurweini, JP): But, he gave you a copy along the way.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes.

Hon. Anthony Kiai (Mukurweini, JP): Did you, by any chance, go to the Clerk of the National Assembly or any other institution to report what that member of staff had done?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No.

Hon. Anthony Kiai (Mukurweini, JP): Did you deem it necessary? Was it right?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Sorry.

Hon. Anthony Kiai (Mukurweini, JP): Was it right for him to do that and for you to receive official communication that was not directed to you?

Hon. (Ms.) Fatuma Gedi (Wajir (CWR) PDR): Okay. I did not know the implication of that. I did not know whether it was right for him to give it. For me, that time, I had an interest the way I have said. The letter was majorly concerning me.

Hon. Anthony Kiai (Mukurweini, JP): Is it your testimony that, after reading the letter, you left it just like that?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes.

Hon. Anthony Kiai (Mukurweini, JP): So, you do not know who handed it to the press?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I do not know who took the letter. When I saw it, I think I even forgot. I just left it. I had a lot of things to do and a lot of patients??? for me to handle.

Hon. Anthony Kiai (Mukurweini, JP): Thank you.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Very well. Let us have the last two and then we give chance to the other Members who are waiting. We have Hon. Didmus and Arbelle. Both of you will ask then she will answer then we can go to other Members.

Hon. Didmus Barasa (Kimilili, JP): Thank you.

Hon. Member, are you aware of who is like the CEO of the National Assembly or the senior most person in terms of operations of the National Assembly?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes.

Hon. Didmus Barasa (Kimilili, JP): Who is he?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): The Clerk

Hon. Didmus Barasa (Kimilili, JP): The Clerk of the National Assembly. At the time you were looking at/for that document, being a Vice Chair of a Committee, did it not click when you were going for the document that the person who should get you the document is the Clerk of the National Assembly?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I was coming to the Clerk of the National Assembly and I did not find him in the office.

Hon. Didmus Barasa (Kimilili, JP): Thank you. The second question is this: You have said it was two times you met Noor. The first time... When that letter to summon three honourable Members of Parliament was written, the four MPs, you were there. Basically, the procedure when you go to any police station or the office of the DCI is that you record a statement, they begin investigations then you go. So, at what point were you witnessing the said letter being written, signed and dispatched?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chairman, this incident happened in 14th of December. The time the Clerk received the letter, I think, it is in February.

Hon. Didmus Barasa (Kimilili, JP): My question is...

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I am answering your question. Relax.

Hon. Didmus Barasa (Kimilili, JP): I just need short questions??? Did they ask you to accompany them when they were writing or you insisted to follow them?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I did not accompany them and I have not insisted. But, the Member... This incident happened in December and the letter arrives in February. How many months are those in between? It is three months without any action.

Hon. Didmus Barasa (Kimilili, JP): My second question: During your opening remarks you expressed the frustrations that you went through by that video being circulated. You indicated that the four MPs were the ones circulating the video. We live in an era where people just share videos every time they hear them coming. Do you know of a section of the law that prohibits anybody from circulating an information on social media around?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chair, this House, the National Assembly, has 359 MPs.

Hon. Temporary Chairperson, it is not right. Out of the entire Parliament, four Members of Parliament are mentioned. I am not crazy to mention any one. Why would I do that? I do not have anything personal against them. So, the investigations led to the summons.

Hon. Didmus Barasa (Kimilili, JP): My last question is this: From your explanation on how you were frustrated - you indicated that you wanted to clear your name - could be you thought and realised that the only way you can clear your name on the video that was being circulated was to go to the Directorate of Criminal Investigations (DCI), make a report, implicate and mention some people then, ensure that the same DCI writes a letter to summon these people, follow up the same letter in the records of Parliament and ensured it is was leaked to the media so that you are protected from where you are coming from? That, the circulation of the letter was malicious and it was done by these people? Is that how you wanted to clear your name?

You said that once you got the letter from a staff of Parliament, you went through it and from there you knew that the matter was being investigated by the DCI and they had summoned a number Members. What interested you to follow and read the letter yet when it was written you were there? What motivated you to follow this letter and read it?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Temporary Chairperson, First, the DCI is an institution of integrity. It is mandated to deal with matters of crime. Secondly, I have the right to report. That is the only place where I could go. What I did was right. The people who were involved were arrested and arraigned in court. Others are now being used as State witnesses. There is evidence of phone calls and meetings.

I do not want to be subjected into the details of this matter. It is ongoing. I am not crazy to point four Members out of close to 400 Members in this House.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): So, indeed, you are saying you are part of identifying the four Members?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No! I am not. I said I am not. It is the investigations of the DCI that...

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): In your statement, you said: "I am not crazy to point only four Members of Parliament out of..."

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes, because that is what he said. He said; "Are you trying to clear your name that you mentioned the four Members? I am not crazy to do that. Why would I do that? I do not have anything personal against the four Members.

Hon. Didmus Barasa (Kimilili, JP): Hon. Temporary Chairperson, what I said is that the only way she wanted to clear herself is to implicate Members of Parliament, after that, ensure that there is a letter to summon them. She followed the same letter to ensure that the perception that Kenyans will have of the tribulations that Hon. Fatma Gedi was facing with regard to the security video is because of the four Members. That is what she wanted to achieve and clear her name through those kinds of unorthodox means.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Temporary Chairperson, I think the Hon. Member is going overboard...

The Acting Chairperson (Hon. Peter Mwathi (Limuru, JP): Please, just answer the question the best way you can.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I want to challenge him through this Committee to get the facts from the DCI.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): I want to give the other Members an opportunity, unless somebody has something burning. Hon. Marselino, you will be the last one then we can proceed with the other Members.

Hon. Marselino Arbelle (Laisamis, JP): Thank you, Hon. Temporary Chairperson. Hon. Fatuma Gedi, I would like to know what had stopped you from writing to the Speaker if you had any grievances to be addressed. What had stopped you from writing to the Speaker if you had any grievances to address?

Having seen that confidential letter that was released to the media, I want to remind you that the four Members took a bold step to write to the Speaker and that is the basis of our being here. So, what I would like to know is whether you had a legal advice advising you not to write to the Speaker instead of taking up your case with the DCI.

Thank you.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Temporary Chairperson, that matter was serious. As I said, the video originated from Parliament. Again, it was after the arrest. The people who were arrested for posting the video were bloggers. I am glad they were arrested. I do not want to go into details. You can get the details from the DCI. It gave us leads to many places. I

said that people were arrested from the county. So, for me, it was as a result of the arrest that were made and people arraigned in court. This matter was serious, my reputation was at stake that I could not write a letter to the Speaker. I actually wanted this matter to go beyond Parliament.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Very well, we will then give a chance to the Members who are sitting with us and their names are on the DCI's letter.

For avoidance of doubt, Hon. Fatma Gedi, confirm that, indeed, you received the documents from a member of staff called Nur and thereafter Nur left you with the documents wherever you were.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes, Hon. Temporary Chairperson.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Also, in your submission, you left the documents where you were seated in a public place that many people could access.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): At that point, Hon. Temporary Chairperson, the Members lounge was empty. We were just the three of us. I do not consider that lounge to be public. It is private because a few Members go there. We were on recess and there were no Members. But I left it there.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Which lounge is this that is private for Members only?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): It is the one next to the reception.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Is it the one next to the Chamber?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Sorry. Yes, it is the one next to the Chamber.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): So, it is only Members who get there or there are other members of staff?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No! It is only the Members and certain clerks.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): So, there are other members other than Members of Parliament who access the place?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): For that lounge, I do not know. I think it is only Members of Parliament and some staff - clerks and Serjeant-at-Arms.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Very well. Thank you. I will then give a chance to the Members mentioned in the DCI's letter. Please, mention your name before you ask a question for record purposes, so that we are able to corroborate our evidence.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you Chair and Members for giving me this opportunity. For record purposes, my name is Rehema Jaldesa. I am Member of Parliament for Isiolo County. I am also one of the people who were mentioned, and just for the record, one of the Members who wrote to the Clerk.

Chair, you will allow me to ask a couple of questions because I have another function and I would like to leave with your permission. And because we are people of interest in this case, I will seek the indulgence of the Committee as I ask my questions.

Question No. 1 to Hon. Fatuma Gedi is: Could she confirm to this Committee whether this is the first time she is appearing before the Powers and Privileges Committee? It is because I know she is not a member of this Committee.

My second question, unless the Member wants to answer my first question then I proceed...

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): No! Put all the questions across and she will respond to them.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you so much. My second question regards what the Member has submitted that she received the letter from one member of staff by the name Hassan Noor and that she was at the Members-only Lounge. Therefore, I would like a clarification as to how a person who is not a Member of Parliament could have access to that lounge.

What is the logic behind *Mheshimiwa* Fatuma Gedi so aggressively following up the letter from the DCI and yet when she got the letter from the DCI she left it where she was seated and from her own admission she really desperately wanted to clear her name and that is why she was following up on the letter? If I did not hear her wrong, she has been following up on the letter all the way from the DCI, the Clerk's office, to the Clerk Assistant until she got the letter. What was the logic for her to follow up on that letter and leave it there?

Thirdly, Fatuma mentioned that a couple of people were arrested. With me, I have communication from the media and from the DCI that indeed quite a number of people were arrested and one of them is a blogger by the name Douglas Mbaya who was arrested and purportedly charged under Section 84D which criminalises circulation and publication of obscene information. I want her to confirm or deny that particular bit because the letter I have confirms that the same person was released by the DCI for lack of evidence.

I also want her to confirm that four employees from Wajir County and two casual labourers were arrested, again, based on her allegation and that the same were asked to record statements and the same were released for lack of evidence.

With regard to my fourth question, *Mheshimiwa* Gedi repeatedly mentioned that she did not mention the four of us, specifically me because now I am the one talking. She has not reported our names to the DCI. I want her to confirm two things. Can she provide her statement to the DCI and to this Committee? Could she also confirm to us the first time the purported video was circulated? She said she has information about when I, Rehema Dida Jaldesa, received that video.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Except that we are dealing with the issue of misuse of information. We are going to leave that one to the DCI. However, what we are now asking is: why is it that we have information here, like Dr. Keynan said, regarding Members then the same information is thrown out to the media and the public without due process being followed?

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you. I stand guided, Chair. However, it is important because the whole letter emanates from the allegations. If I did not hear wrong, she said she is willing to provide information. So, I was just requesting, if you would be kind enough. But I stand guided.

I hope Hon. Fatuma Gedi is taking note of my questions because I will want her to answer them. Is she aware that the DCI communicated to the Republic of Kenya – it was breaking news which I have on my phone and I am willing to share with the Committee - denying summoning the four of us?

Lastly, I want to put it to Fatuma, through this Committee, that when she said she had no reason to mention the name of any Member here, she was, indeed, lying to this Committee. It is because I have evidence which I will submit to this Committee that when she received the video from the Member who will speak for himself... When she requested the Member to share the video with her, immediately she received it, she wrote back to say that I, Rehema Dida Jaldesa was the one circulating it. I want her to deny or to accept that particular bit.

Chair, I want to stop there though I had about another 10 more questions.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Alright, except for that one of circulating the video, we now seem to be veering off the main issue. We want to restrain ourselves to the matter in question, and in terms of relevance, the matters we are interrogating now. That last one is still with the DCI.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): No, Chair. This one is not with the DCI because it is the same thing she mentioned in this Committee, that she had no reason to mention either me or any of the four of us. I want to put it to her that she had ulterior motives in mentioning my name, even before the matter went to the DCI. The Member is here and I would like to share the message with her, please.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): As to whether she mentioned the four of you, she can answer that one. As to the issue of circulation of the video, let it be dealt with by the DCI.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Chair, I agree but I want her to confirm or to disassociate herself with the accusation that she mentioned my name to a Member who is in this House. We have the message and we can share it.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Briefly, please, because I know some of these questions were asked by Members.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Chair, I think with regard to Rehema's questions, I will respond to one because the other ones are irrelevant.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): You will not choose what is irrelevant. Actually, that is out of order because we have allowed those questions to be asked. You cannot decide which one is irrelevant. I have already decided the issue of the video is for another docket, but the others which were asked, the six of them, are relevant.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Which one is relevant now?

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): All of them. You must also have been writing.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I have been writing.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): You have been asked whether you have appeared here before. All those questions, except the one on the video.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chair, she asked whether I appeared before this committee and I must say yes. Secondly, she asked whether the Members Lounge is private or restricted to only Members of Parliament. On record, again, that is a Members Lounge. How the member of staff came to the Lounge, I think the best person to answer that question is him. She talked about the letter I leaked to the media. Again, I am saying I did not leak the letter.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): The question was, did you leave the letter at the Lounge? That is the question and it is very simple.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes, I did.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): On a point of order, Chair. She is not answering the question.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Order! Order! Please, let her finish. If there are any issues that are outstanding, you will still ask. Proceed, Hon. Member.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Thank you, Chair. Hon. Rehema asked about the passion and zeal I had for the case. Once I received the letter, I left it. Why was I following up? I said it before that it was about two things: One, my reputation. For me to clear my name, I had to record a statement with the Directorate of Criminal Investigation (DCI). I did it myself. When I rendered my statement concerning the video, I expected justice. That is what I was following up. For me to look for the letter, it was to confirm whether the people who had been summoned... The DCI told me that I summoned Members of Parliament (MPs). I wanted to know if they were, indeed, summoned. That is basically what I was following up. It was not really necessary for me to go to the media or leak a letter because it would not help. What will it help me with? What was important to me was that through the DCI, the MPs were summoned. Until we go talk to them with evidence that I have...

Thank you, Chair.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): The important part which you left is whether in your statement to the DCI you mentioned names of the four members?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Chair, I have not mentioned the four Members, but witnesses did. That one I cannot disclose. It is up to the DCI to do it.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): So, if we get hold of your statement the names of the four Members are not there?

(Loud consultation)

Hold on so that we proceed with the other Members because there was a sequence of how we were going to do it. Thank you very much. Let us go to the next Member.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Hon. Chairperson, before you go to the other Members, allow me please. I have asked six questions about the people who were arrested and Hon. Fatuma has not responded. There is also the issue of the letter she keeps referring to. Chair, it is important that if she makes an allegation then she should respond to it if we ask questions concerning the same. I put it to her that the DCI put up a publication denying that it summoned anyone. However, she keeps referring to the summons from the DCI. Can she confirm...

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Ok, I have seen it; it was a yes or no question. It was whether you are aware that bloggers were arrested and then released. Are you also aware that the DCI sent 411 to the public? Is it a yes or no?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chair, I am aware brokers were arrested. I am also aware that two of them are State witnesses. I do not know why they were released. Maybe it is because of lack of evidence. The communication she has is from Capital FM. The 411 she has is not from the DCI. I challenge her to table it.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): It is a yes or no whether you saw that communication or not.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No, I do not have any communication from the DCI.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): That is it. We will then proceed to the next Member, Dr. Hon. Keynan. State your name for record purpose.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): No, it is my turn. Mine is very short. My name is Hon. Purity Wangui. I am in this Committee because I was also mentioned. I wrote to the Speaker in accordance with the Standing Orders and rules of this House that we communicate through the Speaker or Clerk.

Hon. Gedi, in her opening remarks, said that her integrity was at stake and she needed to clear herself. The fact is we too have integrity and families to protect. In my observation, the four of us actually have big grown children who are going to the university and others who are even married. Before giving our names to the DCI or even having to go across there, was she aware

that this House has rules, regulations and protocol in case one has a complaint against other Members of Parliament?

Secondly, regarding part 'b' of the same question and the fact that hacking happened in Parliament in December, why was the matter not first dealt with within Parliament? Thirdly, she would be lying to deny the fact that she has scores to settle with each Member that she has mentioned in the said video doing circulation. I think she would be lying to this House because we have facts and information to prove the same that she has issues with each one of us who was mentioned. I also wanted her to confirm to me that when she went to the DCI...

(Hon. (Ms.) Fatuma Gedi interjected)

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Order, please! Let her finish.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): When she went to the DCI and reported, I would wish to know if there was any forensic conducted by the DCI to confirm the authenticity of the video and her being on the video so that they could go ahead and implicate any Members? This is because if information has been circulated through social media, including the WhatsApp - WhatsApp messages are usually encrypted end to end. I would want to know what system was used so that any of our phones would be accessed to prove that any of us had circulated the said video.

I am asking for the authenticity.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): We are veering off because I said the issue of video... In fact, I am fighting with: why get information then give it out? The information has your names. However, the preliminaries which were being dealt with by the DCI and which are still in their docket we leave those ones for heaven's sake.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): According to her submissions here, she already knew the four Members had been summoned. She wanted to confirm that through the letter. She was told by the DCI that the letter had been written. Why did the DCI not provide the letter to her having confirmed to her that we wrote the letter? If I went to an organization which I am asking questions about including whether you sent me a letter concerning my interest, can I have a copy to be sure that you, indeed, sent the letter? I believe the DCI...

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Actually, *Mheshimiwa* asked that question and she said she was not given by the DCI. They were not willing to give her. That was the answer that she gave. It is actually self-explanatory that she asked and was not given an answer. So, she came to look for it here.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Okay. Would Hon. Fatuma, by any chance, be using the Clerk to release the letter to media houses so that she settles scores within Parliament with people she probably thought are unfriendly towards her course? Would she also be ready to confirm that she has appeared before this Committee before? She says that she is not crazy to

mention four names? That means even before, probably, people were not crazy to have mentioned her.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): She said that she did not mention the four names and neither in her statement with the Director of Public Prosecutions (DCI), did she say that. Let us not ask the same questions that have already been asked. I asked her whether she released the letter to the press and she said no and that she left it somewhere in the lounge. We already have answers to some of those questions. Let us remain relevant and only ask questions that have not been asked and those that she has not answered.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Chairman, with your indulgence, I want to ask that we restrict ourselves to the letter because I heard the Hon. Member saying that she has evidence.

Hon. Didmus Barasa (Kimilili, JP): Hon. Chairman, you are the chair of this Committee and Hon. Fatuma Gedi should not direct you on how the Members should ask her questions. You are the one to rule on the admissibility or inadmissibility and not her.

The Acting Chairman, (Hon. Peter Mwathi (Limuru, JP): I did as much. I told her as much. Hon. Fatuma Gedi, please be informed.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chairman, the Member talked about...

The Acting Chairman: (Hon. Peter Mwathi (Limuru, JP): *Mheshimiwa*, I want to assist you. These questions were very simple without even expounding. The first question was whether you think we have integrity. Is it yes or no? We need to save on time. If you answer the questions as they are, you will not even take one minute.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): On the authenticity of the video, I think the report is with the DCI. You can find the report there. I think you have already answered her on the letter.

On the issue of integrity, the same way I have integrity to protect is the same way you do and that does not mean you spoil other people's integrity. There are issues that Hon. Ngirici said she has and I would like her to table evidence. She said that she has evidence.

The Acting Chairman: (Hon. Peter Mwathi (Limuru, JP): Is it with regard to the video? I am veering off the video. Let us have Hon. (Ms.) Ngirici.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Hon. Chairman, she said that she has scores to settle with the four of us. It may not be about the video or the letter but it has to do with what she is holding against us.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): On whether she mentioned your names to the DCI, she answered no.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Chairman, I was writing down as she was talking and she said that there were so many other Members but the four Members that came up...

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Can you answer that question?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Chairman, I did not say that. I want her to table evidence as I do not have any personal issues with them.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Chairman, she has confirmed that she has no scores to settle with the four of us, is that right?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): That is personal. If it is about the video, I have...

(Loud consultations)

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): If there are other scores to settle, she has said that she does not have and if you have evidence on whether she has scores to settle, you can table it because it will inform us when making the decision.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): First and foremost, Hon. Fatuma Gedi, can you confirm that you claimed that I am the one who is removing you from being the Chair of Caucus 47?

Secondly, Fatuma Gedi, can you confirm that when Caucus 47 was scheduled to go to Mombasa and you ended up being only seven people, you told the Committee that it was Ngirici that had stopped people from going there?

Thirdly, Fatuma Gedi, I wish you could confirm to the Committee that having being removed with 35 signatures, you have reported me to the Leader of the Majority Party that I have been pushing for your removal as the Chair of Caucus 47 that you have already been removed from?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chairman, can I respond?

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Yes but strictly as to yes or no.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No one has removed me as the Chairperson of Caucus 47. I want to challenge her to table minutes that removed me. I am still the Chairperson of Caucus 47.

We had 22 Members present in the meeting that happened in Mombasa and not 7 as claimed by Hon. Ngirici. So, that is just her imagination.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): On a point of order, Hon. Chairman.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Hon. Ngirici, just hold. I just allowed that so that we can piece up evidence.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Chair, I want her to confirm whether before the video came out, I had gone to Wajir County with her and spent money to help her do a medical camp?

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): That is the last question. Is it relevant? We are only trying to connect whether there is any vendetta between you.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Chairman, can she confirm whether I have gone to Wajir with her?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): I can confirm that just like any Member of Parliament, Ngirici attended my event.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Can she confirm that before the video leaked, we were not in talking terms? We were not friends at all.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): You have already tried to establish that but I am looking for relevance because the moment she has not...

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Chair, I need to show the relevance on settling scores. I want the Committee to know that I was not in talking terms with Fatuma Gedi before the video came out and so, she will be settling scores with me.

Hon. Didmus Barasa (Kimilili, JP): It is good for the Committee to find out whether we have wrangles in their leadership.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): I agree but not in reference to what we are looking for because we will then degenerate into a different line. I will not allow that to proceed. We have established from the three questions she has answered whether there is a relationship between the two of you and whether it is cordial or sour. We will proceed to hear Hon. Keynan.

Hon. Adan Keynan (Eldas, JP): Thank you, Chairman. This is a very serious Committee being subjected to a very trivial but an important matter. What is being discussed is the security of the Members of Parliament. I am not interested in the video. What is before you is an important issue as to whether you can entrust your personal details and those of members of staff with the institution of Parliament.

On the other issues, the mandated institutions will deal with them. This Committee must deal with this issue so that nobody ever attempts to use backdoor or staff to infringe on the rights of any Member of Parliament or staff. You can imagine how serious it will be if information whether personal, business or medical concerning Members of Parliament and staff will be found in River Road or on the streets. This is a very serious issue.

Chairman, the picture that I get and I regret that we are trying to involve Parliament in a very trivial and totally unnecessary matter but I think it is because of the dimension it has taken, if I was to apply Section 27 of the Powers and Privilege Act as read with the Standing Order 107 and 107(a) and Chairman as also read with 191(a), I would have declared hon. Fatuma Gedi a hostile witness to the extent that everything that she said has no head and tail. She contradicted herself and I now want to guide you on this. She said she was present when allegedly the Director of Criminal Investigations (DCI) gave the order to summon four Members.

I want to confirm that, the order only exists in her mind because just like she connived with a very junior officer that serves her here as an office messenger, she also connived with an office messenger on the other side to purportedly write a letter. Have you ever heard that? I want to tell you that even the veracity of this document, if you can see it, talks of the DCI investigating an

alleged case of criminal defamation. Chairman, please, I want you to get this since you have lawyers here. Have you ever heard anything called criminal defamation? Even the person who purportedly wrote this letter did not understand the law on what really constituted what my sister wanted or otherwise. Criminal defamation does not exist in our statutes and I want my friends, the lawyers here to know. So, the guy who was writing the letter here must have been so naïve and stupid that he did not know what he was tasked to do.

That is why Chairman I want to connect this: The person who could have written this letter certainly cannot be a person in authority in that establishment and certainly nobody would have taken that direction. It must have been very junior officer. It is not related to this matter but it is good I give the background. If really he was a senior officer, he must have not used the words "criminal defamation" since they do not exist in our statutes. We only have civil defamation so there is nothing called criminal defamation. To that extent, this purported letter from DCI is fake, non-existent, it was done at the behest of hon. Fatuma Gedi just to achieve certain political results, that she was about to achieve.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Now, order! You see you have brought a very serious allegation that it was done at the behest of hon. Fatuma Gedi which now amounts to giving evidence rather than asking questions.

Hon. Adan Keynan (Eldas, JP): I am coming to the question. I was answering her response that she was present allegedly when DCI gave instructions. I think it is good to note that I am responding to her question.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Except you have no evidence that she is the one who did the letter or said the letter must be done.

Hon. Adan Keynan (Eldas, JP): I am coming to it Chairman. Relax. Secondly, she gave three contradictory statements on how she sourced the letter. First, she said she was in the lounge and another time she said the messenger sent the letter to her driver and you must have heard that. He refused to give it to her. These three versions coming from the same source within a span of an hour Chairman certainly cannot stand the test of time and it is why I was coming to the conclusion.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): It is for us to find out that. Now having given the background hon. Keynan, please ask the questions?

Hon. Adan Keynan (Eldas, JP): I am now asking the questions. It is good to understand where we are coming from and because you have even allowed her to give the background, this is why I want to invoke this so that this Committee dismisses hon. Fatuma Gedi and declares her as a hostile witness to the Committee and I want to quote the relevant section. This Committee as seated here sits as an extension of the House. Does it? Therefore it is entitled to nothing but the truth and I want to quote the Standing Order 107 that states that: "If a member persistently gives false information to the House, that member opt to be named." The witness before you here has just alluded to this. So, is it relevant to listen or even to respond to it because everything that she has said from the beginning to the end has no head and tail? It is sweeping, floating with no head and tail and that is what I was coming to and Chairman the question I want to ask her is this.

The Acting Chairman: (Hon. Peter Mwathi, JP, Limuru): Except like I have said, it is for the Committee to determine.

Hon. Adan Keynan (Eldas, JP): I was summarising for you so that it is on HANSARD also.

Hon. Didmus Barasa (Kimilili, JP): Hon. Chair, hon. Fatuma Gedi is here as a suspect. She cannot be the one giving directions and raising on a Point of order. We have a substantive Chair of the Committee.

The Acting Chairman: (Hon. Peter Mwathi, JP, Limuru): The point I am making is for the Committee to determine the relevance, whether the witness is hostile and all other provisions of the Standing Order.

Hon. Adan Keynan (Eldas, JP): Agreed Chairman. I was invoking the Powers and Privileges Act Section 27(1) a, b, c, d then 27(2), (3)a-g and then (4) as read with 107(f) and 191(a). This is a House of records hon. Chairman and whatever we do, we must be alive to our own procedures and that is why whether you appear as a witness... That is why in their own wisdom, the framers of the current Constitution gave Parliament the same powers as the High Court as in Article 125 of the Constitution. We have the same powers and jurisdictions as the High Court. Therefore, when a witness appears before the Committee, by extension of the House, we should treat the Committee with the same decorum as the High Court and that is the submission I was making. Because of all these inconsistencies, I am appealing to the Committee to declare hon. Fatuma Gedi as a hostile witness to the extent that everything thing she said is full of contradictions but having said that, let me give her the benefit of doubt and ask her the following questions:

For me I have no business with the issue of the video because it is a personal issue, it is between her and her maker. Only hon. Fatuma Gedi and God knows the veracity, authenticity or otherwise of that particular video but I can tell you as well because of the advanced nature of our forensic institutions that we have, by now somebody somewhere knows its authenticity or otherwise but I will leave it at that and I do not want to delve into anything on that particular because it is irrelevant, nobody can be held accountable on how somebody does his personal or private life. I will live it there and for me I will address the following, and it is in line with the security of Members of Parliament and members staff:

Hon. Chairman, if you look at the letter purported from DCI, it was written to the Clerk of the National Assembly. It is officially receipted by the Clerk's office on 21st and then the Clerk forwards the same letter to the Director of Litigation Mr. Antony Njoroge. He then ably makes an informed legal advice. Now that letter's first office of contact was the office of the Clerk and this is where the gist of the matter is and this is where the conspiracy is. The letter comes to the office of the Clerk, Mr. Michael Sialai. Mr. Sialai as a competent officer receives and forwards the same to Mr. Antony Njoroge who is the Director Legal Compliance. Mr. Antony Njoroge tasks one of his junior legal officers to make an opinion. Then the opinion is given to Mr. Antony who refers the same to the Clerk. In between from Mr. Antony to the Clerk is when the letter illegally ends up in the hands of Hon. Fatuma Gedi and her accomplices in Parliament. That in itself, and you know it because you have been a Commissioner and former Chairman of the Staff Welfare Committee, you know how serious Parliament takes the security of Members of Parliament and the staff because if everybody was to go around and get information pertaining to the Hon. Tuwei...

You can imagine how you would be endangered species in this country. That is one thing that we have decided as a commission to jealously guard. It has never happened. This is the second incident while serving in the Parliamentary Service Commission (PSC). I am serving on my third term in the PSC. This is the second incident where a Member of staff got this. There is no second guessing on this. The question I want to ask is who are the people? Who is the officer at the DCI? Who was present? Who gave the instructions in her presence? She also said that she went to the office of the Clerk. I want to confirm that this had nothing to do with the Clerk because the boy who did this was a local. You could see the connection. At what point did she get the letter?

Thirdly, I will provide Members with a video clip which was a celebration of Madam Fatuma and her cohort on that particular evening when this letter was allegedly leaked in one of the hotels in Nairobi where she was celebrating that these Members of Parliament will spend their weekend somewhere else.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): So, which questions do you want her to answer?

Hon. Adan Keynan (Eldas, JP): The fourth question is: having received the letter... At our age we are all old and too experienced. This gadget does not lie. In fact for the record, I want to say that I have nothing personal. I have never sent it to anybody. I will not do it. Fatuma is a person I respect. I did not disseminate it, and I want to challenge her. I am too old. We may have our political differences down there in Wajir; I may not be a very good supporter, but I respect her.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Ask the question. I am guided that you are moving towards giving evidence now which we will not take because...

Hon. Adan Keynan (Eldas, JP): Notwithstanding our political differences, I will always respect leaders. I will respect Fatuma as an elected county MP, but when it comes to these other trivialities and controversies; these are things that must come to an end through this committee. The other question that I want to ask is: how come the DCI is a very important entity? I want to confirm without fear of contradiction that this purported letter only exists in the mind of Fatuma and her accomplices and they can be all over. Just like she connived with a young man here, she also did with somebody else, a very junior officer. These Members including the Chair are very senior Members of the Republic of Kenya; they cannot be invited in a casual manner. That is why some of us even in the last Parliament, when everybody was running away, I moved an amendment to the Powers and Privileges Act to be in tandem with the Constitution. I knew some of these incidents will happen. Everybody was trying to run away from this.

The question I wanted to ask is this: truly speaking, when she was doing this, up to the level of conniving with a very junior officer and in court from our very own county, which also jeopardizes the job security...

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Are you from the same county?

Hon. Adan Keynan (Eldas, JP): Absolutely. I know the history of that particular young man. Look at his statement, that will guide you and you should take him as a very honest man because he owned up. He just said everything that happened and the coercion. That will give an indication. So, I will take it as a junior officer who has been coerced by a very senior Member of

the House. That is why he was willing to say everything otherwise if he was insincere, he would not have said this.

My final question is this: This is a House of rules and procedures. Why did Madam Fatuma configure that it is Members of Parliament who were spreading this? I will use the word spreading because dissemination is a civilized form. Why did she not write to the Speaker and the Clerk and seek revocations of the Powers and Privileges Act to deal with particular the Members? Why did she resort to the DCI then come back to Parliament, then use staff? I want to put it on record. This other issue is squarely in the purview of the DCI. It went to so many people in Wajir. I will tell you there was a delegation of other leaders in Wajir plus their personal assistants. They went there and nothing was found. Someone was trying to look for something to cling on, just to pass the dirt. The truth will always prevail.

My final question is why, as a mother she would go to that level, connive with a very junior officer, and conspire to get official documents for evil use if really the intention was not evil. She should have waited for the DCI to conclude their investigations and get a report if there is one. I do not believe this and nobody will.

Maybe this should have been subjected to a forensic examination. That would have brought the truth instead of yapping at innocent people. I regret that my name appears anywhere. I respect women, and I respect her as a county representative. Everyone has a political rival but that should only be applied in the context of civility, not on these other weird name bashing. I beseech you to dismiss all the evidence given by Hon. Fatuma with contempt because it is full of concoctions, misdemeanors and total miscalculated information and therefore to that extent, other than confirming what the gentleman has said, I did not see anything else and I do not have to answer those questions.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): I would want us to proceed in this manner. We will leave aside the basic and the background information which is given. There are like four questions. Move to answer questions which are four in number. Some of them are 'yes' or 'no' answers. Did you connive with a junior officer to leak information? It is so straightforward, but there was too much background information given for each question. But as for the questions, it is for the committee to determine.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Who gave out the information? It is on record. It is DCI Kinoti. I do not work with junior officers to come up with anything fake. So, all the evidence that you require is with DCI Kinoti. You will find it there. I will leave it there.

The second question was, who the people are. I did not get that right. Does he mean: who are the people who manufactured the video? I did not understand that question.

Again Chair, I had a witness in this matter and that is why the Director of Criminal Investigations (DCI) gave instructions. The person Hon. Keynan is talking about is not a junior staff. It is an advocate of the DCI called Wiso. It is the instructions of the DCI that made him write that letter. So, I was not there when he was writing the letter but I was in his office when he gave out the instructions.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Whose office?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Kinoti; it has to be clear. Hon. Keynan, people are innocent until proven guilty. So, will you just bash people like that and seem to be the one who is right?

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): I advise that you leave the background information and answer the question.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Okay. I heard Hon. Keynan talk about the video of celebration. Again I would want him to provide that video here.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): We will not need that video here because it is a side issue and that addresses other matters. We are dealing with misuse of information. One question that you did not answer is why you did not write to Hon. Speaker. Why did you not sort out the issues within?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Chair again so many people have asked that question and I have answered it severally. The reason why I opted to go for the DCI is that the matter was critical and serious. It did not involve MPs alone. It involved other people outside the House and that is why. So, people were arrested and taken to court but that is what I chose. I think I am at liberty to pursue the matter at court, DCI or at Parliament and at that point I chose the DCI.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Very well, Members of the Committee, we are informed we have only ten minutes.

Hon. Didmus Barasa (Kimilili, JP): Before they respond I just have one question.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): There is no responding; we are taking further questions. The Member has not asked questions but we can pick if there are any. I wanted them to do all at the same time then afterwards, we will pick up any loose ends.

Hon. Didmus Barasa (Kimilili, JP): Looking at the gravity of this matter reported to the DCI, I just wanted to confirm if after the Clerk issued a legal opinion and communicated the same back to the DCI, whether any of these Members have been formally summoned to appear to the DCI.

Secondly, for Hon. Fatuma, since that time if none of them has been summoned to the DCI, why has she relaxed? Has she now achieved what she wanted achieve because if these four Members have not recorded any statement with the DCI, it means she could still be pursuing the matter going to the DCI to ensure they heed the summon. Those are my two questions.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Except the fact that we are not privy to the information that the Clerk wrote to the DCI. From the legal perspective, if...

Hon. Adan Keynan (Eldas, JP): It is here. It is official. It is in this document.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Not the internal memo.

Hon. Didmus Barasa (Kimilili, JP): There was an internal memo and the Clerk may have responded to a letter that the DCI wrote.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): He had asked for legal opinion from the Legal Department. As to whether he forwarded that to the DCI, from where I sit, we do not have that evidence

Hon. Didmus Barasa (Kimilili, JP): We can find out and when you will be doing the report you can connect the two because I am sure the office of the Clerk is a serious office and they may have written back to him.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): That is in order.

Hon. Mohamed Abdikhaim (Fafi, KANU): Thank you, Chair. I will be very brief in my questions. Hon. Fatuma, were you the one who complained to DCI about the four Members?

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): That has already been answered.

Hon. Mohamed Abdikhaim (Fafi, KANU): Okay. Was the letter given to your driver or to you?

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Both.

Hon. Mohamed Abdikhaim (Fafi, KANU): The other one is the alleged video you said earlier that I shared with you. Did I share the video with your request or I just sent it to you?

Hon. Chairman: Ask that question again.

Hon. Mohamed Abdikhaim (Fafi, KANU): During her submission she said that one of the Members shared the video with her. I am the one who shared it with her upon her request. All we are saying is that she needs to be clear on that.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): You are volunteering that information that you shared at her request.

Hon. Mohamed Abdikhaim (Fafi, KANU): Yes. I wanted to make that clear to the Committee.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Is that so? Just say "yes or no."

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): There are two more questions that he asked.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): No, those have already been answered and so we are dealing with this last one unless you have other questions. Do you?

Hon. Mohamed Abdikhaim (Fafi, KANU): Yes. She said the matter was very serious and intense in the local community. They were almost fighting over a pornographic video. I want her to make clarity on that. Is it in Wajir County or Garissa? I am from Garissa County and have no business in Wajir County. As a Muslim, most of us have not even watched the video. I want her to clarify to the Committee who exactly were fighting. I am not from Wajir but we have Members from there.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): She said communities were about to fight. She can only say which community up to that point without justification.

Hon. Mohamed Abdikhaim (Fafi, KANU): I know who lives in Wajir. I am not from Wajir. I know the community there. She and I are from the same community.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Proceed to the next question.

Hon. Mohamed Abdikhaim (Fafi, KANU): -My next question is: was there cash involved in getting the letter from Noor – I do not know him? Have you paid him any money or other favours to get the letter? That is all.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): You have three very simple questions.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No Chair. I have not given out any money or any other favour. I said before that Noor comes from Wajir and at some point he was bitter with what happened. He could even share with me his emotions and I could see that. I leave it at that.

We come from the same region and my people are in Garissa and also in Wajir. Demonstrations happened in Wajir and I can provide clips of that. People were about to fight because of the video. So, the best I could do was report the matter to the DCI. Preliminary investigations have been released by the DCI and we can get them. I answered about the driver. He first went to the driver and later on to me. The video he shared with me is very critical...

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Just hold. Hon. Ngirici, is it the case that you were recording a video because, it not allowed other than by our HANSARD.

You are interested parties, we are now moving towards the same thing as we are discussing. So for us to sanitise the process...

Hon. Adan Keynan (Eldas, JP): Unless you invoke and unwind the earlier decision to have this as an open meeting, to the best of my recollection, this is an open meeting and the media or any Member can record and say anything.

Hon. Member: They are interested parties and they cannot record anything.

Hon. Didmus Barasa (Kimilili, JP): Hon. Chairman, there is no law that prohibits a Member of Parliament from recording, taking videos or anything. He should not mislead the Members.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Order! Order! Let it rest at that. I am getting information which was brought to my attention. She is not finished, are you through? You had one question to answer.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): About the video that he shared with me, I do not remember telling him that I need it. But what happened is that he called me when I was out of the country. I actually got his missed calls and returned the call at around 6.00 pm. The video was circulating in the House at around 4:30p.m. He informed me about the video which was circulating and I asked him, "which video?"

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): So, do you think that was in good or bad faith?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Okay, for me I could not tell at that moment when he called me and informed me about the video. I actually thought it was in good faith. But he sent it to 20 people both MPs and outsiders. He sent the video to me at around 11.00 p.m.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): On a point of order, Hon. Chairman. Please allow me because you want the truth

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Order! Order! No we will listen to him until he finishes.

Hon. Mohamed Abdikhaim (Fafi, KANU): I had a conversation with her and if you allow me I can share with you that conversation. You can even go through what I wrote to her and what she replied through a request she asked me to send to her. It is okay she is still denying the facts.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): You said you have two questions.

Hon. Mohamed Abdikhaim (Fafi, KANU): Yes I have two more questions.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): The last one please. We have to close.

Hon. Mohamed Abdikhaim (Fafi, KANU): Another thing I want to mention is that on 18th December 2018 we were called back to the House to approve the appointment of Ethics and Anti-Corruption Commission (EACC) Chief Executive Officer Twalib Mbarak. That was the time I saw the video which was sent to me by another MP. I had shared with her the video and I was not happy with it. Apart from that on 24th I called the Deputy Director of Criminal Investigation, Mr. John Kariuki. We were going for a World Bank project in Garissa which was led by Deputy President, who had advised each county to hold the project at their county headquarters and mine is Garissa.

I called him on Sunday evening when I was at the VIP Lounge at Wilson Airport taking my flight. The Governor of Garissa County and Senator Garissa County were present. I told him: "I can see my name mentioned in the media that I am wanted by the DCI and today is Sunday, can I avail myself today so that you can arrest me?" Mr. John Kariuki told me: "You cannot be

arrested, you are a VIP. MPs cannot be arrested without due procedure, we will come and communicate with you.” He said he was not aware of this matter, but he had heard about it the previous evening on television. He told me to continue with my programme. I went to Garissa and on Monday morning all the media reporters were sent to the DCI Headquarters just to deliberately tarnish our names. So I want to ask Hon. Fatuma Gedi how much money she has paid to media to do that publicity for her.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): You will wait for that question to be answered.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): It is the same Chairman, if you can remember. There is a question I asked Hon. Fatuma Gedi and she deliberately did not want to respond to it and you ruled me out of order. You said that it is a matter to do with the DCI. Now that you have allowed the Hon. Member to table it and you know it is important...

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): There is nothing which has been tabled.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): No, it is not tabling but you allowed that line of question and she has admitted that she actually was sent the video. But it is important for the Committee to understand the nature of weakness we have. Therefore, in as much as we are not going into details it is also important for you to understand that this issue has got to do with other personal differences but actually not what she is trying to portray.

I request the Committee to look into this because it is also communication. The day she requested for the video is the same day it was circulated. Before she reported the matter to the DCI when she received the video at her request from Hon. Mohamed Abdikhair the next response she wrote there is that this video was circulated by Rehema. So, I just want her to confirm so that I can show it to you to prove that the witness here is misleading the Committee. Thank you.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): That is fine. It is upon the Committee to decide in regard to whether we will accept to receive what you have said. The only question which is pending is whether she has paid the media to give her publicity.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): No! Hon. Chairman.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): No money has been paid. I am brought to the attention of the presence of Hon. Catherine Waruguru who is invited to sit in the Committee because it is open session except the part that she may want to ask questions. Under Standing Order No.195, we will not allow her to ask questions. The Members who have been asking questions had written to the Speaker and requested to be included. A decision was made by the Committee but specifically to Standing Order No.195 (2) which states:

“(2) A Member who intends to participate in a meeting of a Committee of the House of which he or she is not a Member shall submit a written request to the Chairperson of the

Committee at least twenty-four hours before the meeting, or such other period the Chairperson may in exceptional circumstances allow.

(3) The request shall indicate any matter which the Member intends to raise at the meeting.”

In the absence of those two, then we will invite you to listen to the proceedings but you will not be given a chance to ask questions. Members, we are coming to close any other questions arising.

Hon. (Ms.) Catherine Waruguru (Laikipia CWR, JP): Hon. Chairman, I just want to register my presence because you have not given me a chance to introduce myself. I think even friends to a Committee introduce themselves. I did not have any question for the witness but I had one or two things I wanted to mention to the Committee as an interested MP in this matter, if you may allow.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): If you want to give us insight please you are at liberty, you can write to us and we will consider your advice or information. We thank you for attending. Members are there any other issues arising? As at now, has any of you been invited by the DCI for any reason?

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): No, I have not.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): No, I have not.

Hon. Adan Keynan (Eldas, JP): No, I have not.

Hon. Mohamed Abdikhaim (Fafi, KANU): No, I have not.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): That informs us that up to now no one has been summoned. That is very important for the legal counsel. He says that is very critical for us as we proceed. Hon. Fatuma Gedi, if there is any other information that you may want to share, please you are invited to submit your written reply and specifically include your name, position and identity. You also give us the name of the officer who gave you documents, the venue, the day, date and time as well as the names of the Members who were present when you got the documents and also the time and venue where you were with those Members and if there are any discussions that ensued between you and Members in regard to those documents, you put in that submission. I thank you.

We shall be giving seven days between now and the time you give that information to us so that after that we shall write the report or the Committee will take further direction on how it will address the matter and the direction it will take.

Hon. Adan Keynan (Eldas, JP): Hon. Chairman, thank you so much for giving us an opportunity. I think we dwelt on so many issues including non-core issues. My prayer is that the issue before you is the security and wellbeing of every Member of Parliament and member of staff and the sanctity of this institution called Parliament, which all of you have invested in emotionally, financially, spiritually and in every aspect. Forget about what we might have said. The ball is in your court. As to whether we will allow any individual from the street including

your opponents to bribe or connive with anyone here in this Parliament and get information relating to... That is the issue that you must be prepared to make a decision and pronouncement on. If something is personal, I will live with it.

I will tell you a story that happened. This is just for information. When the current Speaker in 2013 wanted to be Speaker of the National Assembly, he made an application. Maybe this is undisclosed and I think I should disclose it today. One of the opponents decided that immediately after... It is not submission. It is not related to this but I just want you to listen. Someone wanted to block the Speaker. This is off the cuff. I can even have it off. It is not related to this.

Hon. Chairman: Actually, he is asking: Do we admit that under record?

Hon. Adan Keynan (Eldas, JP): No, I am saying it is off the cuff. I am just telling you what one of the clerks did. Because he wanted to block the Speaker, what they did is when the Speaker brought his applications to the Clerk, one of the junior officers wanted *ile muhuri ya kupiga, alikuwa anataka kuonyesha Speaker alileta application yake wakati muda umepita lakini alisahau application ililetwa kwa ile register na register inaonyesha kila dakika, saa ilikuja* and exact details. *Lakini* in the stamp, *alichelewesha akaweka* the second day when the deadline had already passed. The same person *alitoa ile* information *akapatia lawyer* and the lawyer wanted to stop. Sometimes people apply monkey business. A man wanted to stop the Speaker. That case up to now is in court. This is the second incident. Find out how it was dealt with so that nobody ever attempts to threaten the security of Members of Parliament and members of staff. You can take that to the bank.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): I agree with you that nobody can do that. Neither the Powers and Privileges Committee nor the leadership of the House can put Members at risk. So, we will proceed to make a decision and pronouncement in regard to all the information that we have heard. If there is any further request from Members or if you need further information, we shall be inviting you. We thank you.

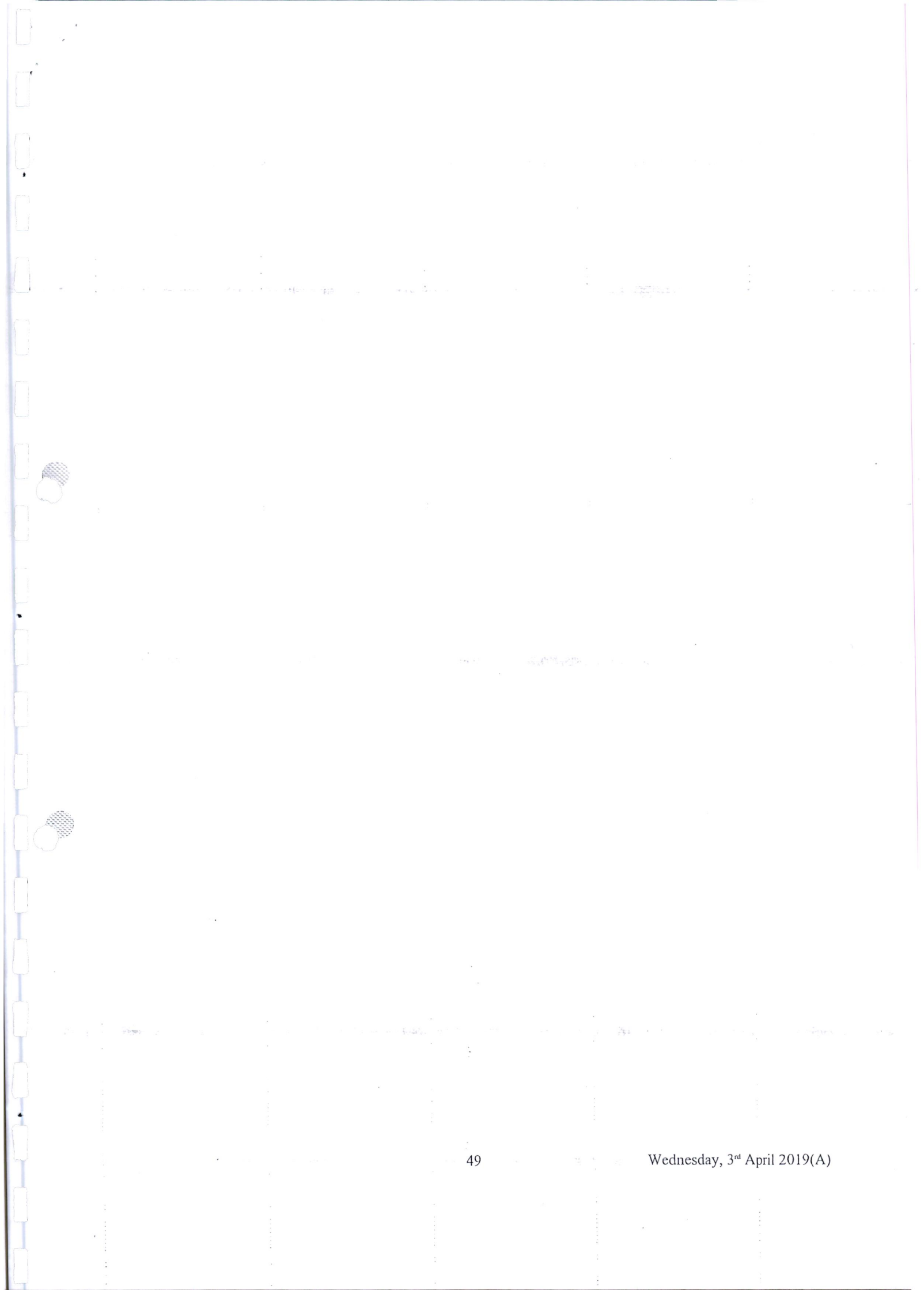
Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Hon. Chairman, can I say something? In conclusion, I expect justice on this because it is all about the officer at stake but also the reputation of Members. If Members of Parliament really manufacture such things, you also expect justice to be done.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): We will make our pronouncement on that. I agree with you everything shall be considered in arriving at the decision of the Committee. We thank you. I think our meeting comes to a close. So, the official recording of the meeting should end unless there is any other issue. Do you have any official AOB, Hon. Tuwei? We will discuss what I have off the cuff.

Hon. Vincent Tuwei (Mosop, JP): Thank you, Hon. Chairman. I have nothing to add but I am surprised with what is going on in our Parliament.

The Acting Chairman (Hon. Peter Mwathi (Limuru, JP): Thank you. So our meeting is adjourned.

The Committee adjourned at 2:24 pm



**APPENDIX IV: WRITTEN SUBMISSIONS BY
HON. FATUMA GEDI, MP**



REPUBLIC OF KENYA
PARLIAMENT

Hon. Fatuma Gedi Ali, MP

Member of Parliament, Wajir County
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24th July, 2019

The National Assembly Committee of Powers and Privileges,
National Assembly of Kenya, Parliament Buildings,
P.O. Box 41842 – 00100,

NAIROBI

Thru

The Office of the Clerk,
National Assembly of Kenya,
Parliament Buildings,
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NAIROBI

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30/7/19*

*DL&P
for attention of Committee
of Powers and Privileges
31/7/19*

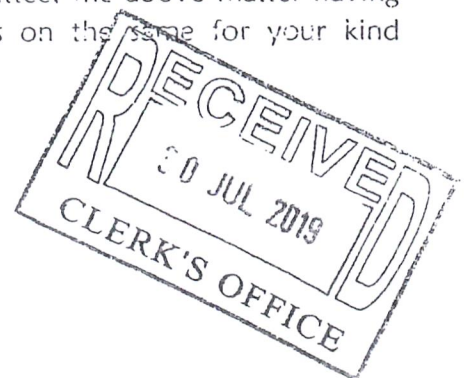
Dear Hon. Committee Members,

RE: WRITTEN SUBMISSIONS ON THE MATTER OF THE INQUIRY BY THE
COMMITTEE OF POWERS AND PRIVILEGES INTO ALLEGED MISUSE OF
OFFICIAL INFORMATION

Thank you for your letter dated April 8, 2019. Ref. KNA/DL&P/NACoPP/2019/11.
Contents of the same have been duly noted.

A. Introduction

May it please the Honourable Members of the Committee, the above matter having
been heard, I hereby tender my written submissions on the same for your kind
consideration and determination.



B. Brief Factual Background

On 19th December, 2018 or thereabout, while I was out of the country on official duty, a fabricated video clip of utter disparaging nature went viral on the internet and it was circulated through various social media fora. The unscrupulous persons behind this ill-fated happenings, alleged that I was the woman at the centre of the disconcerting video. Consequently, heated debates ensued both in print and electronic media vilifying me based on the fake clip. Undoubtedly, the clip painted me in bad light and was aimed at tarnishing my good reputation in the minds of right thinking members of society.

As a family person, a mother of three children, and national leader; this unfortunate events had far-reaching effects, not only on me, but also on my family, friends, mentees and the general public. It caused me emotional distress, mental anguish, torture, pain and immeasurable suffering seeing unverified and falsified information about my person and sexual innuendos awash both on mainstream and social media. It was the lowest point of my career and entire life.

Aggrieved by the above events, as a law abiding citizen, I lodged a formal complaint over the same with the Directorate of Criminal Investigations (DCI). Following preliminary investigations by the DCI, some suspects were arrested on or about 27th December, 2018 and charged before a Kiambu Law Court. Subsequently, other persons mentioned adversely in the preliminary investigations included four Honourable Members of Parliament who have not been arrested to date over the same.

I made follow-ups with the DCI on the same and was made to understand that the Honourable Members who were adversely mentioned would be summoned to assist the investigators get to the bottom of the matter. Having been dragged into the centre of the controversial fabricated video, I was anxious to know how the matter was progressing, so that perpetrators of that atrocious act would be brought to justice.

I went to the Office of the Clerk of the National Assembly to inquire whether or not, his office was in receipt of a letter of summons from the DCI requiring the four Honourable Members of Parliament to avail themselves at the DCI Headquarters for interrogation. This was about three months down the line, after the DCI was seized of the matter.

Surprisingly, I received summons vide a letter dated 21st March, 2019 from the Office of the Clerk of the National Assembly, requiring me to appear on 27th March, 2019 before the National Assembly Committee of Powers and Privileges on allegations of alleged misuse of information. I was unable to attend the meeting as scheduled initially on 27th March, 2019 but I appeared before the committee on 3rd April, 2019, when I was interrogated over the allegations made against me.

C. Issues for Determination

Honourable Committee Members, it is my humble submission that the matter under inquiry mainly turns on the following issues for determination:-

1. Whether or not I obtained information from a Parliamentary member of Staff by coercion; and
2. Whether or not I misused official information to further private interest, if any.

Before, I make my submissions on the above issues, I wish to set out the complaints and allegations against me briefly hereunder.

By virtue of the Clerk of the National Assembly's letter dated 21st March, 2019, I was informed that four Members of Parliament had filed complaints regarding misuse of information through leakage to third parties, of summons from the DCI to the Office of the Clerk concerning the said Members of Parliament, in breach of Section 22 of the Leadership and Integrity Act, 2012. Further, the letter stated that I had been mentioned in a written submission made by a Parliamentary Officer attached to the Office of the Clerk. Consequently, I appeared before this committee at its meeting held on 3rd April, 2019 to consider the matter.

D. Analysis of the issues for determination

I now wish to discuss the issues for determination identified above with reference to the evidence tendered before the Committee as follows;

1. Whether or not I obtained information from a Parliamentary member of Staff by coercion

My sworn testimony before this committee was to the effect that, I never coerced any Parliamentary Staff attached to the Office of the Clerk to divulge any official information to me. Further, I never obtained the letter complained of by any fraudulent mean or with any malicious intent as alleged by the four Honourable Members of Parliament who filed the complaints under consideration by this Committee.

I emphatically stated that the fabricated video which was circulated on the media, both mainstream and social media, had sweeping effects on me to an extent that I was utterly traumatised by the unfortunate happening and was determined to get to the bottom of the matter. As such, I was concerned with the course the matter was taking given that about three months had lapsed before the Honourable Members of Parliament, who were adversely mentioned, were summoned to aid in investigations into the matter.

So, I made follow-ups on the progress of the matter and that is when I visited the Office of the Clerk to inquire whether or not, Members of Parliament mentioned in the preliminary investigations had been summoned by the DCI. Unfortunately, I did not find the Clerk in his office. On my way from the Clerk's Office, I met a gentleman by the name Hassan Noor – a Parliamentary Staff, who inquired about my visit to the

office. I told him I was looking for the Clerk to know whether some letter in relation to the investigations had been delivered to his office. He responded that he was not aware of the same and I left.

While seated at the Members lounge alongside Hon. Ahmed Kolosh and Hon. Ahmed Abdisalam, I received a call from one Hassan Noor, who then informed me that he has seen the letter. He came and showed me that he had found it but declined to let me have a copy of the same. The following day he again told me that he had seen my driver and wanted to give it to my driver but I told him to bring it to me personally at the lounge. I read the said letter and inadvertently forgot it there.

It is my humble submission to this committee that I never coerced, intimidated, threatened or exerted any undue influence over one Hassan Noor to divulge the said letter of summons to me. As such, it is not correct to assert that I used my position as Vice Chairperson to the House Committee on Delegated Legislation to 'coerce' Mr Noor into providing me with the information, which he did provide on his own volition. Similarly, the allegation that I threatened to have him sacked is false, unfounded and not factual, to say the least. If anything, Mr Noor is not my employee and we do not even work in the same committee. Therefore, I humbly urge this committee to dismiss the same.

2. Whether or not I misused official information to further private interest, if any.

Honourable Committee Members, the chief grievance of the four Members of Parliament who filed the complaints under consideration is that information concerning their summons was reported by the media and they implied that it was leaked. Whereas it is within their right to form opinions, it is unfair to propagate unsubstantiated allegations against me simply because the summons complained of were triggered by my complaint to the DCI with regard to the fabricated video. For instance, during the sitting of the Committee held on 3rd April, 2019, Hon. Rehema Jaldesa alleged (! quote her verbatim) that; "Hon. Fatuma Gedi used official information for certain unclear motives."

However, it is regrettable that the Hon. Rehema Jaldesa never bothered to provide the committee with clear and better particulars on; which motives she was alluding to: when, where, with whom and how the alleged official information was misused. Similarly, Hon. Adan Keynan insinuated that the summons from the DCI were meant to assist me gain political mileage. With all due respect to these Honourable Members of Parliament, their allegations are untrue, unfounded, misconceived and made in bad faith. Worst still, the Honourable Members herein never afforded me any slightest opportunity to verify the veracity of their allegations beforehand or at all.

The mere fact that I had requested to know whether summons from the DCI had been delivered to the Office of the Clerk, is not conclusive evidence that I had anything to do with the leakage of such information to the media or any 3rd party whatsoever. It was my testimony, and I do submit that, I did not misuse any official information I am seized of for any improper motive. From the representations made

by the four Honourable Members of Parliament herein, it appears that they want to persuade this Committee to believe that my request for information concerning the investigations into the fabricated video is legally untenable. That perception is skewed and misleading, to say the least. If anything, that line of argument cannot pass the constitutional muster on the right of access to information.

My sworn testimony before this Committee was unequivocal that the only thing that links me with the said letter is the complaint I lodged with the DCI that precipitated the investigations that ensued thus summoning of persons of interest to the state to assist in further investigations. Therefore, following up with the investigators and requesting for information touching on the matter was only done in utmost good faith in pursuing justice. At no time did I harbour or entertain any improper or 'unclear' motive as alleged by the four Honourable Members of Parliament herein.

Moreover, investigations into the fabricated video were and are still, pivotal in unearthing the truth on who were the perpetrators of the odious act. By dint of the monstrous effect the fabricated video had on my family, friends, mentees, myself and the general public, it naturally follows that I will be at the forefront to ensure that the investigations are above reproach. Therefore, it is inconceivable how I would be the one to jeopardise the matter by leaking information on the investigations to 3rd parties as the complainants would want this committee to believe.

Additionally, the four complainants herein alluded to the fact that there would be bad blood between them and myself. Hon. Adan Keynan and Hon. Purity Ngirici categorically told this committee that we did not have a cordial relationship. They made all attempts to persuade this committee to believe that I had personal vendetta against them and, therefore, I would have been involved in the alleged misuse of information to settle scores with them. While these Honourable Members of Parliament have a right to form an opinion of their own, it is unfortunate and an affront to fairness and justice to make such sweeping unfounded statements against me.

It was my firm testimony that I had nothing personal against the four Honourable Members of Parliament who are the complainants herein. In fact, Hon. Purity Ngirici stated that we have worked together before and she had even attended my development functions in Wajir County. Therefore, I do not understand which bad blood the members were alluding to. Even if we assume that there would have been strained relations between us, as alleged but which is denied, it would not have been in my best interest to taint the investigations into my complaint to the DCI. Therefore, it is inconceivable that I would undermine my own case by sharing information that would otherwise jeopardise the investigations into the matter which had calamitous impact on my character and moral standing in the society.

E. Conclusion

In light of the foregoing, it is my humble submission that the allegations made against me are unmerited and unsubstantiated, thus they ought to be dismissed to meet the

ends of fairness. Firstly, the complainants elected not to give any evidence before the committee. Though some of the complainants had elected not to give evidence against me, they did, in fact, testify in the pretext of questioning me. As such any adverse information provided by the said members against the rules of the hearing should be discarded altogether and no reliance should be placed on them in determining this matter. Therefore, my testimony before the Honourable Members of this Committee is uncontroverted and should be considered in the determination of this matter.

Secondly, the allegations made against me have not be proved to the required standard by the information on record. Therefore, I humbly urge the Honourable Members of this Committee to protect the committee process from abuse by Honourable Members of the House who lodge trivialities that are scandalous, vexatious and misconceived. Since the complainants alleged that they have strained relations with me, which am not aware of, it is probable that the allegations against me were meant to derail my efforts in pursuing the complaint I made to the DCI over the fabricated video: which is a form of worst gender based violence and character assassination against any woman, leader or otherwise, in the digital era.

Thirdly, committee proceedings should not be used as a tool of political witch-hunt against any Member of Parliament by their political rivals, perceived or real. Therefore, this Committee should frown upon such members and must seize this opportunity to rebuke such acts which are driven by ulterior motives.

F. Prayers

To this end, it is my prayer that the Honourable Members of this Committee do find and determine that the allegations against me are unmerited and should suffer one fate; the fate of dismissal. The committee is being pulled into the murky waters of political mudslinging and I reverently pray that the Honourable Members of this Committee do decline such invitation. Political issues must be solved in the right fora, definitely which is not before this Committee.

I reverently urge the Honourable Members of this Committee to uphold my submissions and consequently dismiss the allegations against me.

Thank you in advance.

Yours faithfully,



HON. FATUMA GEDI ALI (M.P.)
WAJIR COUNTY (CWR)

**APPENDIX V: INVITATIONS, KEY
CORRESPONDENCES AND DOCUMENTS**

REPUBLIC OF KENYA

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



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

OFFICE OF THE CLERK

When replying, please quote:

KNA/DL&P/NACoPP/2019/31

October 30, 2019

The Hon. Ahmed Abdisalan Ibrahim, MP
Member for Wajir North Constituency
Parliament Buildings
NAIROBI

Dear *Ahon,*

RE: INQUIRY BY THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES INTO ALLEGED MISUSE OF OFFICIAL INFORMATION

The above matter refers.

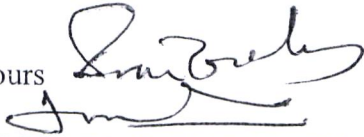
Pursuant to section 15 of the Parliamentary Powers and Privileges Act, 2017, the National Assembly Committee of Powers and Privileges is mandated to among other things, inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege.

As you may be aware, the Committee is currently inquiring into alleged unauthorized misuse and publication of official information by a Member of Parliament, in possible breach of Section 22 of the Leadership and Integrity Act, 2012, following complaints filed by four affected Members of the National Assembly on the matter. In her submission before the Committee on Wednesday, April 3, 2019, the Member for Wajir County, Hon. Fatuma Gedi, MP, mentioned you, as having some knowledge of the matter under inquiry.

In light of the said submission, and so as to enable the Committee to make an informed determination, the Committee resolved to invite you to provide information on the matter.

This is therefore to invite you to a sitting of the Committee on the said matter scheduled to be held on **Monday, 4th November, 2019** in County Hall Mini Chamber, Parliament Buildings at **10.00 am.**

Yours



MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA
PARLIAMENT

Hon. Fatuma Gedi Ali, MP

Member of Parliament, Wajir County
Vice Chair, Delegated Legislation Committee
Member, Budget Committee

Parliament Buildings
Tel: +254 20 2221291
P. O. Box 41842 - 00100 Nairobi, Kenya

Mobile: +254 714 891 089
P. O. Box 4181 - 00506 Nairobi
Email: cwrwajir@parliament.go.ke

28th October, 2019.

The National Assembly Committee of Powers and Privileges,
National Assembly of Kenya, Parliament Buildings,
P.O. Box 41842 - 00100,
NAIROBI

Thru
The Office of the Clerk,
National Assembly of Kenya,
Parliament Buildings,
P.O. Box 41842 - 00100,
NAIROBI

Dear Hon. Committee Members,

**RE: SUBMISSION ON THE MATTER OF THE INQUIRY BY THE COMMITTEE
OF POWERS AND PRIVILEGES**

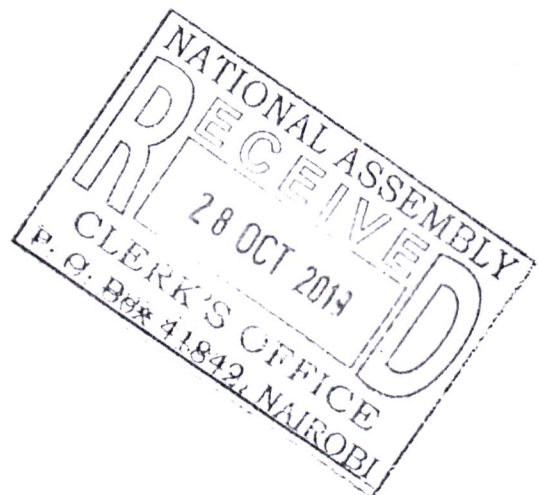
The above matter refers.

In reference to your letter KNA/DL&P/NACoPF/2019/20 dated 17th October, 2019 requiring my office to furnish you with the particulars of the driver, I hereby submit them to you as follows:

The Drivers name is JACOB KIPKEMBOI
ID. NO. 26122366
Tel. No. 0723 262306

Yours Sincerely,

HON. FATUMA GEDI ALI (M.P.)
WAJIR COUNTY (CWR)



*Amplified
per client.
CWA
28/10/19*

REPUBLIC OF KENYA

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



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

OFFICE OF THE CLERK

When replying, please quote:

KNA/DL&P/NACoPP/2019/29

17th October 2019

Mr. Wiso J.M
Directorate of Criminal Investigations
DCI headquarters
Mazingira House
Kiambu Road
P.O Box 30036-00100
NAIROBI

Dear Mr. Wiso

**RE: INQUIRY BY THE COMMITTEE OF POWERS AND PRIVILEGES
INTO ALLEGED MISUSE OF OFFICIAL INFORMATION**

The above matter refers.

Pursuant to section 15(5) of the Parliamentary Powers and Privileges Act No. 29 of 2017, the Committee of Powers and Privileges is mandated to inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege. The Committee is currently seized of an inquiry into the above-stated matter following a complaint filed by four Members of the National Assembly.

In this regard, during a meeting of the Committee held on Tuesday, 15th October, 2019, the Committee resolved to invite you to appear before it **in person** to provide information on the matters relating to alleged misuse of official information including on the circumstances under which a letter, Ref. Ref. CID/SEC/SOLCA/4/4/VOL 1A/44, dated by 21st February, 2019 allegedly summoning four Members of the National Assembly was issued and written to the Clerk of the National Assembly by yourself.

In light of the foregoing, this is to inform you that the Committee shall hold its meeting on **Monday 4th November, 2019 at County Mini Hall Chamber at 10.00 am** in which you are required to appear in person and provide information the issues highlighted above relating to the misuse of official information.

Yours



JEREMIAH NDOMBI,
FOR: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

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



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

OFFICE OF THE CLERK

When replying, please quote:

KNA/DL&P/NACoPP/2019/28

17th October 2019

Mr. John Kariuki, HSC
Directorate of Criminal Investigations
DCI headquarters
Mazingira House
Kiambu Road
P.O Box 30036-00100
NAIROBI

Dear Mr Kariuki:

**RE: INQUIRY BY THE COMMITTEE OF POWERS AND PRIVILEGES
INTO ALLEGED MISUSE OF OFFICIAL INFORMATION**

The above matter refers.

Pursuant to section 15(5) of the Parliamentary Powers and Privileges Act No. 29 of 2017, the Committee of Powers and Privileges is mandated to inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege. The Committee is currently seized of an inquiry into the above-stated matter following a complaint filed by four Members of the National Assembly.

In this regard, during a meeting of the Committee held on Tuesday, 15th October, 2019, the Committee resolved to invite you to appear before it **in person** to provide information on the matters relating to alleged misuse of official information including the authenticity of a letter, Ref. DCI/1B/SEC/2/8/13/175, dated 26th July, 2019 addressed to the Clerk of the National Assembly written by yourself.

In light of the foregoing, this is to inform you that the Committee shall hold its meeting on **Monday 4th November, 2019 at County Mini Hall Chamber at 10.00 am** in which you are required to appear in person and provide information on the

issues highlighted above and any other matter relating to the misuse of official information.

Yours



JEREMIAH NDOMBI,
FOR: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

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



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

OFFICE OF THE CLERK

When replying, please quote:

KNA/DL&P/NACoPP/2019/27

17th October 2019

Mr. George M. Kinoti, CBS
Director for Criminal Investigations
DCI headquarters
Mazingira House
Kiambu Road
P.O Box 30036-00100
NAIROBI.

Dear Mr. Kinoti:

**RE: INQUIRY BY THE COMMITTEE OF POWERS AND PRIVILEGES
INTO ALLEGED MISUSE OF OFFICIAL INFORMATION**

The above matter refers.

Pursuant to section 15(5) of the Parliamentary Powers and Privileges Act No. 29 of 2017, the Committee of Powers and Privileges is mandated to inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege. The Committee is currently seized of an inquiry into the above-stated matter following a complaint filed by four Members of the National Assembly.

In this regard, during a meeting of the Committee held on Tuesday, 15th October, 2019, the Committee resolved to invite you to appear before it **in person** to provide information on the matters relating to alleged misuse of official information, including-

- (1) on whether a formal complaint was made by Hon. Fatuma Gedi in relation to the alleged circulation of a video containing pornographic content associated to her to your office;

- (2) on the circumstances under which a letter, Ref. CID/SEC/SOLCA/4/4/VOL 1A/44, dated by 21st February, 2019, by one Mr. Wiso J.M. allegedly summoning four Members of the National Assembly was issued and written to the Clerk of the National Assembly;
- (3) on the authenticity of a letter, Ref. DCI/1B/SEC/2/8/13/175, dated 26th July, 2019 by one Mr. John Kariuki addressed to the Clerk of the National Assembly.

In light of the foregoing, this is to inform you that the Committee shall hold its meeting on **Monday 4th November, 2019 at County Mini Hall Chamber at 10.00 am** and that you are required to **appear in person** and provide information on the issues highlighted above and any other information relating to the misuse of official information.

Yours



JEREMIAH NDOMBI,
FOR: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

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



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

OFFICE OF THE CLERK

When replying, please quote:

KNA/DL&P/NACoPP/2019/25

October 17, 2019

The Hon. Rehema Dida Jaldesa, MP
Member for Isiolo County
Parliament Buildings
NAIROBI

Dear

Hon Dida

RE: INQUIRY BY THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES INTO ALLEGED MISUSE OF OFFICIAL INFORMATION

The above matter refers.

As you may be aware, the Committee of Powers and Privileges is seized of an inquiry into the matter of alleged misuse of official information by a Member. In furtherance of its investigations, the Committee has invited the Director for Criminal Investigations and two officers from the Directorate of Criminal Investigations, associated with the matter under inquiry, to appear before it and provide evidence on the matter.

In this regard, the Committee will hold a sitting of **Monday, 4th November, 2019** in County Hall Mini Chamber, Parliament Buildings, from **10.00 am**.

This is therefore to notify you of the said meeting, which you may wish to attend, as a party in the matter under inquiry, to observe the proceedings.

Yours

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

JEREMIAH NDOMBI
For: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

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



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

OFFICE OF THE CLERK

When replying, please quote:

KNA/DL&P/NACoPP/2019/24

October 17, 2019

The Hon. Abdikhaim Osman Mohamed, MP
Member for Fafi Constituency
Parliament Buildings
NAIROBI

Dear Hon Osman

RE: INQUIRY BY THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES INTO ALLEGED MISUSE OF OFFICIAL INFORMATION

The above matter refers.

As you may be aware, the Committee of Powers and Privileges is seized of an inquiry into the matter of alleged misuse of official information by a Member. In furtherance of its investigations, the Committee has invited the Director for Criminal Investigations and two officers from the Directorate of Criminal Investigations, associated with the matter under inquiry, to appear before it and provide evidence on the matter.

In this regard, the Committee will hold a sitting of **Monday, 4th November, 2019** in County Hall Mini Chamber, Parliament Buildings, from **10.00 am**.

This is therefore to notify you of the said meeting, which you may wish to attend, as a party in the matter under inquiry, to observe the proceedings.

Yours

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

JEREMIAH NDOMBI
For: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
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Email: clerk@parliament.go.ke



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P.O. Box 41842 -00100
NAIROBI, Kenya

OFFICE OF THE CLERK

When replying, please quote:

KNA/DL&P/NACoPP/2019/23

October 17, 2019

The Hon. Purity Wangui Ngirici, MP
Member for Kirinyaga County
Parliament Buildings
NAIROBI

Dear Hon Ngirici

RE: INQUIRY BY THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES INTO ALLEGED MISUSE OF OFFICIAL INFORMATION

The above matter refers.

As you may be aware, the Committee of Powers and Privileges is seized of an inquiry into the matter of alleged misuse of official information by a Member. In furtherance of its investigations, the Committee has invited the Director for Criminal Investigations and two officers from the Directorate of Criminal Investigations, associated with the matter under inquiry, to appear before it and provide evidence on the matter.

In this regard, the Committee will hold a sitting of **Monday, 4th November, 2019** in County Hall Mini Chamber, Parliament Buildings, from **10.00 am**.

This is therefore to notify you of the said meeting, which you may wish to attend, as a party in the matter under inquiry, to observe the proceedings.

Yours

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

JEREMIAH NDOMBI
For: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

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P.O. Box 41842 -00100
NAIROBI, Kenya

OFFICE OF THE CLERK

When replying, please quote:

KNA/DL&P/NACoPP/2019/22

October 17, 2019

The Hon. (Dr.) Adan Keynan, CBS, MP
Member for Eldas Constituency/ PSC Commissioner
Parliament Buildings
NAIROBI

Dear Hon (Dr.) Keynan

RE: INQUIRY BY THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES INTO ALLEGED MISUSE OF OFFICIAL INFORMATION

The above matter refers.

As you may be aware, the Committee of Powers and Privileges is seized of an inquiry into the matter of alleged misuse of official information by a Member. In furtherance of its investigations, the Committee has invited the Director for Criminal Investigations and two officers from the Directorate of Criminal Investigations, associated with the matter under inquiry, to appear before it and provide evidence on the matter.

In this regard, the Committee will hold a sitting of **Monday, 4th November, 2019** in County Hall Mini Chamber, Parliament Buildings, from **10.00 am**.

This is therefore to notify you of the said meeting, which you may wish to attend, as a party in the matter under inquiry, to observe the proceedings.

Yours

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

JEREMIAH NDOMBI
For: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

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



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

OFFICE OF THE CLERK

When replying, please quote:

KNA/DL&P/NACoPP/2019/21

October 17, 2019

The Hon. Fatuma Gedi, MP
Parliament Buildings
NAIROBI

Dear Hon Gedi

RE: INQUIRY BY THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES INTO ALLEGED MISUSE OF OFFICIAL INFORMATION

The above matter refers.

As you may be aware, the Committee of Powers and Privileges is seized of an inquiry into the matter of alleged misuse of official information by a Member. In furtherance of its investigations, the Committee has invited the Director for Criminal Investigations and two officers from the Directorate of Criminal Investigations, associated with the matter under inquiry, to appear before it and provide evidence on the matter.

In this regard, the Committee will hold a sitting of **Monday, 4th November, 2019** in County Hall Mini Chamber, Parliament Buildings, from **10.00 am**.

This is therefore to notify you of the said meeting, which you may wish to attend, as a party in the matter under inquiry, to observe the proceedings.

Yours

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

JEREMIAH NDOMBI
For: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
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Email: clerk@parliament.go.ke



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

OFFICE OF THE CLERK

When replying, please quote:

KNA/DL&P/NACoPP/2019/20

October 17, 2019

Hon. Fatuma Gedi, MP
Parliament Buildings
NAIROBI

Dear Hon Gedi:

RE: INQUIRY BY THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES INTO ALLEGED MISUSE OF OFFICIAL INFORMATION

The above matter refers.

We refer to our letter, Ref. KNA/DL&P/NACoPP/2019/17, dated 23rd July, 2019 conveying the resolution of the Committee requiring you to furnish the Office of the Clerk with particulars of the driver that you alluded to in your testimony to the Committee on Wednesday, 3rd April, 2019, copy of which is attached.

At its meeting held on Tuesday, 15th October 2019, the Committee was concerned that you had not responded to the said letter. Accordingly, the Committee resolved that you be reminded of the obligation of witnesses under the Parliamentary Powers and Privileges Act, 2017 to provide information as and when required by the Committee.

This is therefore to convey to you the decision of the Committee and require you to furnish the Committee, through the Office of the Clerk, with particulars of the said driver and cause him or her to appear before the Committee at its next sitting on **Wednesday, 30th October, 2019** in the Speaker's Boardroom, Main Parliament Building from **10.00 am** for purposes of providing information to the Committee on the matter.

Yours

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

JEREMIAH NDOMBI
For: CLERK OF THE NATIONAL ASSEMBLY

NATIONAL POLICE SERVICE

Telegrams: "CRIMINAL" Nairobi
Email: director@cid.go.ke
Tel: 020343312, 0202603724.



MAZINGIRA HOUSE
KIAMBU ROAD
P.O. Box 30036
NAIROBI

DIRECTORATE OF CRIMINAL INVESTIGATIONS

DCI/IB/SEC/2/8/13/175

26TH JULY, 2019

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

DLSP
To present
to the Comd.
CNA
29/7/19

Dear Mr. Sialai, EBS

**RE: INQUIRY BY THE COMMITTEE OF POWERS AND PRIVILEGES INTO
ALLEGED MISUES OF OFFICIAL INFORMATION BY A MEMBER**

Refer to your two letters dated 16th April, 2019 and recently of 23th July, 2019 requesting for the authenticity of a letter dated 21st February, 2019 from DCI signed by one Wiso J.M. First is to apologize to the office of the Clerk of the National Assembly for delaying of the responding of the letter.

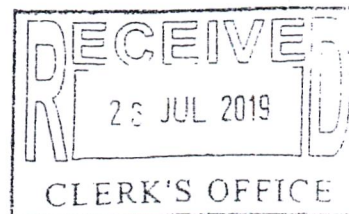
On the other hand, the letter for "Attendance to DCI Headquarters", which was a summon for four Honorable members of Parliament by one Wiso J. M. was done without authority of the DCI. Immediately the DCI realized he had not given such authority to summon the Honorable Members of Parliament, a disciplinary action was taken against the officer and that is why the matter was never pursued further.

I hope this clarification will be able to assist the committee of powers and privileges.

Yours Sincerely.

JOHN N. KARIUKI, HSC

FOR: DIRECTOR OF CRIMINAL INVESTIGATIONS



REPUBLIC OF KENYA



Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
Email: clerk@parliament.go.ke
NAIROBI, Kenya

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

OFFICE OF THE CLERK

KNA/DL&P/NACoPP/2019/17

July 23, 2019

Hon. Fatuma Gedi, MP
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

Dear Hon,

RE: INQUIRY BY THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES INTO ALLEGED MISUSE OF OFFICIAL INFORMATION

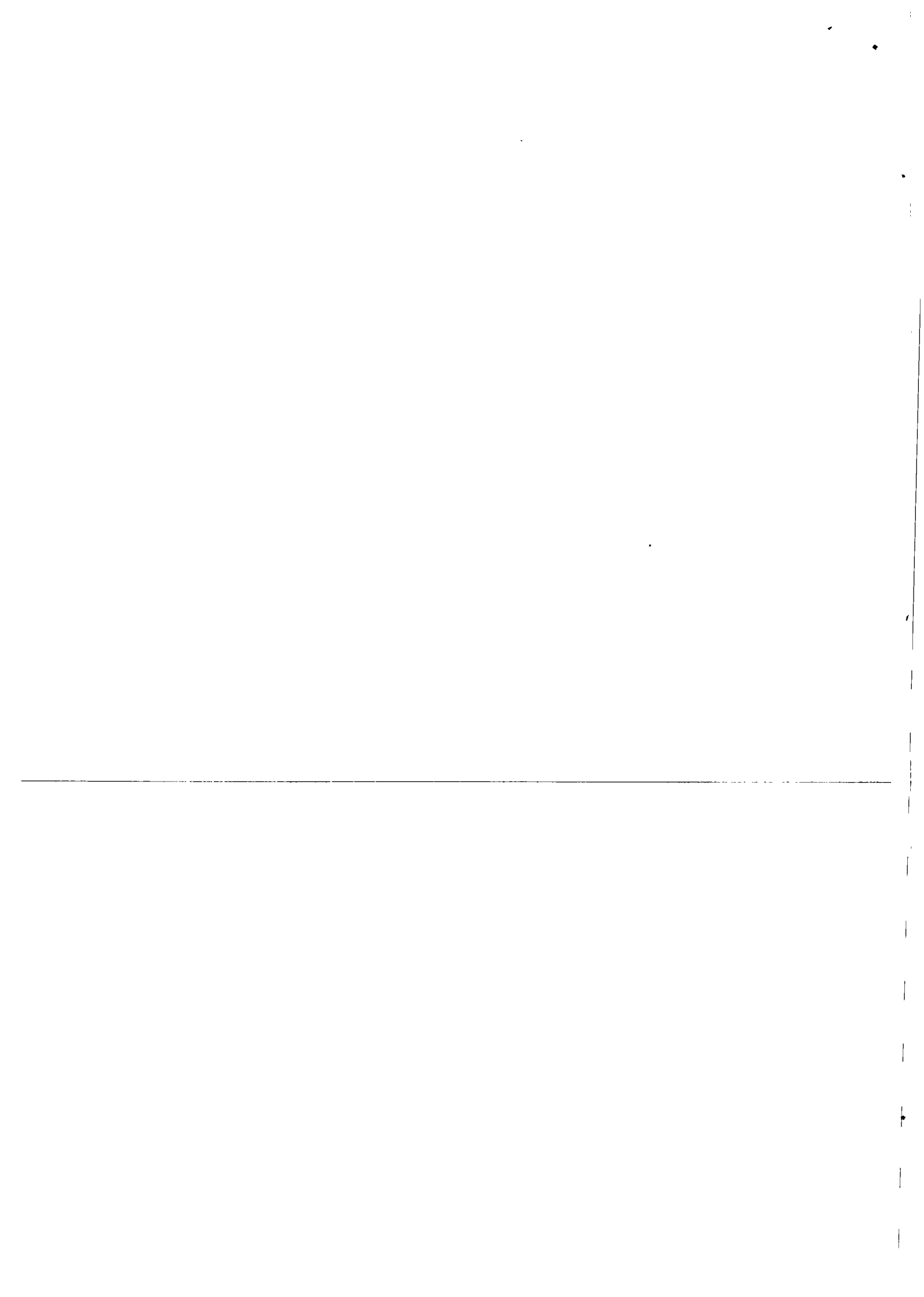
The above matter refers.

As you may recall, in your testimony during a meeting of the National Assembly Committee of Powers and Privileges held on Wednesday, 3rd April, 2019 you alluded to the fact that you had instructed a parliamentary officer to deliver a copy of the above mentioned letter to your driver.

In this regard, the Committee intends to further inquire into the matter in its next sitting scheduled to be held on Tuesday, 30th July, 2019 in order to conclusively determine the matter. Consequently, this is to request that you do furnish the Committee through the Office of the Clerk with particulars of the said driver.

Yours

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
Email: clerk@parliament.go.ke
NAIROBI, Kenya



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

OFFICE OF THE CLERK

KNA/DL&P/NACoPP/2019/16

July 23, 2019

Mr. George M. Kinoti, CBS
Directorate of Criminal Investigations
DCI Headquarters
Mazingira House
Kiambu Road
P.O. Box 30036-00100
NAIROBI

Dear *Mr. Kinoti,*

**RE: INQUIRY BY THE COMMITTEE OF POWERS AND PRIVILEGES INTO
ALLEGED MISUSE OF OFFICIAL INFORMATION**

We refer to our letter Ref. KNA/DL&P/NACoPP/2019/12 dated April 17, 2019 seeking authentication of your letter Ref. CID/SEC/SOLCA/4/4/VOL.1A/44 dated February 21, 2019, the copy of which is attached, and which request we note has not received any response. The request was to enable the National Assembly Committee of Powers and Privileges to determine the matter under inquiry. Please note that the Committee is bound by strict statutory timelines to have the matter concluded.

In light of the foregoing, this is to inform you that the Committee shall hold its meeting on Tuesday, 30th July, 2019 in order to conclude the consideration of the matter. Consequently, this is further to request that you do **urgently** submit a response to the letter before the aforementioned date.

Yours

Sincerely,
Handwritten signature of Michael R. Sialai in black ink.

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

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



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

OFFICE OF THE CLERK

KNA/DL&P/NACoPP/2019/12

April 16, 2019

Mr. George M. Kinoti, CBS
Directorate of Criminal Investigations
DCI Headquarters
Mazingira House
Kiambu Road
P.O. Box 30036-00100
NAIROBI

Dear Mr Kinoti

**RE: INQUIRY BY THE COMMITTEE OF POWERS AND PRIVILEGES INTO
ALLEGED MISUSE OF OFFICIAL INFORMATION BY A MEMBER**

We refer to the above matter.

The National Assembly Committee of Powers and Privileges is established under section 15 of the Powers and Privileges Act, 2017. The Committee is mandated to, *inter alia*, enforce the rules governing the conduct of Members of Parliament.

The Committee is seized of an inquiry into alleged unauthorized publication and misuse of official information by a Member of Parliament, in possible breach of Section 22 of the Leadership and Integrity Act, 2012, following complaints filed by four affected Members of the National Assembly on the matter. Among the documents that were allegedly misused, is a letter, Ref. CID/SEC/SOLCA/4/4/VOL.1A/44 dated 21st February 2019, containing summonses from the Directorate of Criminal Investigations to question four Members of the National Assembly.

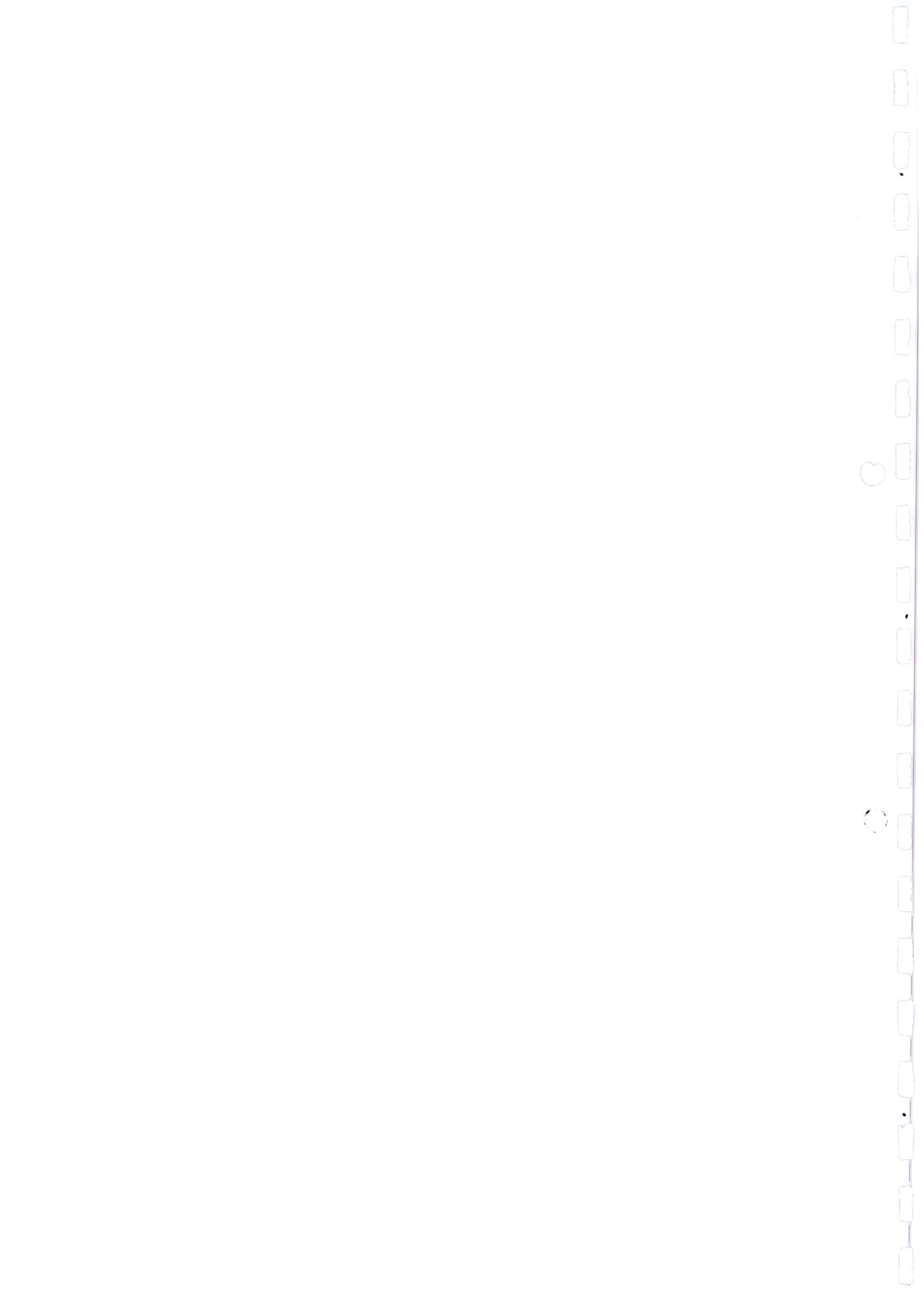
At its meeting held on Wednesday, 3rd April 2019 to inquire into the matter, the Committee resolved to ascertain authenticity of the said letter to inform its deliberations.

This is therefore to convey the Committee's resolution and request that you verify the authenticity of the said letter for the information of the Committee. A copy of the letter is hereby attached for ease of reference.

Yours

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

JEREMIAH NDOMBI
For: CLERK OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA



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

PARLIAMENT

Parliamentary Service Commission
Parliament Buildings
P. O. Box 41842 -00100
NAIROBI, Kenya

99004704/18

April 15, 2019

Mr. Noor Mohamed Adan

Thro'
The Director,
Legislative and Procedural Services
NATIONAL ASSEMBLY

*Forwarded to Mr. Noor Mohamed Adan
TAKU SAC.
15/4/19*

Dear Sir,

RE: REPRIMAND


By a letter dated 26th February 2019 you were required to explain the circumstances under which a document that was in your custody was leaked to the press.

You responded to the issues raised via a letter dated 27th February 2019. Your response did not exculpate you from the charges leveled against you and the matter was forwarded to the Parliamentary Service Commission, through its advisory channels, in accordance with the Parliamentary Service Regulations.

The Parliamentary Service Commission considered the discipline case against you at its 260th meeting held on 28th March 2019 and resolved that you be reprimanded on account of insubordination, dishonesty and negligence contrary to Regulation 26 (a), (b) and (c) of the Parliamentary Service Commission Regulations, 2002.

You are hereby warned that a repeat of the same or similar offences will lead to severe disciplinary action being preferred against you.

Yours faithfully,


D. A. NG'ANG'A
FOR: CLERK OF THE SENATE / SECRETARY,
PARLIAMENTARY SERVICE COMMISSION.

REPUBLIC OF KENYA



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NAIROBI, Kenya

OFFICE OF THE CLERK

KNA/DL&P/NACoPP/2019/11

April 8, 2019

The Hon. Fatuma Gedi Ali, MP
Member for Wajir County
Parliament Buildings
NAIROBI

Dear

Hon;

RE: WRITTEN SUBMISSION ON THE MATTER OF THE INQUIRY BY THE COMMITTEE OF POWERS AND PRIVILEGES INTO ALLEGED MISUSE OF OFFICIAL INFORMATION

We refer to the above matter.

Consequent to your appearance, as a witness, before the Committee of Powers and Privileges during its meeting held on Wednesday, 3rd April 2019, to adduce evidence relating to the Committee's inquiry into alleged misuse of official information, the Committee resolved, with your concurrence, that you provide the following details in writing within seven (7) days of the meeting—

- (a) the various dates, times and venues relating to your access to the official information that is the subject matter of the inquiry; and
- (b) the full names of the persons, including Members of Parliament and Parliamentary Staff that presented, handled or in whose presence you viewed the official information.

This is therefore to remind you to furnish the Office of the Clerk of the National Assembly with the written submission of your evidence, on or before Friday, 12th April 2019, for onward transmission to the Committee of Powers and Privileges.

Please note that, should you not submit the said written submission by the stated day, the Committee shall proceed to determine the matter on the basis of the oral account you adduced before it on Wednesday, 3rd April 2019.

Yours

Sincerely
J. Sialai

MICHAEL SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

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'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
Email: clerk@parliament.go.ke



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Clerk's Chambers
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

OFFICE OF THE CLERK

KNA/DL&P/NACoPP/2019/010

April 1, 2019

The Hon. Rehema Dida Jaldesa, MP
Member for Isiolo County
Parliament Buildings
NAIROBI

Dear

Mareshimana,

**RE: INVITATION TO APPEAR BEFORE THE NATIONAL ASSEMBLY COMMITTEE
OF POWERS AND PRIVILEGES**

The National Assembly Committee of Powers and Privileges is mandated to, *inter alia*, enforce the rules governing the conduct of Members of Parliament.

The Committee is in receipt of complaints, filed by yourself, regarding alleged misuse of official information through leakage of a purported summons from the Directorate of Criminal Investigations (DCI) and related confidential documents, and, unauthorized release to external parties in a possible breach of Section 22 of the Leadership and Integrity Act.

The Committee considered the matter on Wednesday 20th March 2019, and, on Wednesday 27th March 2019 proceeded to take evidence from a staff member. This is therefore to invite you to attend a scheduled meeting for taking of evidence from the Hon. Fatuma Gedi, MP to be held on Wednesday, 3rd April 2019 at 10.00 am in the Speaker's Board Room, Main Parliament Buildings.

The proceedings shall be held in public.

Yours

Fatuma Gedi

Serah M. Kioko

SERAH M. KIOKO
FOR: CLERK OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA

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Nairobi, Kenya

OFFICE OF THE CLERK

KNA/DL&P/NACoPP/2019/09

April 1, 2019

The Hon. Abdikhaim Osman Mohamed, MP
Member for Fafi Constituency
Parliament Buildings
NAIROBI

Dear *Sir*,

RE: INVITATION TO APPEAR BEFORE THE NATIONAL ASSEMBLY COMMITTEE OF POWERS AND PRIVILEGES

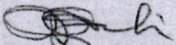
The National Assembly Committee of Powers and Privileges is mandated to, *inter alia*, enforce the rules governing the conduct of Members of Parliament.

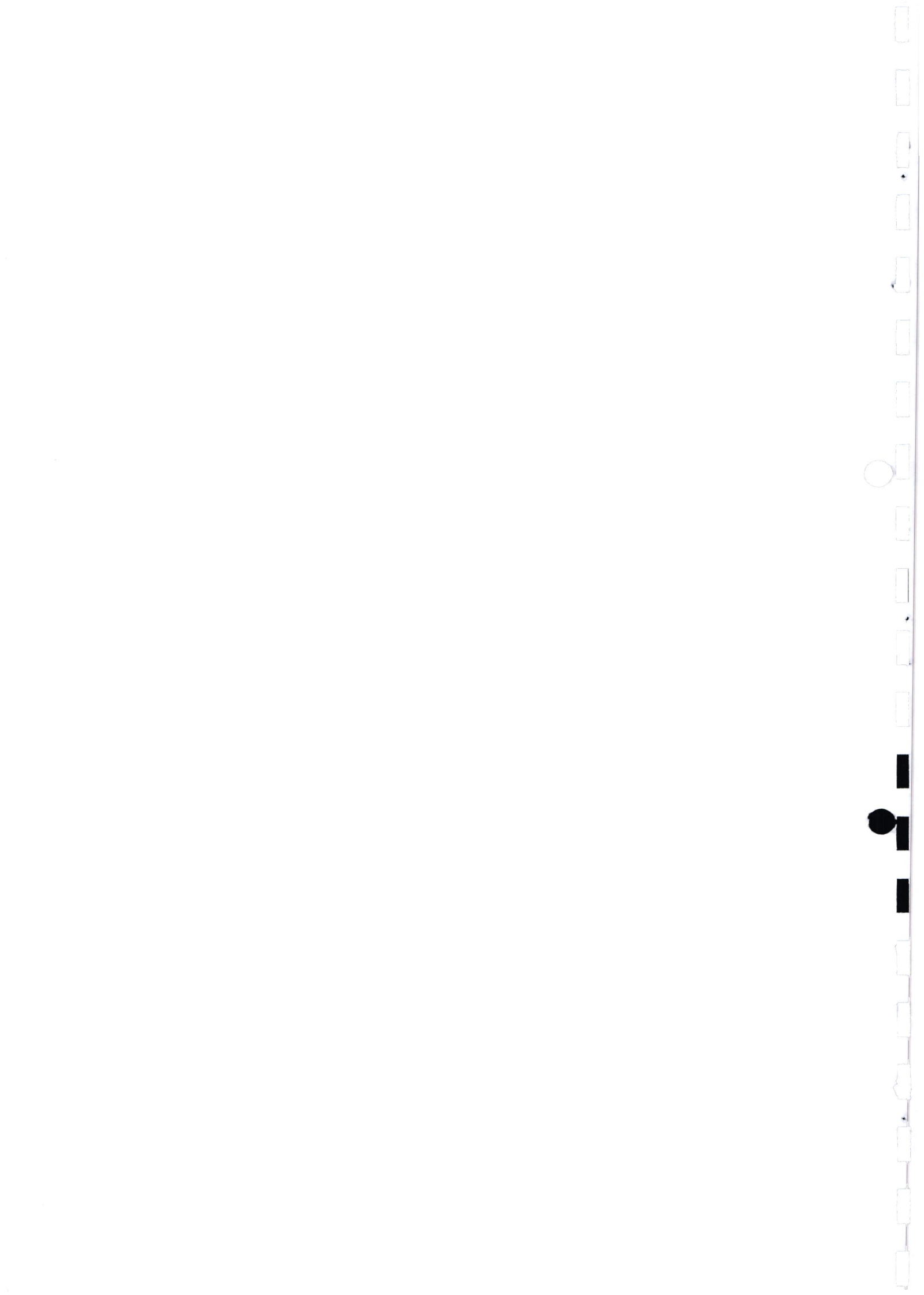
The Committee is in receipt of complaints, filed by yourself, regarding alleged misuse of official information through leakage of a purported summons from the Directorate of Criminal Investigations (DCI) and related confidential documents, and, unauthorized release to external parties in a possible breach of Section 22 of the Leadership and Integrity Act.

The Committee considered the matter on Wednesday 20th March 2019, and, on Wednesday 27th March 2019 proceeded to take evidence from a staff member. This is therefore to invite you to attend a scheduled meeting for taking of evidence from the Hon. Fatuma Gedi, MP to be held on Wednesday, 3rd April 2019 at 10.00 am in the Speaker's Board Room, Main Parliament Buildings.

The proceedings shall be held in public.

Yours *faithfully,*


SERAH M. KIOKO
FOR: CLERK OF THE NATIONAL ASSEMBLY



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Email: clerk@parliament.go.ke



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P. O. Box 41842 -00100
Nairobi, Kenya

OFFICE OF THE CLERK

KNA/DL&P/NACoPP/2019/08

April 1, 2019

The Hon. Purity Wangui Ngirici, MP
Member for Kirinyaga County
Parliament Buildings
NAIROBI

Dear *Maeshumwa*,

**RE: INVITATION TO APPEAR BEFORE THE NATIONAL ASSEMBLY COMMITTEE
OF POWERS AND PRIVILEGES**

The National Assembly Committee of Powers and Privileges is mandated to, *inter alia*, enforce the rules governing the conduct of Members of Parliament.

The Committee is in receipt of complaints, filed by yourself, regarding alleged misuse of official information through leakage of a purported summons from the Directorate of Criminal Investigations (DCI) and related confidential documents, and, unauthorized release to external parties in a possible breach of Section 22 of the Leadership and Integrity Act.

The Committee considered the matter on Wednesday 20th March 2019, and, on Wednesday 27th March 2019 proceeded to take evidence from a staff member. This is therefore to invite you to attend a scheduled meeting for taking of evidence from the Hon. Fatuma Gedi, MP to be held on **Wednesday, 3rd April 2019 at 10.00 am in the Speaker's Board Room, Main Parliament Buildings.**

The proceedings shall be held in public.

Yours *faithfully*,

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

SERAH M. KIOKO
FOR: CLERK OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
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Clerk's Chambers
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

OFFICE OF THE CLERK

KNA/DL&P/NACoPP/2019/07

April 1, 2019

The Hon. (Dr.) Adan Keynan, CBS, MP
Member for Eldas Constituency/ PSC Commissioner
Parliament Buildings
NAIROBI

Dear *Sir,*

**RE: INVITATION TO APPEAR BEFORE THE NATIONAL ASSEMBLY COMMITTEE
OF POWERS AND PRIVILEGES**

The National Assembly Committee of Powers and Privileges is mandated to, *inter alia*, enforce the rules governing the conduct of Members of Parliament.

The Committee is in receipt of complaints, filed by yourself, regarding alleged misuse of official information through leakage of a purported summons from the Directorate of Criminal Investigations (DCI) and related confidential documents, and, unauthorized release to external parties in a possible breach of Section 22 of the Leadership and Integrity Act.

The Committee considered the matter on Wednesday 20th March 2019, and, on Wednesday 27th March 2019 proceeded to take evidence from a staff member. This is therefore to invite you to attend a scheduled meeting for taking of evidence from the Hon. Fatuma Gedi, MP to be held on **Wednesday, 3rd April 2019 at 10.00 am in the Speaker's Board Room, Main Parliament Buildings.**

The proceedings shall be held in public.

Yours *Fatuma Gedi,*

Serah M. Kioko
SERAH M. KIOKO
FOR: CLERK OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA

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National Assembly
Clerk's Chambers
Parliament Buildings
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NAIROBI, Kenya

OFFICE OF THE CLERK

KNA/DL&P/NACoPP/2019/04

28th March 2019

The Hon. Fatuma Gedi Ali, MP
Member for Wajir County
Parliament Buildings
NAIROBI

Dear *M. Meshimwa,*

**RE: APPEARANCE BEFORE THE COMMITTEE OF POWERS AND PRIVILEGES IN
THE MATTER OF ALLEGED MISUSE OF OFFICIAL INFORMATION**

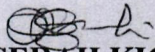
Reference is made to our letter dated 21st March, 2019, Ref. KNA/DL&P/NACoPP/2019/(03).

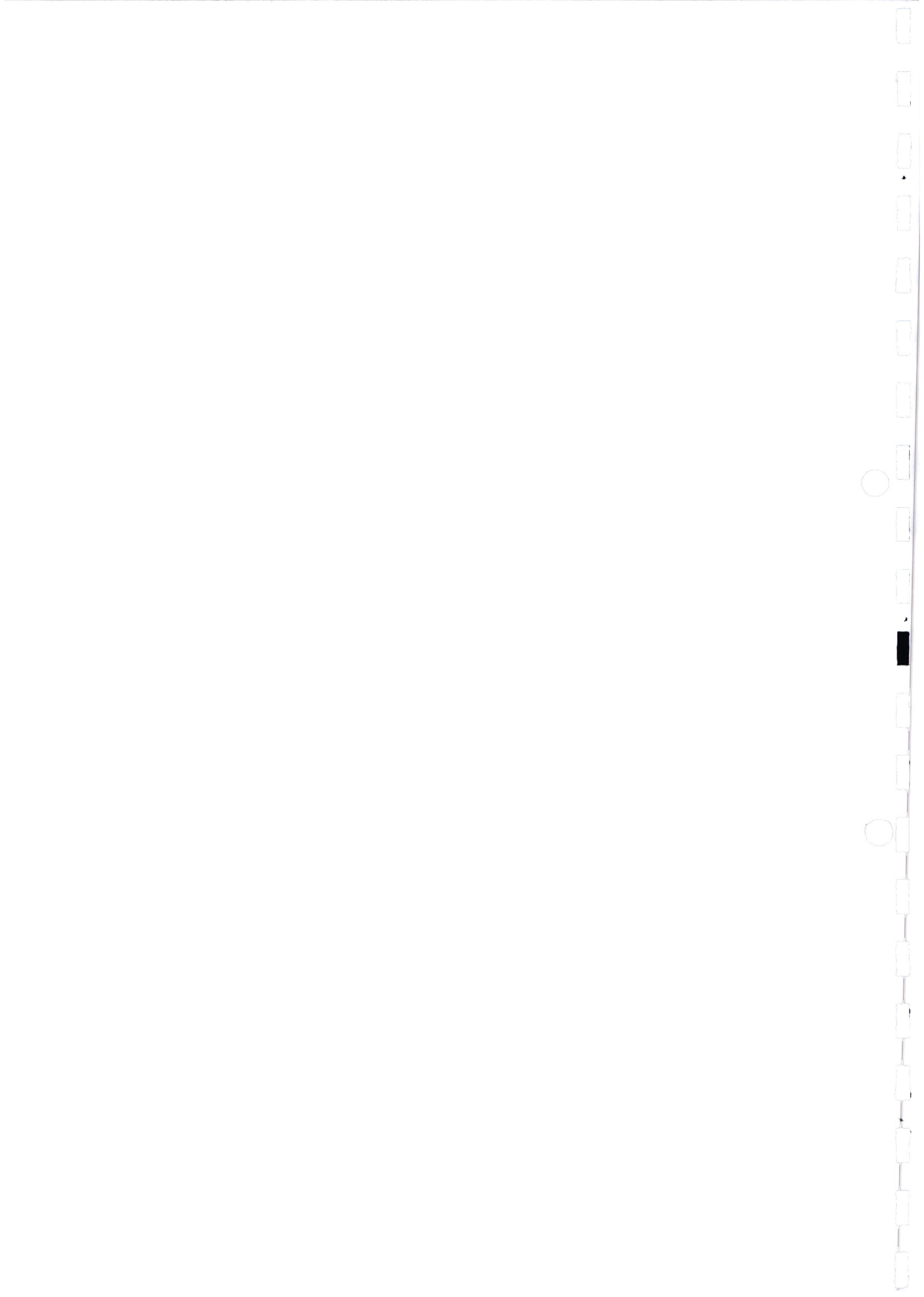
At its sitting held on Wednesday, 27th March 2019, the National Assembly Committee of Powers and Privileges noted that you failed to honour an invitation to appear before it to answer to allegations of misuse of official information, without explanation and contrary to the provisions of section 18 of the Parliamentary Powers and Privileges Act, 2017. In this regard, the Committee deliberated on the matter and resolved that you be accorded a second opportunity to appear before it.

This is therefore to invite you to appear before the Committee at a meeting scheduled to be held on **Wednesday, 3rd April 2019 at 10.00 am** in the **Speaker's Board Room, Main Parliament Buildings** to apprise the Committee on any further information that shall enable it to expeditiously and conclusively deal with the matter.

Please note that further failure to honour the Committee's invitation may compel the Committee to invoke the provisions of section 19 of the Parliamentary Powers and Privileges Act, 2017 and impose appropriate sanctions.

Yours *Sincerely,*


SERAH KIOKO
For: CLERK OF THE NATIONAL ASSEMBLY





Hon. (Dr.) Adan Keynan, CBS., MP.
Eldas Constituency

Commissioner: Parliamentary Service Commission
Member: National Cohesion and Equal Opportunity Committee
Member: Parliamentarians for Global Action (PGA)

Parliament Buildings
Tel: +254 20 2848 233
P. O. Box 41842 -00100
Nairobi, Kenya

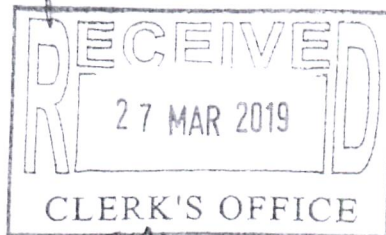
County Hall, Rm. 209
Mobile: +254 722 301 930
Fax: +254 20 2215 749
E-mail: eldas2013@yahoo.com

③ keep him
to invite all
the complainants
and to be
held in
public

①
Speaker
I would advise
that the complainants
be in attendance
and the
sitting be
in public.

Date: 27th March, 2019

The Clerk of the National Assembly
Parliament Buildings
P.O Box 41842-00100
NAIROBI



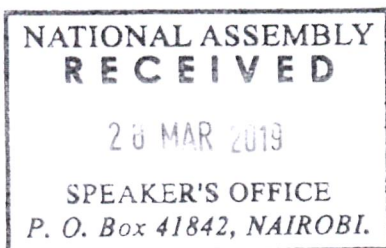
Dear Clerk,

④ Secretary of State
To write keep him
28/3/2019

RE: CHARACTER DEFAMATION, CHARACTER ASSASSINATION AND REPUTATION DAMAGE

Reference is made to your letter Ref. No. NA/2/4/2019/ (74) dated 5th March, 2019 informing that the above mentioned matter has been referred to the Powers and Privileges Committee.

My colleagues and I, who are the main complainants have been following up the matter closely and are keen to have it proceed to its logical conclusion, as soon as possible. I am however dismayed that, by inviting and hearing the subject Member in camera during their sitting of March 27, 2019, the Committee seems to have deviated from the precedence set during the hearing of the allegation of irregularities in the Public Accounts Committee in 2015 and recently the hearings relating to allegations of bribery of some MPs in respect of the Contaminated Sugar Report. In this regard, we beseech the Committee to ensure the following, in order to assure us a fair process:-



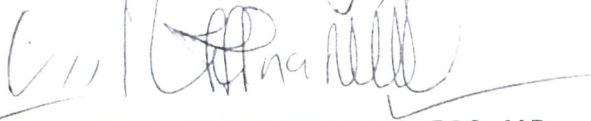
② CNA
I concur. Let it be
communicated to the committee.
BN SNA
28/3/19

- (i) Allow the complainants to attend (in person or by representation by respective counsel(s)) the meeting of the Committee when hearing the subject Member, other Members and other hearings; and,
- (ii) Open the hearings of the Committee on the matter to the media and the public.

I await response of the Committee on this request so as to, as stated above, reassure my colleagues and I, a fair process and in mitigation.

Yours

Sincerely



HON. (Dr.) ADAN KEYNAN, CBS, MP
ELDAS CONSTITUENCY

Cc.

Hon. Justin Muturi, EGH, MP,
Speaker of the National Assembly

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
Email: clerk@parliament.go.ke
NAIROBI, Kenya



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

OFFICE OF THE CLERK

KNA/DL&P/NACoPP/2019/02

March 21, 2019

Mr. Noor Mohamed Adan
National Assembly
Parliament Buildings
NAIROBI

Dear *Mr. Adan,*

RE: ALLEGED UNAUTHORISED RELEASE AND MISUSE OF INFORMATION

The National Assembly Committee of Powers and Privileges is mandated, *inter alia*, to enforce the rules governing the conduct of Members of Parliament.

The Committee is in receipt of complaints filed by four Members of Parliament regarding alleged unauthorized release and misuse of information through leakage of a purported summons from the Directorate of Criminal Investigations (DCI) and related confidential documents to external parties in breach of Section 22 of the Leadership and Integrity Act.

During its consideration of the matter on Wednesday, 20th March 2019, the Committee resolved to invite you to appear before it to provide information at a meeting scheduled to be held on Wednesday, 27th March 2019 at 10.00 am in the Speaker's Board Room, Main Parliament Buildings so as to enable it to expeditiously and conclusively deal with the matter.

Please note that this invitation should not prejudice you the right to fair administrative action you are entitled to by law.

Yours

[Handwritten signature]
[Handwritten signature]

MICHAEL SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
Email: clerk@parliament.go.ke
NAIROBI, Kenya



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

OFFICE OF THE CLERK

KNA/DL&P/NACoPP/2019/01

March 21, 2019

The Hon. Fatuma Gedi Ali, MP
Member for Wajir County
Parliament Buildings
NAIROBI

Dear 

RE: ALLEGED MISUSE OF INFORMATION

The National Assembly Committee of Powers and Privileges is mandated, *inter alia*, to enforce the rules governing the conduct of Members of Parliament.

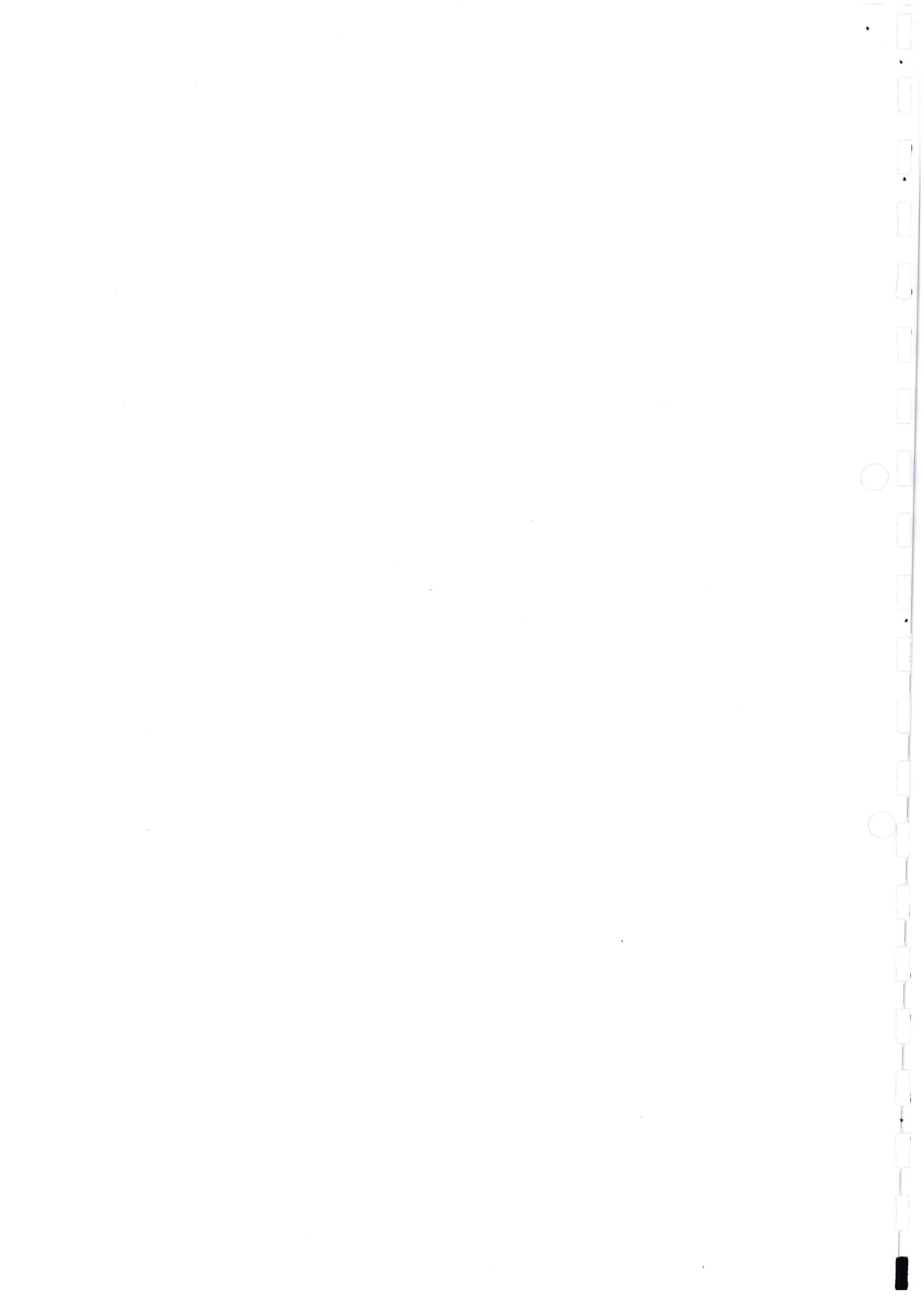
The Committee is in receipt of complaints filed by four Members of Parliament regarding misuse of information through leakage of a purported summons from the Directorate of Criminal Investigations (DCI) and related confidential documents to external parties in breach of Section 22 of the Leadership and Integrity Act. During its consideration of the matter on Wednesday, 20th March 2019, the Committee noted that you had been mentioned in a written submission made by a Parliamentary officer attached to the Office of the Clerk.

This is therefore to invite you to appear before the Committee at a meeting scheduled to be held on Wednesday, 27th March 2019 at 10.00 am in the Speaker's Board Room, Main Parliament Buildings to apprise the Committee with any further information that shall enable it to expeditiously and conclusively deal with the matter.

Yours

A handwritten signature in black ink, appearing to read 'Michael Sialai', written over a horizontal line.

MICHAEL SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY





REPUBLIC OF KENYA
PARLIAMENT

Hon. Purity Wangui Ngirici, MP.
Member of Parliament, Kirinyaga County
Chairperson - KEWOPA
Member - Finance & PIC Committee

Parliament Buildings
P. O. Box 41842 - 00100
Nairobi, Kenya

Tel: +254 20 2221291
Mobile: +254 722 888 696
Email: purity.kuria@gmail.com

28TH FEBRUARY, 2019

THE CLERK OF NATIONAL ASSEMBLY,

P. O BOX 41842-00100,

PARLIAMENT BUILDING,

NAIROBI.

Dear Sir,

REF: GROSS-MISCONDUCT OF PARLIAMENTARY STAFF


The matter herein refers.

Following the publication and airing of my alleged summon by the DCI in the main stream media on 23/02/2019, I write explicitly to register my frustrations and discontentment over the staff working in or within your office. Leaking my confidential information to the public with sole intent of character-assassination and ruining my reputation is grossly against my privacy and violation of parliament standing orders in regard to staff code of conduct and work ethics.

Therefore, I kindly but urgently, request you to provide me with details of the individuals behind the circulation of mis-informed allegations by end of Wednesday 06/03/2019.

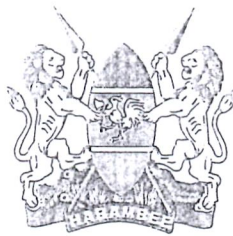
Thank you for your cooperation.

Yours sincerely,


HON. PURITY WANGUI NGIRICI

MP-KIRINYAGA COUNTY

23 FEB 2019



REPUBLIC OF KENYA
PARLIAMENT

Hon. Rehema Dida Jaldesa, MP.
Isiolo County, Member of Parliament
Member: Transport, Public Works & Housing Committee
Member: Special Funds Accounts Committee

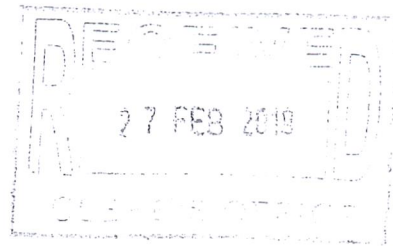
Parliament Buildings
P. O. Box 41842 - 00100
Nairobi, Kenya

Tel: +254 20 2221291
Mobile: +254 725 717 544
Email: rehema.jaldesa@parliament.go.ke

THE CLERK NATIONAL ASSEMBLY,

P.O BOX 41842-00100,

NAIROBI.



Dear Sir,

RE: COMPLAINTS AGAINST CONDUCT OF PARLIARMENTARY STAFF

I'm perturbed and shocked by the conduct of parliamentary staff in regards to the recent leaking of my alleged summons by DCI to the media. This goes contrary to the parliamentary staff code of conduct and work ethics. As Members of Parliament we are protected by the law in regards to our privacy and I feel this alleged summons were leaked to the media with the sole intent of injuring my reputation and character. I therefore request the clerk of the national assembly to provide me with the details of the staff who colluded with the media in circulating this fabricated allegations before close of business of 27/2/2019.

Your assistance will highly be appreciated.

Thanks in advance.

Yours faithfully,

Hon. Rehema Jaldesa

Isiolo County, Member of Parliament



Hon. (Dr.) Adan Keynan, CBS., MP.
Eldas Constituency

Commissioner: Parliamentary Service Commission

Member: National Cohesion and Equal Opportunity Committee

Member: Parliamentarians for Global Action (PGA)

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Nairobi, Kenya

County Hall, Rm. 209
Mobile: +254 722 301 930
Fax: +254 20 2215 749
E-mail: eldas2013@yahoo.com

RECEIVED

28 FEB 2019

CLERK'S OFFICE

25th Feb, 2019

Hon. Justin B. N. Muturi, EGH, MP

Chairperson of the Parliamentary Service Commission (PSC)
and Speaker of the National Assembly

Parliament Buildings
P.O. BOX 41842-00100

NAIROBI

CNA
You are dealing.
0009
28/02/19

Dear *Sir*,

RE: CHARACTER DEFAMATION, CHARACTER ASSASSINATION AND REPUTATION DAMAGE

The above matter refers.

I wish to register my displeasure and utmost discomfort against the leakage of the purported letter from the Directorate of Criminal Investigations (DCI) dated 21st Feb, 2019 Ref. No. CID/SEC/SOLCA/4/4/VOL.1A/44 which was addressed to the Clerk of the National Assembly and subsequently released to the media in a Parliamentary Memo indicating origin from the Clerk's office with disregard to my status as a senior member of the house, my image in the eyes of the electorates I represent and the Nation at large.

Sir, the damaging story is a well-coordinated and sustained scheme by my political detractors to tarnish my good name and reputation which I have built in the last 30 years within and without parliament. It is malicious of someone to publish or cause the publication of my name in the media on an issue I know nothing about without due consideration to the level of psychological and mental disturbance it could cause which directly and indirectly interferes with

01 MAR 2019

Member: Parliamentary Network on the World Bank & International Monetary Fund (IMF)

Chairman: Kenya - Turkey Parliamentary Friendship Group

Executive Member: Commonwealth Association of Public Accounts Committee (CAPAC)

the performance of my duties as a Member of Parliament in the house, my constituency and the Nation at large.

As a ranking Member of the house, I expected the contents of the said letter to be brought to my attention in order for me to give a response regarding the same. As such I am asking;

- a) Which office in Parliament received the letter first?
- b) Why the said letter wasn't brought to my attention if at all someone did not intend ill-will?
- c) Who in parliament leaked the letter to the media?
- d) What action is the Commission/Parliament taking against the staff/staffs and member/members involved in this libellous and scandalous issue?
- e) How secure are parliamentarians and members of staff if such correspondence can be handled casually and released to the media sensationally without protecting the image of the institution of parliament?

The security of information and lives of members of parliament will be endangered if such incidences are allowed to happen and continue hence the need to protect members from external threat and interference. Thus, as the Chairperson of both the Parliamentary Service Commission and the Powers and Privileges Committee of the house, you should investigate this serious matter to its logical conclusion and bring the culprits involved to book and constitute the necessary disciplinary action against them. This will deter such occurrences from happening in the future.

This is therefore to request for your swift action on this issue.

Yours

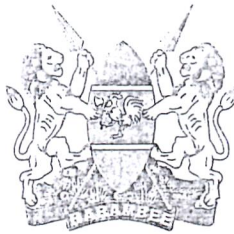

HON. (Dr.) ADAN KEYNAN, CBS, MP

ELDAS CONSTITUENCY

Cc.

1. Hon. (Dr.) Naomi Shaaban, EGH, MP- Vice Chairperson PSC
2. Sen. George Khaniri, MGH, MP- Commissioner
3. Sen. Beth Mugo, EGH, CBS, MP- Commissioner
4. Hon. Ben Momanyi, MP- Commissioner
5. Hon. Aisha Jumwa, MP- Commissioner
6. Sen. Aaron Cheruiyot, MP- Commissioner
7. Hon. Samuel Chepkonga, CBS- Commissioner
8. Dr. Lonah Mumelo, HSC- Commissioner

9. The Clerk, National Assembly
10. The Clerk Senate/Secretary PSC



REPUBLIC OF KENYA
PARLIAMENT

Hon. Abdikhaim Mohamed Osman, MP.
Fafi Constituency

Parliament Buildings
P. O. Box 41842 - 00100
Tel: +254 20 2221291
Nairobi, Kenya

Continental House Room 318
Mobile: +254 724 262 053
E-mail: abdikarim.mohamed@parliament.go.ke
abdikosman@gmail.com

RE: NA/FC/LL/25/02/18/3

25th February 2019

**The Clerk of The National Assembly,
Parliament Buildings.
P.O. Box 41842-00100
NAIROBI**

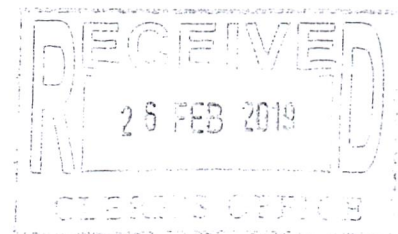
Dear Sir,

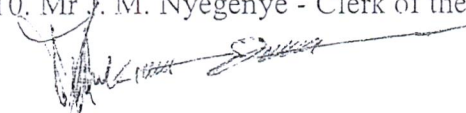
RE: DEMAND LETTER

I am shocked and taken apart by the letter that was purportedly written by the DCI leaked to the media. This has enabled evil minded people to persecute me in the media .I demand to know the names of the people who leaked the letter and suspension and persecution of the same in the next one week.

CC.

1. Hon. Justin Muturi
The Honourable Speaker
Kenya National assembly
2. Hon. Dr. Naomi Shaban- Vice Chair Commissioner PSC
3. Hon. Beth Mugo- Commissioner PSC
4. Hon. Adan Keynan- Commissioner PSC
5. Hon. Benson Momanyi- Commissioner PSC
6. Hon. George Khaniri- Commissioner PSC
7. Hon. Aisha Jumwa- Commissioner PSC
8. Hon. Aaron Cheruiyot- Commissioner PSC
9. Hon Dr. Lorna Mumelo- Commissioner PSC
10. Mr J. M. Nyegenye - Clerk of the Senate- Commissioner PSC




Hon. Abdikhaim Osman Mohamed, MP
FAFI CONSTITUENCY



Telegraphic Address
'Bunge', Nairobi
Telephone 221291
Fax: 243694

When replying please quote our reference

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

Mr. Michael Sialai, EBS
Clerk of the National Assembly,
Parliament Building
NAIROBI

THRO : The Director Legislative and Procedural Services

REF: LEAKAGE OF DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION


The above matter and your letter dated 26th February, 2019 refers requiring myself to explain the circumstances under which the document in question was photocopied, leaked to strangers and how it ended up in the press refers. I wish to humbly reply as follows:-

- (a) On 23rd February, 2019 at around 4:00 pm, I bumped into Hon. Fatuma Gedi Ali, MP, Wajir County along the corridors of the Main Parliament Building. She stopped and asked me in confidence if I could locate a document from DCI that was addressed to the Clerk and that she wants to utilize it for parliamentary business. I declined because I found it absurd, difficult and irregular. I retreated back to my office and thought about it again as I was under duress because of the strength of the Member, She is a Vice Chair of a Committee and we also happen to come from the same County.
- (b) After I received documents to be dispatched to the Directorate of Finance and Accounts and the Directorate of Litigation and Compliance including the document in question. I informed the member that I had seen the document from DCI. She asked for a copy and I reluctantly handed it to her after she persistently repeated that she wants to use it for parliamentary business.
- (c) I sincerely regret the outcome of the event and tender my apologies to the Chairman of the Parliamentary Service Commission, the Clerk of the Senate/Secretary to the Commission and the Clerk of the National Assembly and promise that I shall never act in a manner that undermines my fidelity to the Commission and my duties therein ever again.
- (d) I believe that I am a good parliamentary officer who has been doing his work diligently and efficiently having been cited in 2018 as the Office Attendant of the year by Deputy Director Administrative Services in a meeting that was held in the Senate chamber

DLSP
3
to meet
19/2/19
6/3/19
Speaker
1
An officer who leaked the documents has claimed that Geeli had access to it. It is therefore necessary for the matter to be forwarded to the member who handled the copy and has evidently impacted negatively on his work. I recommend that Kenya should sue Geeli in his name.
28/2/19
2
concur.
SWA
February 27, 2019
by the P&P unit

Sir, I seek forgiveness and once again promise to never repeat the mistake which is still haunting me and has affected my concentration and performance. I shall always endeavour to remain faithful, confidential and professional in my work.

Yours Faithfully


Mr. Noor Mohamed Adan
Office Attendant
(National Assembly)

Copy to: Mr. Jeremiah Nyegenye, EBS
Clerk of the Senate/Secretary PSC

Director, Administrative Services

URGENT

PARLIAMENT OF KENYA

INTERNAL MEMO

TO: THE CLERK OF THE NATIONAL ASSEMBLY;

THRO: THE DIRECTOR, LITIGATION & COMPLIANCE;

This is to formally bring to your attention the leak of a confidential memo between my office and the office of the Clerk of the National Assembly. This is both a criminal offence and a disciplinary matter. We recommend that the requisite investigations be undertaken to determine the source of the leak.

FROM: KUYIONI JOSPHAT - LEGAL COUNSEL;

*A. Nyong'o
20/2/19*

DATE: 26TH FEBRUARY, 2019

RE: ATTENDANCE TO DCI HEADQUARTERS

The above matter refers,

Background

1. On 21st February, 2019, the Directorate of Criminal Investigations vide a letter Ref No. CID/SEC/SOLCA/4/4/VOL.1A/44 of even date requested that the Clerk of the National Assembly informs the following Members of Parliament to report at the DCI headquarters at Kiambu road at 1000 hrs. to facilitate investigations.

1. Hon. Aden Keynan, MP Eldas
2. Hon. Abdihakim Osman Mohamed, MP Fafi

27 FEB 2019

3. Hon. Rehema Dida Jaldesa, Women Rep, Isiolo

4. Hon. Purity Wangui Kuria Ngirichi, Mp Kirinyaga.

2. From the letter, the DCI is investigating an alleged case of defamation vide DCI/Serious Crime Unit Inquiry file where the said Members have been adversely mentioned.
3. The said letter was committed to the Directorate of Litigation and Compliance for advice.
4. On 21st February, 2019, the Directorate of Litigation and Compliance vide a Memo of even date advised the Clerk of the National Assembly that the case under investigations in the face of it does not arise from performance of duties of a Member of Parliament. As such, the Directorate of Litigation and Compliance recommend that the Directorate of Criminal Investigations correspond directly with the said Members. **(Attached please find attached a copy of the Memo)**
5. The said Memo was forwarded to the Clerk of the National Assembly on 21st February, 2019. The Memo came back to the Directorate of Litigation and Compliance on Friday, 22nd February, 2019 at around 5 PM with the Clerk of the National Assembly having signed the letter. With the letter having been brought back past working hours, the same was to be transmitted to the relevant authorities on Monday 25th February, 2019.
6. On Saturday, the 23rd day of February, 2019, we learnt that the Memo has leaked to the media when the same appeared as a news item in NTV. The Memo also appeared in print media in both the Nation and Standard Newspapers of 24th February, 2019. **(Attached please find newspaper cuttings on the same)**
7. It should be noted that the said communication was intended for internal use by the Clerk's Office only.

The Law on confidentiality

8. Section 5 of the Parliamentary Service Act, on Parliamentary Services Code of Conduct provides as follows;

- (1) The Commission may, from time to time, prescribe a Parliamentary Service Code of Conduct.

- (2) Without prejudice to the provisions of any Code of Conduct prescribed under subsection (1), every employee of the Service shall, in the course of his employment—
 - (a) Be patriotic and loyal to Kenya and at all times conduct himself in a manner that promotes the image and interests of the country;
 - (b) Conduct himself with honesty and integrity and act with care and diligence;
 - (c) Use the resources of the nation conscientiously and combat corruption and misuse or wastage of public property;
 - (d) Respect and observe the law of the land and co-operate with all lawful agencies in the maintenance of law and order
 - (e) Treat all persons with respect and courtesy and, in particular, protect persons with disabilities and other vulnerable groups against any form of abuse, harassment or ill-treatment;
 - (f) Promote gender equality and respect for the rights and freedoms of others;
 - (g) preserve and protect the environment and national heritage;
 - (h) comply with any lawful and reasonable direction given by any person in the Service having authority to give such direction;
 - (i) **maintain appropriate confidentiality about dealings that the employee has with the National Assembly, its committees, its members and its staff (including employees of members, if any)**
 - (j)

9. **Section 33 (b)** of the Parliamentary Service Act on the offences under the Act makes it an offense to publish or disclose to any unauthorized person or otherwise than in the course of duty the contents or any part of the contents of any document communication or information whatsoever which has come to his knowledge in the course of his duties under this Act without the consent in writing of the chairman.
10. **Section 33** on the penalties provide that a person who commits an offence under the Act, shall be liable conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both:
11. **Section 134** of the Evidence Act provides that an advocate will not disclose communication made to them by their client. Not to disclose documents provided by clients or legal advice given to the client. It is a professional privilege.
12. The general upshot is that there is advocate client confidentiality and the advise given by an Advocate to a client should not be disclosed to any unauthorized person without the express consent of both the client and the Advocate

RECOMMENDATIONS

The Directorate of Litigation and Compliance recommends:

1. That the Clerk notes that an internal legal advisory was leaked to the Media.
2. That the necessary investigations be initiated to establish how the media got a copy of an internal legal advisory and to take the necessary remedial measures.
3. If upon investigations it is found that a Member of staff has deliberately disclosed and/leaked the information to the media contrary to the provisions of **Section 33 (b)** of the Parliamentary Service Act, we

recommend that the necessary disciplinary measures be commenced against the member of staff in accordance with the Act.

Submitted for your directions and approval.



KUYIONI JOSPHAT,
LEGAL COUNSEL, DIRECTORATE OF LITIAGTION & COMPLIANCE
Encl.

to the...
Mr Michael Sialai.

"Kindly but expeditiously inform them to report at the DCI headquarters, Kiambu Road at 1000 hours to facilitate investigations," said Mr Wiso in his letter.

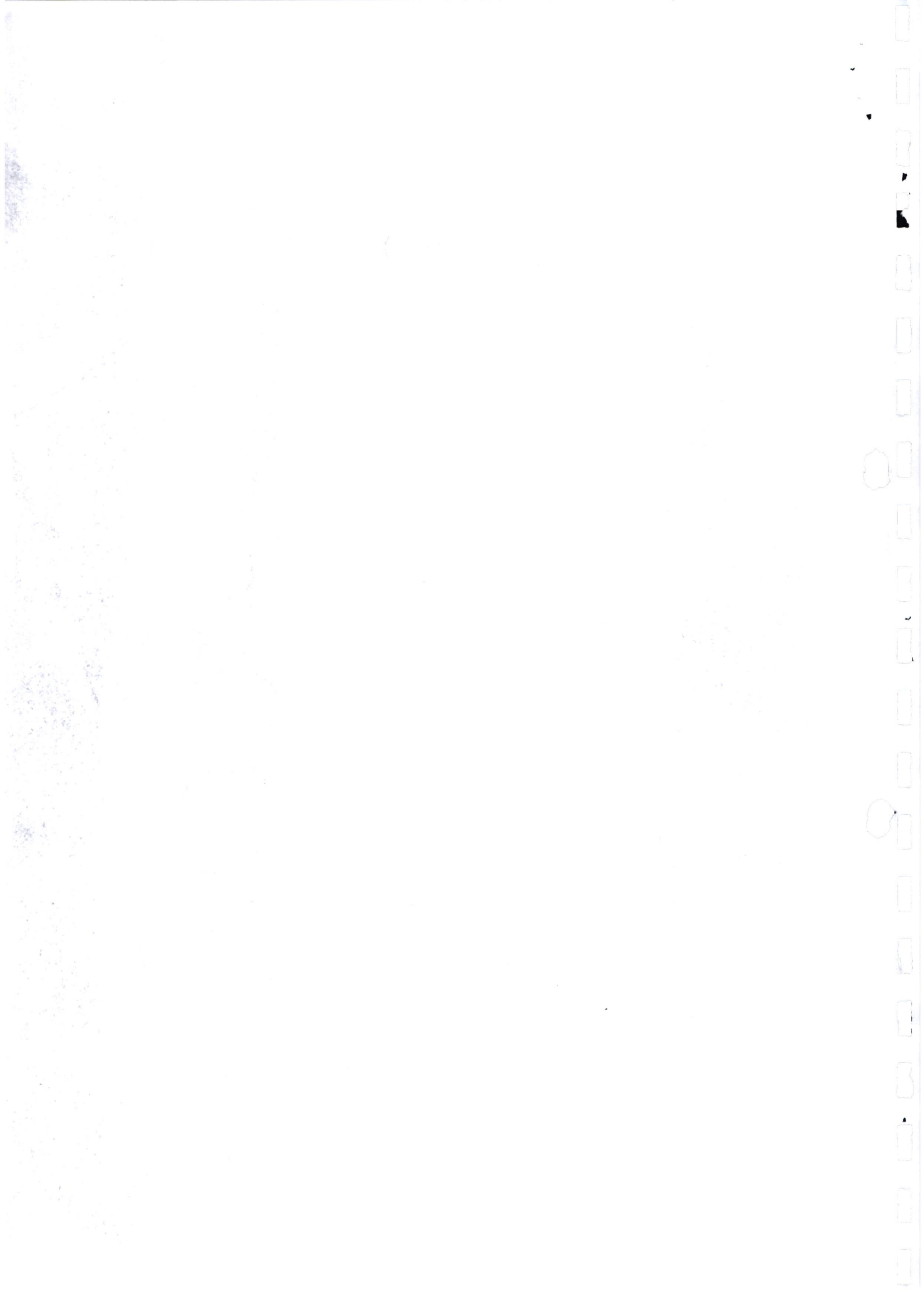
Mr Keynan and Mr Mohamed are expected to appear before the investigators on Monday whereas Ms Jaldesa and Mrs Ngirici on Tuesday.

However, it is not clear whether the four will appear as requested by the investigating officer after Mr Kuyioni Josphat, the legal counsel in the National Assembly, advised Mr Sialai that the DCI should correspond directly to the individual members rather than summoning them through the clerk of Parliament.

"Based on the foregoing, case under investigations in the face of it, does not arise from the performance of duties of a Member of Parliament. As such, we recommend that the Directorate of Criminal Investigations correspond directly with the said members," he wrote.

The video allegedly depicting Ms Gedi in a sexual act with an unknown man hit the Internet last December, but the...

Daily Nation, 27/2/2019



REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2221291/2848000
Fax: 243694
E-mail: cna@parliament.go.ke



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

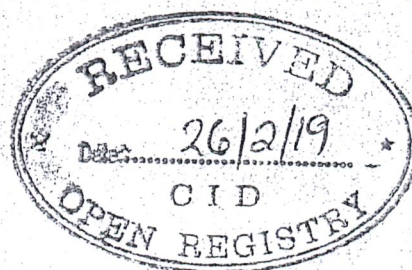
When replying please quote

DLC/ADM/1/1/KJ

21st February, 2019

Wiso J. M

Directorate of Criminal Investigations,
DCI Headquarters,
Mazingira House, Kiambu Road
P.O. Box 30036- 00100,
NAIROBI.



Dear *Sir,*

RE: ATTENDANCE TO DCI HEADQUARTERS

We refer to your letter Ref No. CID/SEC/SOLCA/4/4/VOL.1A/44 dated 21st February, 2019 requesting that the Clerk of the National Assembly informs the following Members of Parliament to report at the DCI headquarters at Kiambu road.

1. Hon. Aden Keynan, MP Eldas
2. Hon. Abdihakim Osman Mohamed, MP Fafi
3. Hon. Rehema Dida Jaldesa, Women Rep, Isiolo
4. Hon. Purity Wangui Kuria Ngirichi, Mp Kirinyaga

The members are being invited to aid in investigations in an alleged case of defamation. The said investigation from face of it does not arise from performance of duties of a Member of Parliament.

Please note that my office is unable to inform Members of Parliament to attend, receive any summons or invitations relating to Members of Parliament for matters that do not fall within the scope of the Clerk's official functions.

Yours

Michael Sialai
[Signature]

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



PARLIAMENT OF KENYA

INTERNAL MEMO

TO: THE CLERK OF THE NATIONAL ASSEMBLY

THRO': THE DIRECTOR, LITIGATION & COMPLIANCE SERVICES

The DCI via its letter dated 21/2/2019 seeks your office's assistance to inform your Members of Parliament to report to DCI headquarters. ~~This~~ This falls out of the scope of duties of your office and also contravenes the principles of Parliamentary powers, privileges and immunities. he recommended the attached draft response be sent to DCI.

FROM: KUYIONI JOSPHAT - LEGAL COUNSEL

DATE: 21ST FEBRUARY, 2019

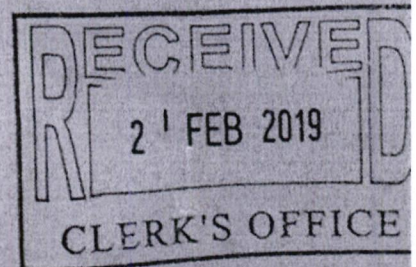
A. Njoroge
21/2/19

RE: ATTENDANCE TO DCI HEADQUARTERS

The above matter refers,

On 21st February, 2019, the Directorate of Criminal Investigations vide a letter Ref No. CID/SEC/SOLCA/4/4/VOL.1A/44 of even date requested that the Clerk of the National Assembly informs the following Members of Parliament to report at the DCI headquarters at Kiambu road at 1000 hrs. to facilitate investigations.

1. Hon. Aden Keynan, MP Eldas
2. Hon. Abdihakim Osman Mohamed, MP Fafi
3. Hon. Rehema Dida Jaldesa, Women Rep, Isiolo
4. Hon. Purity Wangui Kuria Ngirichi, Mp Kirinyaga.





From the letter, the DCI is investigating an alleged case of defamation vide DCI/Serious Crime Unit Inquiry file where the said Members have been adversely mentioned.

The said letter was committed to the Directorate of Litigation and Compliance for advice. *(A copy of the letter is attached hereto for ease of reference)*

It is important to note that the functions of the Clerk are stipulated under **Section 14** of the Parliamentary Service Act as follows;

The procedural functions of the Clerk shall include –

Section 14

(1)

(a) Rendering expert, non-partisan and impartial advice to the members of the National Assembly on Parliamentary procedure and practice;

(b) Carrying out such other duties and exercising powers as may be conferred on him by law or by the standing orders and practices of the National Assembly.

(2) In carrying out the functions specified in subsection (1), the Clerk shall be assisted by such other officers of the Service as may be necessary.

(3) Subject to this Act and any other written law, the Clerk shall, in carrying out and exercising the power conferred on him by the standing orders and practices of the National Assembly, be under the direction of the Speaker.

(4) At any time when the office of the Speaker is vacant or the holder of the office is unable for any reason to carry out the duties and exercise the powers and functions of his office, the Clerk shall, during that period and in relation to the carrying out of the duties and exercise of the powers and functions referred to in this section, be under the direction of the Deputy Speaker.



Pursuant to the above provisions of the law, it appears that the issue under investigation does not fall within the scope of the Clerk's official functions.

Freedom from Interference and Intimidation

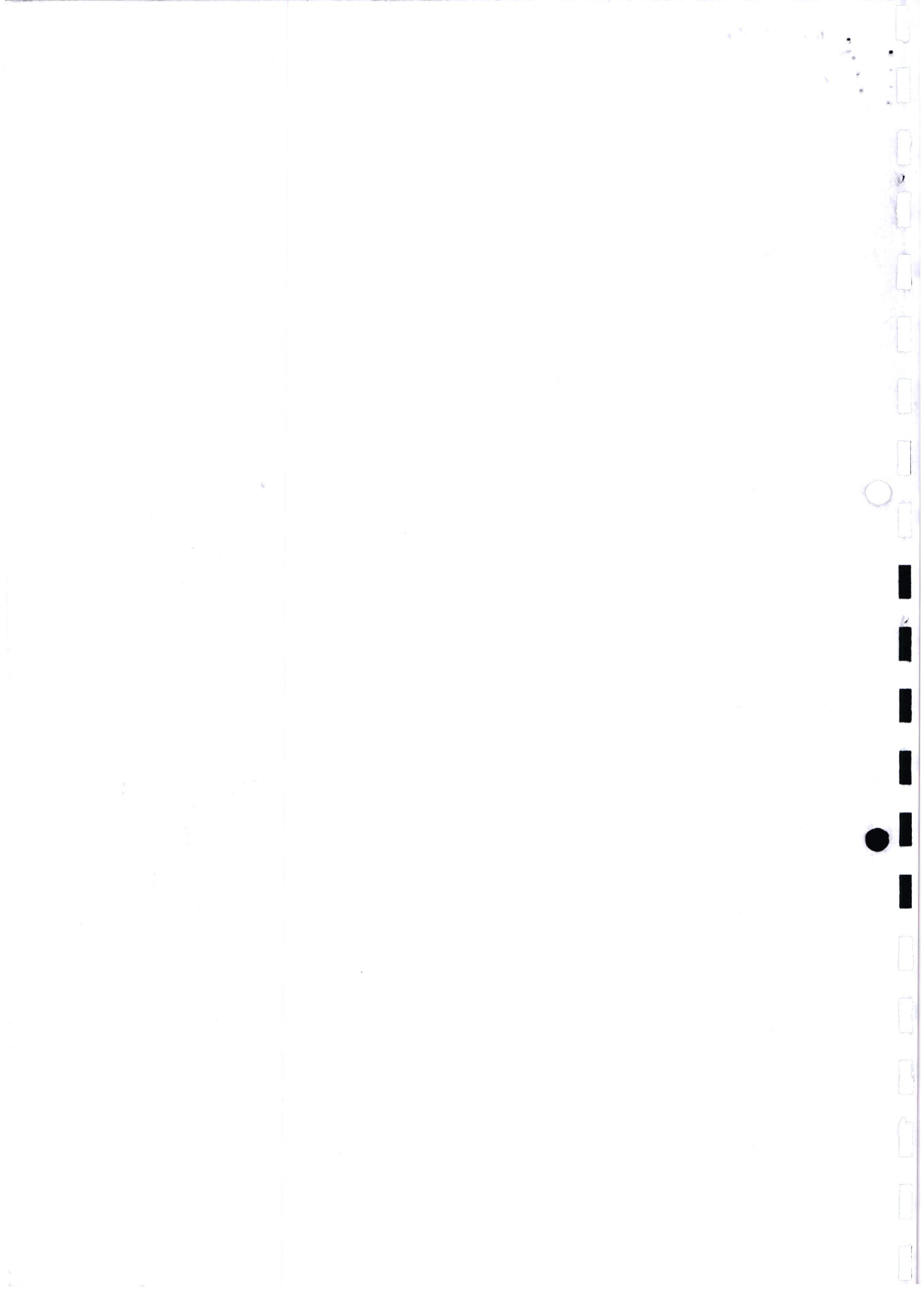
Members of Parliament, all over the world, by virtue of the offices they hold, and in order to secure the effective discharge of the functions of those offices, enjoy various powers, privileges and immunities - generally referred to as Parliamentary Privilege. Parliamentary Privilege in essence refers to the freedom of a parliament to conduct its proceedings without interference or obstruction from any other bodies, entities or persons.

That parliamentary privilege includes the right of a member to discharge his responsibilities as a member of the House free from threats or attempts at intimidation

The privileges of a Member are violated by any action which might impede him or her in the fulfillment of his or her duties and functions. It is obvious that asking a Member to report to the DCI Headquarters could constitute such an impediment.

It cannot be surely that a Member of Parliament, while in the course of executing his or her functions in Parliament within the precincts of Parliament, would do so with apprehension and anxiety, not knowing if or when he or she will be accosted with notices to appear.

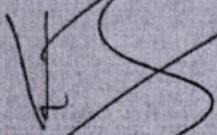
Consequently, if the office of the Clerk is to inform Members to appear in the investigative agencies as requested in the said letter, the business of the National Assembly would be adversely affected.



Recommendation and way forward

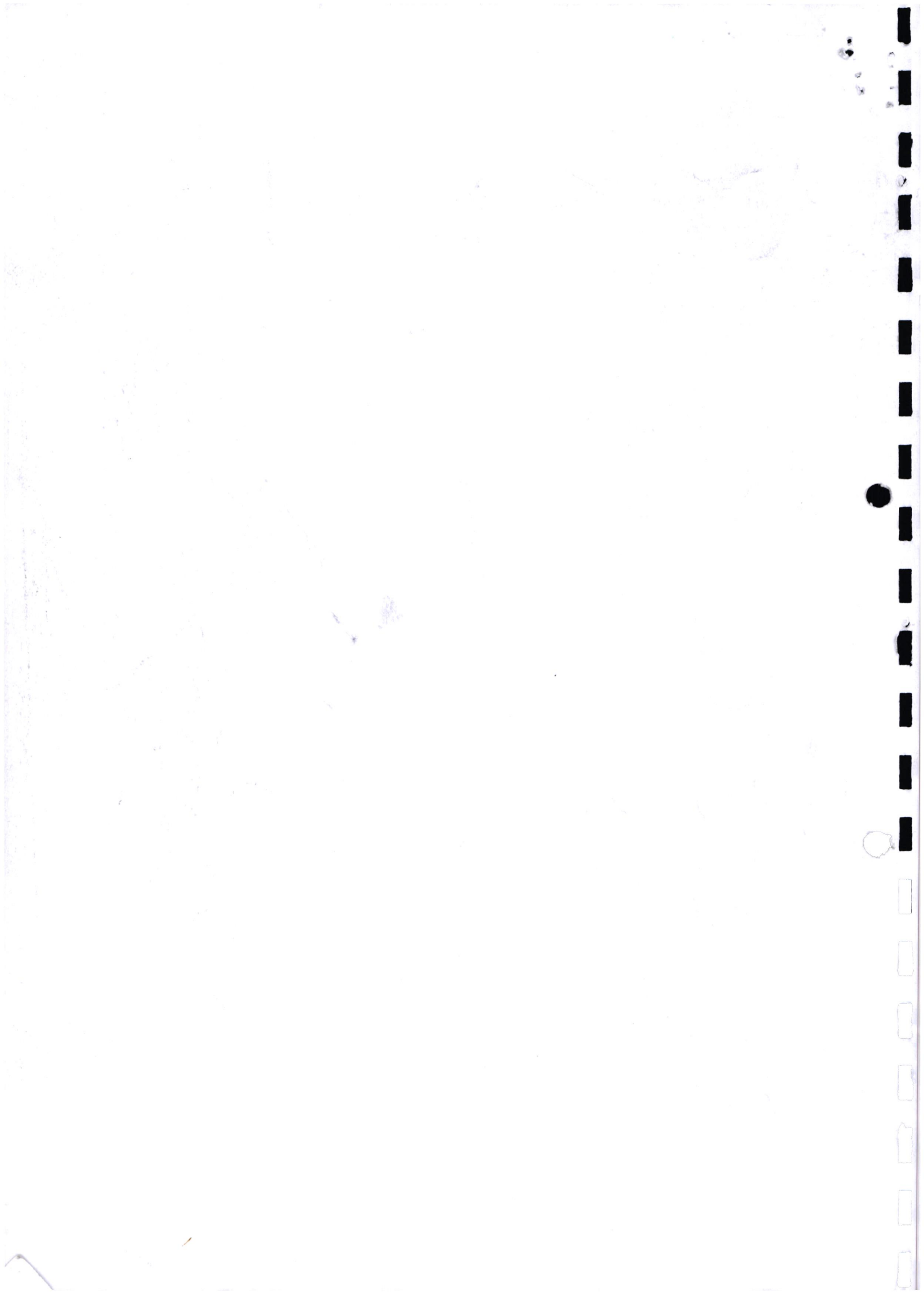
Based on the foregoing, case under investigations in the face of it does not arise from performance of duties of a Member of Parliament. As such, we recommend that the Directorate of Criminal Investigations correspond directly with the said Members.

Attached please find a letter to the Directorate of Criminal Investigations informing them to correspond directly with the Members for your signature if you approve.



KUYION N. JOSPHAT

LEGAL COUNSEL, DIRECTORATE OF LITIGATION AND COMPLIANCE



Telegrams: "Criminal" Nairobi
Email: director@cid.go.ke
Tel: 020343312-020210



DCI HEADQUARTER
MAZINGIRA HOUSE
KIAMBU ROAD
P.O. Box 30036-00100
NAIROBI

REF: CID/SEC/SOLCA/44/ VOL. 1A/44

DIRECTORATE OF CRIMINAL INVESTIGATIONS.

DATE: 21/02/2019

The Clerk, National Assembly
Of Kenya
Parliament Building,
P.O BOX 4182 – 00100
NAIROBI

Keyson, LC
Please advise on
this urgency.
A. Ng
21

RE: ATTENDANCE TO DCI HEADQUARTERS

1. HON. ADEN KEYNAN, MP ELDAS
2. HON. ABDIHAKIM OSMAN MOHAMED, MP FAFI
3. HON. REHEMA DIDA JALDESA, WOMAN REP, ISIOLO
4. HON. PURITY WANGUI KURIA NGIRICHI, MP KIRINYAGA

The DCI is investigating an alleged case of defamation vide DCI/Serious Crime Unit Inquiry file, whereby the above listed have been adversely mentioned. Kindly but expeditiously inform them to report at the DCI Headquarters, Kiambu road at 1000 hrs, to facilitate investigations as follows:

1. HON. ADEN KEYNAN, MP ELDAS on 25/02/2019
2. HON. ABDIHAKIM OSMAN MOHAMED, MP FAFI on 25/02/2019
3. HON. REHEMA DIDA JALDESA, WOMAN REP, ISIOLO on 26/02/2019
4. HON. PURITY WANGUI KURIA NGIRICHI, MP KIRINYAGA on 26/02/2019.

On arrival let them see the undersigned for further directions. Your cooperation in this matter will be highly appreciated.

[Handwritten Signature]
(WISO J.M)

FOR: DIRECTOR OF CRIMINAL INVESTIGATIONS

SPEAKER/CLERK OF THE
NATIONAL ASSEMBLY
2 FEB 2019
TIME: 10.58 am
[Handwritten Initials]

[Circular Stamp]
10.15
57

