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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT- FIFTH SESSION - 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON LABOUR

REPORT ON THE APPROVAL HEARING OF MR. FRANCIS MEJA, NOMINEE FOR APPOINTMENT AS CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 24 FEB 2026
DAY. TUESDAY
TABLED BY: HON. KITI CHOMGA, MP (CHAIRPERSON)
CLERK AT THE-TABLE: INZOFU MWALE

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
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TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS III

LIST OF ANNEXURES IV

CHAIRPERSON'S FOREWORD V

CHAPTER ONE 1

1.0 PREFACE 1

1.1 Establishment and Mandate of the Committee 1
1.2 Subject Matter 1
1.3 Committee Membership 2
1.5 Committee Secretariat 3

CHAPTER TWO 4

2.0 BACKGROUND 4

2.1 LEGAL FRAMEWORK 4

2.2 Notification of Nominations 4
2.3 Notification to the House and Referral to the Committee 4
2.4 Notification to the Public 4
2.5 Notification to the Nominee 5
2.6 Clearance and Compliance Requirements 5
2.7 Criteria for Consideration during the Approval Hearings 6
2.7.1 Procedure for Nomination 6
2.7.2 Constitutional and Statutory Requirements 7

CHAPTER THREE 10

3.0 MEMORANDA FROM THE PUBLIC 10

CHAPTER FOUR 12

4.0 APPROVAL HEARING OF THE NOMINEE 12

4.3 General and Sector-Specific Questions to the Nominee 13
CHAPTER FIVE 17

5.0 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE 17

6.0 COMMITTEE RECOMMENDATION 18

LIST OF ABBREVIATIONS AND ACRONYMS

CBS	-	Chief of the Order of the Burning Spear
CUE	-	Council for University Education
DAP-K	-	Democratic Action Party Kenya
DCI	-	Directorate of Criminal Investigations
EACC	-	Ethics and Anti-Corruption Commission
FORD	-	Forum for the Restoration of Democracy
H.E.	-	His Excellency
HELB	-	Higher Education Loans Board
KANU	-	Kenya African National Union
KRA	-	Kenya Revenue Authority
MBS	-	Moran of the Order of the Burning Spear
MP	-	Member of Parliament
NTSA	-	National Transport and Security Authority
ODM	-	Orange Democratic Movement
ODPP	-	Office of the Director of Public Prosecutions
ORPP	-	Office of the Registrar of Political Parties
PSC	-	Public Service Commission
UDA	-	United Democratic Alliance
UON	-	The University of Nairobi
TIMS	-	Transport Integrated Management System

LIST OF ANNEXURES

Annexure 1:	Adoption Schedule
Annexure 2:	Minutes of Committee Sittings
Annexure 3:	Transmittal Letter by the Head of Public Service
Annexure 4	Report of the Selection Panel
Annexure 5:	Message No. 001 of 2026 from the Speaker
Annexure 6:	Advertisement notifying the public of the approval hearing and submission of memoranda
Annexure 7:	Letter from the Clerk of the National Assembly inviting the nominee for the approval hearing
Annexure 8:	Letters from the Clerk of the National Assembly to DCI, EACC, HELB, KRA, ODPP and ORPP
Annexure 9:	Letters of clearance from DCI, EACC, HELB, KRA, ODPP and ORPP
Annexure 10:	*Curriculum Vitae*, certificates and testimonials of the nominee
Annexure 11:	Memoranda contesting the nomination for appointment
Annexure 12:	*Omondi & another v Attorney General & 2 others; Ethekon & 7 others (Interested Parties) (Constitutional Petition E269 of 2025) [2025] KEHC 9956 (KLR) (Constitutional and Human Rights) (10 July 2025)*
Annexure 13:	Message dated 4th December 2014 from the Speaker

CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Labour during the approval hearings of the person nominated for appointment as Chairperson of the Public Service Commission as forwarded by the Selection Panel and communicated to the House by the Speaker of the National Assembly on Tuesday, 10th February 2026.

Pursuant to section 7(3) of the PSC Act, Cap. 185, H.E. the President convened a selection panel for the recruitment of a suitable candidate for appointment as Chairperson of the PSC. Guided by section 11(4) and (5) of the PSC Act, Cap. 185, the selection panel invited applications from the public, conducted interviews and shortlisted three (3) persons qualified for appointment as Chairperson of the PSC. Consequently, the selection panel forwarded the names of the selected candidates to the President for nomination.

In exercise of powers conferred by Article 250(2)(c) of the Constitution and section 11(6) of the PSC Act, Cap. 185 as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, Cap. 7F, H.E. the President nominated **Mr. Francis Meja** for appointment as Chairperson of the PSC.

On **Tuesday, 10th February 2026**, the Rt Honourable Speaker of the National Assembly vide Message No. 001 of 2026 *(Annexure 5)* conveyed the Message from H.E. the President to the House and referred the name and the *curriculum vitae* of the nominee to the Committee for approval hearing and in accordance with section 4 of the Public Appointments (Parliamentary Approval) Act, Cap. 7F and Standing Orders 42(3)(c) and 45(1) of the National Assembly Standing Orders. While referring the matter to the Committee, the Speaker directed that the Committee undertakes the approval hearing and reports to the House within fourteen (14) days in accordance with section 11(7) of the PSC Act, Cap 185. The Rt. Hon Speaker further directed the Clerk of the National Assembly to notify the nominee and the general public of the time and place of holding the approval hearing.

In fulfilment of the provisions of Article 118(1)(b) of the Constitution, Section 6(2),(3) and (4) of the Public Appointments (Parliamentary Approval) Act, Cap.7F and National Assembly Standing Order 45(3), the Clerk of the National Assembly on **Thursday, 12th February 2026** placed an advertisement in the print media notifying the public on the date, time and place of the Approval Hearing. *(Annexure 6)*

In compliance with Section 6(9) of the Public Appointments (Parliamentary Approval) Act, Cap. 7F, the Clerk of the National Assembly invited the public to submit memoranda by way of written statements on oath *(affidavits)* with supporting evidence contesting the suitability of the nominee. The Memoranda were to be received by **Thursday, 19th February 2026** at **5.00 pm**. By the close of the deadline, the Committee had received three (3) memoranda in contestation of the suitability of the nominee.

Further, on **Friday, 13th February 2026**, the Clerk of the National Assembly wrote to the nominee notifying him of the date, time and place of the Approval Hearing, which was scheduled to be conducted on **Friday, 20th February 2026**, in **Committee Room 18, 3rd Floor, Bunge Tower, Parliament Buildings** at **10:00 am.**

The Clerk of the National Assembly on **Thursday 12th February 2026** wrote to the Directorate of Criminal Investigations (DCI), Ethics and Anti-Corruption Commission (EACC), Higher Education Loans Board (HELB), Kenya Revenue Authority (KRA), Office of the Director or Public Prosecutions (ODPP) and Office of the Registrar of Political Parties (ORPP) seeking references and background checks relating to the suitability of the nominee.

The nominee appeared before the Committee on **Friday, 20th February 2026** and was orally interviewed under Oath pursuant to Article 250(12) of the Constitution, the Public Appointments (Parliamentary Approval) Act, (Cap.7F), the Public Service Commission Act, Cap. 185 and the National Assembly Standing Orders.

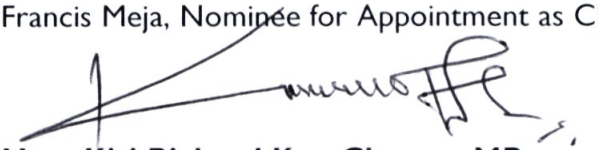
The Committee examined his suitability based on the criteria set out in section 7 of the Public Appointments (Parliamentary Approval) Act, Cap. 7F including the procedure used to arrive at the nominee, the constitutional and statutory requirements relating to the office in question and suitability of the nominee for the appointment proposed, having regard to whether the nominee's abilities, experience and qualities meet the needs of the office in question. Furthermore, the Committee examined the nominee's academic credentials, relevant professional training and experience, knowledge of sector issues and personal integrity in accordance with section 6(7) and (8) of the Public Appointments (Parliamentary Approval) Act, Cap. 7F.

The Committee observed that the nominee demonstrated knowledge of topical, administrative and technical issues, the affairs of the Commission and the roles of Chairperson of PSC. The nominee possesses requisite abilities, academic qualifications and professional experience to be approved for appointment as the Chairperson of the PSC.

The Committee therefore recommends that this House **approves Mr. Francis Meja** for appointment as **Chairperson of the PSC.**

The Committee wishes to thank the Offices of the Speaker and of the Clerk of the National Assembly for the technical support accorded to it during the exercise. The Committee further extends its appreciation to the nominee for his cooperation during the parliamentary approval process. Finally, I acknowledge and appreciate the Honourable Members of the Committee who sat for long hours, for their input and valuable contributions towards the preparation and writing of this Report.

On behalf of the Departmental Committee on Labour and pursuant to Article 250(2) of the Constitution, Section 8(1) of the Public Appointments (Parliamentary Approval) Act, Cap. 7F and provisions of Standing Orders 45 and 199(6), it is now my duty and privilege to present to the House, the Report of the Departmental Committee on Labour on the Approval Hearing of Mr. Francis Meja, Nominee for Appointment as Chairperson of the Public Service Commission.



Hon. Kiti Richard Ken Chonga, MP
Chairperson

CHAPTER ONE

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

2. The Departmental Committee on Labour is established under Standing Order 216 and is mandated to, among others, "to vet and report on all appointments where the Constitution or any other law requires the National Assembly to approve, except those under Standing Order 204."

1.2 Subject Matter

3. The subject matter of the Departmental Committee on Labour is stated in the Second Schedule of the National Assembly Standing Orders and includes, among others, "labour, human capital and remuneration, trade union relations and public service".

4. In executing this mandate, the Committee oversees the following Ministries, Departments, and Agencies (MDAs):

    i) The State Department for Public Service and Human Capital Development (Under Ministry of Public Service, Human Capital Development and Special Programmes) and its Autonomous and Semi-Autonomous Government Agencies which include;
        a) Kenya School of Government; and
        b) Institute of Human Resource Management

    ii) The State Department for Labour and Skills Development (Under the Ministry of Labour and Social Protection) and its Autonomous and Semi-Autonomous Government Agencies, which include;
        a) National Industrial Training Authority (NITA);
        b) National Productivity and Competitiveness Centre (NPCC);
        c) Kenya National Labour Board and the Wages Council;
        d) National Employment Authority (NEA);

    iii) Public Service Commission; and

    iv) Salaries and Remuneration Commission.

1.3 Committee Membership

5. The Departmental Committee on Labour comprises the following Members:

Chairperson
Hon. Kiti Richard Ken Chonga, MP
Kilifi South Constituency
ODM Party

Vice-Chairperson
Hon. Fabian Kyule Muli, MP
Kangundo Constituency
GDDP

Members

Hon. Omboko Milemba, CBS, MP
Emuhaya Constituency
ANC Party

Hon. Joseph Samal Lomwa, MP
Isiolo North Constituency
Jubilee Party

Hon. George Aladwa Omwera, MP
Makadara Constituency
ODM Party

Hon. Njoroge, Mary Wamaua MP
Maragua Constituency
UDA Party

Hon. Dorice Aburi Donya, MP
Kisii County
WDM-K

Hon. Wachira, Rahab Mukami, MP
Nyeri County
UDA Party

Hon. Lilian Chebet Siyoi, MP
Trans Nzoia County
UDA Party

Hon. James Onyango K'Oyoo, MP
Muhoroni Constituency
ODM Party

Hon. Ernest Ogesi Kivai Kagesi, MP
Vihiga Constituency
ANC Party

Hon. Catherine Wambiliaga, MP
Bungoma County
FORD-K

Hon. Amina Dika Abdullahi, MP
Tana River County
KANU

Hon. Patrick Simiyu Barasa, MP
Cherangany Constituency
DAP-K Party

Hon. Peter Irungu Kihungi, MP
Kangema Constituency
UDA Party

1.5 Committee Secretariat

6. The Committee Secretariat comprises the following technical staff:

Ms. Hellen Ekadeli
Senior Clerk Assistant / Head of Secretariat

Ms. Colletah Sigilai
Senior Legal Counsel

Mr. Joseph Ndirangu
Fiscal Analyst I

Mr. Ambrose Nguti
Media Research Officer

Ms. Yasmin Hassan
Assistant Serjeant-At-Arms II

Ms. Jael Kilaka
Clerk Assistant III

Ms. Wambui Nyachae
Research Officer III

Mr. Timothy Chiko
Research Officer III

Mr. Cosmas Okello
Audio Officer III

CHAPTER TWO

2.0 BACKGROUND

2.1 Legal Framework

7. While conducting the approval hearing, the Committee was guided by statutes and articles of the constitution of Kenya, including-

    i) Article 10 of the Constitution on the national values and principles of governance;
    ii) Chapter 6 of the Constitution on leadership and integrity;
    iii) Article 77 of the Constitution on restriction on activities of State Officers;
    iv) Article 78 of the Constitution on dual citizenship;
    v) Article 118 of the Constitution on public participation;
    vi) Article 124(4) of the Constitution on consideration of persons for appointment to public office;
    vii) Article 232 of the Constitution on values and principles of public service;
    viii) Article 233 of the Constitution on the Public Service Commission;
    ix) Article 250(2) of the Constitution on the appointment process of the Chairperson and Members of a constitutional commission;
    x) The Public Appointments (Parliamentary Approval) Act, Cap. 7F;
    xi) The Ethics and Anti-Corruption Commission Act, Cap. 7H;
    xii) The Leadership and Integrity Act, Cap. 185C;
    xiii) The Public Service Commission Act, Cap 185

2.2 Notification of Nominations

8. Pursuant Section 11(6) of the PSC Act, Cap. 185 as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, Cap.7F, H.E. the President, through the Head of Public Service, transmitted to the Rt. Hon. Speaker of the National Assembly the Presidential Nomination Certificate No. 1 of 2026, the Report of the Selection Panel and the nominee's *curriculum vitae* vide letter referenced *EOP/CAB.26/4A VOL..VIII(124)* dated 2nd February 2026 *(Annexure 1)*.

2.3 Notification to the House and Referral to the Committee

9. Standing Order 42(2) of the National Assembly Standing Orders provides that:
    "If a message is received from the President, at a time when the House is not in session, the Speaker shall forthwith cause the message to be transmitted to every Member and shall report the message to the House on the day the House next sits."

10. The Rt. Hon. Speaker of the National Assembly vide Message No. 1 of 2026 date 10th February 2026 *(Annexure 2)* conveyed to the House the Message from H.E the President nominating Mr. Francis Meja for appointment as Chairperson of the PSC.

11. In addition, pursuant to the provisions of Standing Order 45, the Speaker referred the name and the *curriculum vitae* of the nominee to the Committee for approval hearing and reporting to the House within twenty-eight (28) days.

2.4 Notification to the Public

12. Article 118 of the Constitution provides that Parliament shall facilitate public participation and involvement in the legislative business and other business of Parliament and its Committees.

13. Section 6(4) of the Public Appointments (Parliamentary Approval) Act, Cap.7F provides that the Clerk shall notify the public of the time and place for holding approval hearings at least seven days prior to the hearings. Additionally, Section 6(9) of the Public Appointments (Parliamentary Approval) Act, Cap.7F provides that any person may, prior to the approval hearings and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated.

14. In compliance with the above provisions, the Clerk of the National Assembly on 12th February 2026 placed an advertisement in the print media, notifying the public of the time and place of holding the approval hearing and inviting the public to submit memoranda by way of written statements on oath (affidavit) on the suitability of the nominee.

15. The Memoranda were to be received by Thursday, 19th February 2026, by 5.00 pm. By the close of the deadline, the Committee had received three (3) memoranda contesting the suitability of the nominee.

2.5 Notification to the Nominee

16. The Clerk of the National Assembly vide a letter dated 12th February 2026 referenced *NA/DDC/LAB/2026/006 (Annexure 7)* invited the nominee for the approval hearing in accordance with section 6(3) of the Public Appointments (Parliamentary Approval) Act, Cap. 7F.

2.6 Clearance and Compliance Requirements

17. Section 6(7) of the Public Appointments (Parliamentary Approval) Act, Cap.7F provides that an Approval Hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background.

18. Vide letters dated 12th February 2026 and referenced NA/DDC/LAB/2026 (001), (002), (003), (004), (005) and (007) the Clerk of the National Assembly wrote to the DCI, EACC, HELB, KRA, ODPP and ORPP *(Annexure 8)* requesting for reports with respect to the nominee on the following matters:
    (a) criminal records;
    (b) ethics and integrity;
    (c) higher education loan repayment(s);
    (d) active criminal court proceedings;
    (e) political party affiliations; and
    (f) tax compliance

19. The Committee confirmed that the nominee had been duly cleared as required by EACC ODPP, ORPP, DCI, KRA and HELB. *(Annexure 9)*

20. In addition, the nominee availed the following documents:
    a) Self-Declaration with the Ethics and Anti-corruption Commission as provided for in the First Schedule of the Leadership and Integrity Act;
    b) Letter of recognition of qualification of Bachelor of Arts in Economics, Public Administration and Political Science awarded by Marathwada University in India;

c) CRB certificate on his Credit report indicating no adverse listing;
d) Letter of membership status from the Office of the Registrar of Political Parties indicating that the nominee is not an official or a member of any registered political party in Kenya;
e) Police clearance certificate; and
f) Certificate of clearance from the Higher Education Loans Board

2.7 Criteria for Consideration during the Approval Hearings

21. In conducting the approval hearings, the Committee was guided by Section 6(7) and (8) of the Public Appointments (Parliamentary Approval) Act, Cap.7F, which provides that:

"(7) An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background.
(8) The criteria specified in the Schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate."

22. Additionally, Section 7 of the Act provides that the issues for consideration by the relevant House of Parliament in relation to any nomination shall be:

(a) "the procedure used to arrive at the nominee;
(b) any constitutional or statutory requirements relating to the office in question; and

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

2.7.1 Procedure for Nomination

24. Article 250 of the Constitution provides that:
"Composition, appointment and terms of Office.

(1) Each commission shall consist of at least three, but not more than nine, members.
(2) The chairperson and each member of a commission, and the holder of an independent office, shall be—
(a) identified and recommended for appointment in a manner prescribed by national legislation;
(b) approved by the National Assembly; and
(c) appointed by the President.
(3) To be appointed, a person shall have the specific qualifications required by this Constitution or national legislation.
(4) Appointments to commissions and independent offices shall take into account the national values referred to in Article 10, and the principle that the composition of the commissions and offices, taken as a whole, shall reflect the regional and ethnic diversity of the people of Kenya.
(5) The chairperson and each member of a commission, and the holder of an independent office, shall be—
(a) identified and recommended for appointment in a manner prescribed by ***national legislation;***
(b) approved by the National Assembly; and
(c) appointed by the President."

25. Section 11(1) and Paragraph 1(1) of the First Schedule of the PSC Act, Cap. 185 provides that:

"(1) Where a vacancy occurs in the office of the chairperson, vice-chairperson or member, the appointment procedure provided for in the Constitution and the First Schedule shall apply.

(2) Whenever a vacancy arises, the President shall, within fourteen days by notice in the Government Gazette, declare vacancies in the Commission and constitute a selection panel comprising of the following—

(i) a representative from the Office of the President;
(ii) a representative from the office of the Attorney-General;
(iii) a representative from the Ministry responsible for the Public Service;
(iv) a representative from the Institute of Certified Public Accountants of Kenya;
(v) a representative from the Institute of Human Resource Management who should be knowledgeable in human resource practices;
(vi) a representative from the Federation of Kenya Employers who should be knowledgeable in labour relations; and
(vii) a representative from the National Council for Persons with Disabilities.

26. In exercise of his powers in Article 250(2)(c) of the Constitution and in accordance with section 11(1) and Paragraph 1(1) of the First Schedule of the PSC Act, Cap. 185, H.E. the President convened a selection panel for the recruitment of a suitable candidate for appointment for appointment as Chairperson of the PSC.

27. In accordance with the aforementioned provisions, the Selection Panel advertised, shortlisted and interviewed the applicants and selected three (3) persons qualified for appointment as Chairperson of the PSC and subsequently, forwarded the names of the selected candidates to H.E. the President for nomination.

28. Accordingly, H.E. the President, through the Head of Public Service, forwarded to the National Assembly the name of Mr. Francis Meja for approval for appointment as Chairperson of the PSC in accordance with Article 250(2)(b) of the Constitution and section 3 of the Public Appointments (Parliamentary Approval) Act, Cap. 7F.

2.7.2 Constitutional and Statutory Requirements

29. The Committee was guided by the following provisions of law on the requirements for appointment to the State office:

(a) *National Values and Principles of Governance*

30. Article 10 of the Constitution provides for the national values and principles of governance which State officers should abide by in discharging their mandate. They include: patriotism; national unity; sharing and devolution of power; the rule of law; democracy and participation of the people; human dignity; equity; social justice; inclusiveness; equality; human rights; non-discrimination and protection of the marginalized; good governance; integrity; transparency and accountability; and sustainable development.

(b) *Conduct of State Officers*

31. Article 75 of the Constitution requires a State Officer, whether in public or private life to behave in a manner that avoids conflict between personal interest and public official duties. The Article further prohibits a State officer who has been dismissed or otherwise removed from office for contravention of provisions of Chapter Six of the Constitution from holding any other State office.

32. Article 77 of the Constitution outlines that a full-time State officer must not participate in any other gainful employment and that any appointed State officer must not hold office in a political party.

33. Moreover, the Constitution under Article 78 further stipulates that a State officer must not hold dual citizenship but instead shall be a citizen of Kenya only.

34. Article 232 provides for the values and principles of public service as high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; involvement of the people in the process of policy-making; accountability for administrative acts; transparency and provision to the public of timely, accurate information; fair competition and merit as the basis of appointments and promotions; representation of Kenya's diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of men and women, members of all ethnic groups and persons with disabilities.

(c) *Qualifications for Appointment as Chairperson of the PSC*

35. Article 250(2)(a) of the Constitution contemplates that the PSC Act, Cap. 185 shall prescribe the manner in which the Chairperson of the PSC shall be appointed.
36. Section 8 (1) of the PSC Act, Cap. 71 provides for the qualifications of the Chairperson of the PSC as follows:

> *"Subject to Article 233(3) of the Constitution, a person shall be qualified for appointment as the chairperson or vice-chairperson of the Commission if that person—*
> *(a) is a citizen of Kenya;*
> *(b) holds a degree from a university recognized in Kenya;*
> *(c) has at least ten years' experience in their respective profession;*
> *(d) has at least six years' experience in a managerial position either in the public or private sector; and*
> *(e) meets the requirements of leadership and integrity in Chapter Six of the Constitution.*

(d) Leadership and Integrity

37. The Committee, in determining the suitability of the nominee, was also guided by the provisions on leadership and integrity as outlined under Chapter Six of the Constitution. In particular, Article 73(2) of the Constitution provides that the guiding principles of leadership and integrity include:
    (a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
    (b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;
    (c) selfless service based solely on the public interest, demonstrated by

(i) honesty in the execution of public duties; and

(ii) the declaration of any personal interest that may conflict with public duties.

(d) accountability to the public for decisions and actions; and

(e) discipline and commitment in service to the people.

38. In addition, the Committee considered section 10 of the Leadership and Integrity Act, Cap. 185C in particular which provides that:

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

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

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

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

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

2.7.3 Suitability of the nominee for the proposed appointment having regard to whether the nominee's abilities, experience and qualities meet the needs of the office to which nomination is being made

39. The suitability of the nominee was assessed after scrutiny of his academic credentials, professional training and experience, personal integrity, background and qualities as well as his performance during the approval hearing conducted on 20th February 2026.

CHAPTER THREE

3.0 Memoranda from the Public

40. Article 118 of the Constitution provides that Parliament shall facilitate public participation and involvement in the legislative business and other business of Parliament and its Committees.

41. Section 6(9) of the Public Appointments (Parliamentary Approval) Act, Cap. 7F provides that *"any person may, prior to the approval hearing and by* ***written statement on oath,*** *provide the Clerk* ***with evidence contesting the suitability of a candidate*** *to hold office to which the candidate has been nominated".*

42. Pursuant to Article 118 of the Constitution as read with section 6(9) of Public Appointments (Parliamentary Approval) Act, Cap. 7F, the Clerk of the National Assembly placed an advertisement in the print media on Thursday, 12th February 2026 inviting the public to submit memoranda by way of written statement on oath (affidavit) on the suitability or otherwise of the nominees in conformity with section 6(9) of the Public Appointments (Parliamentary Approval) Act.

43. The advertisement indicated that the submissions were to be received on or before Thursday 19th February 2026 at 5.00 pm. At the close of the submission deadline, the Committee had received three (3) memoranda contesting the nomination of the nominee by Mr. Eliud Karanja Matindi and Dr. Magare Gikenyi Benjamin; Youth Education and Internship Society and Mr. Daudi O. Ochami contesting the nomination for the appointment. *(Annexure 11)*

3.1 Memorandum by Mr. Daudi O. Ochami (Advocate of the High Court of Kenya)

44. The deponent objects the nomination of Mr. Francis Meja as Chairperson of the PSC on grounds that it violates Article 233(3) of the Constitution highlighting that the nominee is a state officer as he is currently serving as a commissioner of PSC and he participated in the activities and campaigned for a political party in Kajiado Gubernatorial in 2022.

45. Additionally, the selection and nomination of Mr. Francis Meja amounts to conflict of interest and public concern since the selection process ought to inspire public confidence per Article 232 of the Constitution of Kenya. Regrettably, the manner, by which he appears to, seek to, seamlessly transition from the membership of the Commission to head it does not inspire transparency.

46. Besides, the fact that a member still in the top employ of the Commission could apply for the position of chairperson of the commission raises credible questions of conflict of interest, fairness and transparency of the recruitment process.

47. On the face of it, Mr. Francis Meja's participation in interviews leading to the said selection while still in employment at the PSC violates the express provision of Section 10(1) (2) of the Conflict-of-Interest Act 2025.

48. Further, Mr. Francis Meja's participation in the said interviews reeks of conflict of interest as defined by Section 8(b) of the Conflict-of-Interest Act 2025. Further by submitting to the

interviews Mr. Francis Meja and being a public officer violated Section 9 (a) of the Conflict-of-Interest Act 2025. The Leadership and Integrity Act as read with the Conflict-of-Interest Act makes it clear that a State Officer must avoid situations where there is a possible appearance of conflict of interest.

49. Lastly the petitioner asserted that according to the Constitution and the PSC Act, members of the PSC serve a single, non-renewable six-year term. Mr. Francis Meja has served a year already. If successful in his current pursuit he will secure a six-year term on top of the one year already served in violation of the applicable law.

3.2 Memorandum by Youth Education and Internship Society

50. The deponent stated that the appointment of Mr. Francis Meja as chairperson of the PSC contravenes Article 233(3)(d) of the Constitution which provides that a person shall not be eligible for appointment as a member or chairperson of the PSC if that person is a State officer or has served as one within the preceding five (5) years.

51. It contested that Article 260 of the Constitution defines a state officer to include members of constitutional commissions, including the PSC and that Mr. Francis Meja is a serving member of the PSC, and therefore a state officer within the meaning of Article 260 hence not eligible for appointment.

3.3 Memorandum by Mr. Eliud Karanja Matindi and Dr. Magare Gikenyi Benjamin

52. The petitioner challenged the nomination of the Mr. Francis Meja as Chaiperson of PSC and averred that his appointment violates Article 250(6) (a) and section 7(4) PSC Act which limits the term of office of a member of PSC to single term of 6 years.

CHAPTER FOUR

4.0 APPROVAL HEARING OF THE NOMINEE

53. The Committee held a sitting on Friday, 20th February 2026 to deliberate on the approval hearing and noted the following—
    1) The nominee had not notified the Clerk of the National Assembly of their withdrawal from the approval process as outlined in section 6(10) of the Public Appointments (Parliamentary Approval) Act, Cap 7F.
    2) The Committee examined the nominee against the criteria set out in section 6(7), 6(8) and 7 of the Public Appointments (Parliamentary Approval) Act, Cap 7F.

4.1 Mr. Francis Meja – Nominee to the Office of Chairperson of PSC

54. The nominee appeared before the Committee on Friday, 20th February 2026 and was vetted under oath to examine his suitability. The Committee noted the following:

4.2 Questions from the Questionnaire

Citizenship, Date and Place of Birth

55. The nominee is a Kenyan Citizen of ID Number 9208760 and was born in Kajiado County in 1968.

Academic and Professional Qualifications

56. The nominee holds a Master's in Business Administration (Strategic Management) from the University of Nairobi and a Bachelor of Arts Degree (Economics, Public Administration and Political Science) from Maratwada University in India.

57. He also indicated that he has undertaken the following trainings;

    (a) Huawei Digital Leadership Training
    (b) Road Sector Reforms and Financing
    (c) Road Services Procurement and Integrity
    (d) Road Maintenance Management
    (e) Road Safety
    (f) PSC corporate Governance Training for Commissioners and Senior Management Staff
    (g) Finance for non- Finance Directors Training
    (h) National Transport and Safety Authority Board Development Programme
    (i) Effective Customer Care
    (j) Marketing Financial Service, Customer Service for Banks and Non-Financial Institutions
    (k) Credit Management and Debt Recovery Skills
    (l) Business and Report Writing

Employment Record and Work Experience

58. The nominee has worked in the following capacities:

    (a) January 2025 - to date: member, PSC
    (b) February 2014 – December 2019: Director General at the National Transport and Safety Authority
    (c) September 2010 – January 2014: Registrar of Motor Vehicles, Ministry of Transport and Infrastructure
    (d) July 2006 – September 2010: Manager, Business Growth and Development (Narok) Equity Bank Ltd

(e) 2002 – June 2006: Branch Manager Housing Finance
(f) 1998 – 2002: Assistant Branch Manager, Housing Finance Company of Kenya Ltd (HFCK)
(g) 1994-1998: Banking Officer, Housing Finance Company of Kenya Ltd

Honours and Awards

59. The nominee has received Order of the Moran of the Burning Spear (MBS).

Published Writings

60. The nominee has published a number of articles in newspapers of national circulation. These include NTSA Digital Systems Bearing Fruits" (29/09/1016), "Cleaner Transport System Will Reduce Deaths" (25/05), "Traffic Offences – A Case for Instant Fines" (27/08/15) and NTSA Safety Measures Reducing Road Death" (21/09/2014).

Public Office, Political Activities and Affiliations

61. The nominee indicated that he is currently a member of PSC.

Integrity

62. The nominee submitted that he has neither been charged in a court of law nor adversely mentioned in any investigatory report produced by Parliament or a Commission of Inquiry within the past three years. In addition, the nominee stated that he has never been dismissed or removed from office for violating the provisions outlined in Article 75 of the Constitution.

Income and Net worth

63. The nominee estimated his net worth to Kshs.320.7 million comprising of immovable property, motor vehicles and cash in bank. He indicated his current sources of income to include salary from employment and farm income.

Potential Conflict of Interest

64. The nominee declared that he is currently not associated with any persons or matters that would present a potential conflict of interest should he assume the position of chairperson of PSC. If a conflict of interest were to arise, he stated that he would resolve it according to Article 75 of the Constitution.

Pro-bono/Charity Work/Donation to Charity

65. The nominee has volunteered in capacity building activities for the Board of Management at Kimuka Girls High School on a need basis.

4.3 General and Sector-Specific Questions to the Nominee

66. In order to assess the nominee's overall suitability for the position, the Committee posed questions to the nominee and he responded as recorded hereunder:

On memoranda from members of the public contesting his nomination;

67. The nominee submitted that indeed he is a tate officer in accordance to Article 260 of the Constitution, however, Art. 233(3)(b) on eligibility relates to appointment and not nomination. In compliance with Article 250(6) he indicated that he is aware that he will be required to vacate office by tendering resignation before assuming office. He averred that he is fully versed in the legal provisions governing his nomination and that having not been formally appointed to the Commission, his nomination was fully compliant with the law.

68. He relied on the court decision in ***Omondi & another v Attorney General & 2 others; Ethekon & 7 others (Interested Parties) (Constitutional Petition E269 of 2025) [2025] KEHC 9956 (KLR) (Constitutional and Human Rights) (10 July 2025)*** where the court stated that "*...there is no blanket constitutional bar for a serving State officer to apply for consideration for appointment to the IEBC, so long as they resign from their current office before they take oath of office of Commissioner." (Annexure 13)*

69. The nominee drew the attention of the Committee to a Ruling of the Speaker of the National Assembly made on 4th December 2014 where the Speaker guided that the seat for a Member of Parliament does not fall vacant on account of nomination for appointment as a Cabinet Secretary. According to the Speaker, a state officer is only required to vacate office by tendering resignation just before assuming the office the officer is nominated to. (Annexure 14)

70. **On his tenure and term limit as a commissioner,** the nominee submitted that should the matter arise, he shall abide by the law.

On enhancing the working conditions for public servants;

71. The nominee stated that low morale among public servants in performing their duties has been a persistent challenge particularly on promotions and career advancement. He stated that if appointed he will strive to improve the working conditions of public servants.

On ghost workers;

72. The nominee highlighted the need to deploy integrated digital systems to enable real-time tracking of payroll and personnel data across government institutions. He stated that automation would significantly reduce opportunities for manipulation and illegal benefits.

On his employment gap between 2020 to 2025 prior to appointment at PSC;

73. The nominee clarified that he was appointed for a three-year term on the Council of Murang'a University of Technology, from November 2023 which he relinquished in 2025 upon being appointed as a member of the PSC. Prior to that, he had taken time to pursue personal interests, including seeking an elective office as Governor for Kajiado County.

On withdrawal of NTSA from road operations;

74. The nominee stated that the institutional reforms encountered challenges including human resource constraints, noting that NTSA had approximately 300 officers compared to about 4,000 officers within the Traffic Department warranting the transfer of the function.

75. He further stated that before the transfer of the function he had secured funding from the World Bank for the acquisition of body-worn cameras to enhance transparency, safety, and accountability in enforcement of operations to curb harassment of members of the public.

On fair and equitable representation in recruitment processes in the public service;

76. The nominee stated that the commission has been committed to promoting fair and equitable representation in all its recruitment exercises. He assured the Committee that if approved for appointment as Chairperson he will uphold fair, transparent and merit-based recruitment processes within the Commission.

On engagement with Parliament;

77. The nominee acknowledged that the Commission faces significant budgetary constraints and committed to engage constructively with Parliament, particularly working closely with the relevant Committee, to secure adequate funding and strengthen institutional collaboration.

On measures to bridge employment gaps in marginalized communities;

78. The nominee stated that the PSC has developed and adopted a policy framework to fast-track historically marginalized communities. He indicated that a defined proportion of recruitment opportunities would be reserved for such communities, with competition maintained within the designated category to uphold merit.

On whether recruitments will be based on merit or ethnicity;

79. The nominee submitted that recruitments by the commission shall primarily be based on qualifications and minimum statutory requirements. Thereafter, considerations of regional and ethnic balance shall be applied to ensure compliance with constitutional diversity principles.

On redundant courses that no longer align with current employment demands;

80. The nominee acknowledged the growing mismatch between graduates and available employment opportunities. He stated that the PSC is undertaking a skills-gap assessment within the public service and engaging public universities to align academic programs with the employment market demands.

On institutional dependence;

81. The nominee affirmed that the PSC's forthcoming Strategic Plan underscores institutional independence and constitutional fidelity, and he pledged to discharge his mandate free from external influence. Further, he asserted that the commission has consistently operated with integrity and accountability, with any grievances handled strictly within the bounds of the law.

On verification of academic credentials;

82. The nominee indicated that the commission is piloting a digital verification system to enable instant online authentication of academic certificates, thereby preventing the submission of fraudulent credentials when making job applications online.

On the value he will add if appointed as a chairperson;

83. The nominee asserted that having served as commissioner, the position of chairperson would enable him to be more effectively drive strategic direction and institutional reforms. He maintained that his deep institutional knowledge, professional insight would enable him to strengthen the capacity and effectiveness to the commission.

On the alleged unfair treatment of public officers applying for study leave;

84. The nominee stated that leave for further studies is granted upon proper procedural application, particularly where the course enhances public service capacity. However, he noted concerns where some public officers misuse the remuneration during study leave without undertaking or completing the approved course, while others demand for salary which is not aligned with the remuneration policies.

On restoring public confidence in the Commission;

85. The nominee submitted that the PSC is prioritizing automation and digitalization to minimize human discretion in recruitment processes, thereby enhancing objectivity and restoring public confidence. The nominee committed to restoring public confidence in the commission if approved for appointment.

On access to online job advertisements and automated application systems in remote areas;

86. The nominee stated that the Commission had set in place frameworks where the national government administrative structures at the grassroots level are utilized to disseminate information to remote communities to ensure inclusivity.

CHAPTER FIVE

5.0 COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE

87. The Committee, having considered the nominee's filled questionnaire pursuant to Section 6(8) of the Public Appointments (Parliamentary Approval) Act, CAP.7F, the *curriculum vitae (Annexure 10)* and having heard his oral submissions during the approval hearing, observed as follows:

i. The nominee is a Kenyan citizen and does not hold any other citizenship and therefore meets the requirement of Article 78(1) of the Constitution and section 8(1)(a) of the PSC Act, Cap. 185.

ii. The nominee possesses a Bachelor of Arts Degree in Economics, Public Administration and Political Science from the Maratwada University in India and was issued with a letter of recognition by CUE referenced *CHE/10/9/1Vol.644* dated 9th June 2023. He therefore meets the requirements of section 8(1)(b) of the PSC Act, Cap 185.

iii. The nominee has over ten years' proven experience at management level having served in different managerial capacities at NTSA, Equity Bank Ltd and Housing Finance including as a Director General and Branch Manager from 2002 to 2019. The nominee, therefore, meets the requirements of section 8(1)(d) of the PSC Act, Cap 185.

iv. The nominee, having been cleared by EACC, DCI, ODPP and ORPP and provided a clearance certificate from HELB and a tax compliance certificate from KRA meets the statutory requirements for appointment as Chairperson of PSC.

v. The nominee demonstrated impressive knowledge and deep understanding of the mandate of Chairperson of the PSC. He identified various challenges, displayed good problem-solving and innovative ways to improving the operations of the Commission.

vi. The Committee noted that the nominee is yet to be appointed as chairperson of PSC. His appointment is subject to approval by the National Assembly and resignation before assuming office in accordance with Article 250(5) of the Constitution, Section 11 and the First Schedule of the PSC Act.

vii. The recruitment process and subsequent recommendation for appointment as detailed in report of the Selection Panel of the nominee is in compliance with the Constitution, the PSC Act, Cap. 185 and the Public Appointments (Parliamentary Approval) Act (Cap.7F).

viii. The Committee noted that Article 250 (6) provides that members of a commission and holders of independent offices are appointed for a single, non-renewable six-year term with no eligibility for re-appointment. However, there has been a practice of members serving across multiple commissions hence the need to clarify whether the intention of the Constitution is to limit the six year-term to a specific commission or to all commissions to ensure that a member serves only in one commission for a maximum of six years and is not eligible for re-appointment in any other Commission or beyond six years. The Committee recommends a constitutional amendment of Article 250 (6) to provide clarity on the six-year single term non-renewable in any commission or independent office.

CHAPTER SIX

6.0 COMMITTEE RECOMMENDATION

88. Having conducted the approval hearings pursuant to Article 233(2) of the Constitution; Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, Cap 7F; Section 11 of PSC Act, Cap. 185 and Standing Order 216 (5) (f), the Committee recommends that the House ***approves*** the appointment of Mr. Francis Meja as Chairperson of the Public Service Commission.

SIGNED: ..... **DATE:** 24/2/2025

HON. KITI RICHARD KEN CHONGA, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON LABOUR

Annexure I

Adoption Schedule

Departmental Committee on Labour Approval Hearing of Mr. Francis Meja, Nominee for Appointment as the Chairperson of the Public Service Commission (PSC)

THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FIFTH SESSION - 2026
DEPARTMENTAL COMMITTEE ON LABOUR

ADOPTION SCHEDULE

Adoption of the Report on the Approval Hearing (Vetting) Of Mr. Francis Meja, Nominee for Appointment as Chairperson of the Public Service Commission

No.	HON MEMBER	SIGNATURE
1.	Hon. Kiti, Richard Ken Chonga, CBS, MP	
2.	Hon. Muli, Fabian Kyule, CBS, MP	
3.	Hon. Omboko Milemba, CBS, MP	
4.	Hon. K'Oyoo, James Onyango, MP	
5.	Hon. Kagesi Kivai Ernest Ogesi, MP	
6.	Hon. Lomwa, Joseph Samal, MP	
7.	Hon. Omwera, George Aladwa, MP	
8.	Hon. Wambilianga, Catherine Nanjala, MP	
9.	Hon. Amina Dika, MP	
10.	Hon. Aburi Donya Dorice, MP	
11.	Hon. Njoroge Mary Wamaua, MP	
12.	Hon. Wachira, Rahab Mukami, MP	
13.	Hon. Barasa, Patrick Simiyu, MP	
14.	Hon. Kihungi, Peter Irungu, MP	
15.	Hon. Siyoi, Lillian Chebet, MP	

Annexure **2**

Minutes of Committee Sittings

Departmental Committee on Labour Approval Hearing of Mr. Francis Meja, Nominee for Appointment as the Chairperson of the Public Service Commission (PSC)

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - FIFTH SESSION-2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON LABOUR

MINUTES OF THE 7TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD IN COMMITTEE ROOM 24, 5TH FLOOR, BUNGE TOWER, FRIDAY, 21ST FEBRUARY 2026 AT 10:00AM

PRESENT

1. Hon. Kiti Richard Ken Chonga, MP - *Chairperson*
2. Hon. Muli Fabian Kyule, CBS, MP - *Vice Chairperson*
3. Hon. K'Oyoo, James Onyango, MP
4. Hon. Kagesi Kivai Ernest Ogesi, MP
5. Hon. Aburi Donya Dorice, MP
6. Hon. Amina Dika, MP
7. Hon. Wachira Rahab Mukami, MP
8. Hon. Kihungi Peter Irungu, MP

APOLOGIES

1. Hon. Omboko Milemba, CBS, MP
2. Hon. Wambilianga, Catherine Nanjala, MP
3. Hon. Lomwa, Joseph Samal, MP
4. Hon. Omwera, George Aladwa, MP
5. Hon. Njoroge Mary Wamaua, MP
6. Hon. Barasa, Patrick Simiyu, MP
7. Hon. Siyoi, Lillian Chebet, MP

COMMITTEE SECRETARIAT

1.	Ms. Hellen Ekadeli	-	Senior Clerk Assistant I/Head of Secretariat
2.	Ms. Jael Kilaka	-	Clerk Assistant III
3.	Ms. Colletah Sigilai	-	Senior Legal Counsel
4.	Mr. Joseph Ndirangu	-	Fiscal Analyst I
5.	Ms. Wambui Nyachae	-	Research Officer III
6.	Mr. Cosmas Okello	-	Audio Officer III
7.	Ms. Yasmin Hassan	-	Assistant, Serjeant-at-Arms

AGENDA

1. Prayers
2. Preliminaries

3. Confirmation of Minutes/Matters arising
4. **Adoption of the Report on the Approval Hearing of Mr. Francis Meja, Nominee for Appointment as Chairperson of the Public Service Commission**
5. Any Other Business
6. Adjournment / Date of the Next Meeting

MIN. NO. DDC/LAB/028/2026: PRELIMINARIES

The meeting was called to order at thirty minutes past twelve o'clock by the Chairperson followed by a word of prayer and thereafter Members of the Committee introduced themselves. The agenda was adopted having been proposed by Hon. Muli, Fabian Kyule, CBS, MP and seconded by Hon. Wachira Rahab Mukami, MP

MIN. NO. DDC/LAB/029/2026: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

The agenda was deferred.

MIN. NO. DDC/LAB/030/2026: ADOPTION OF THE REPORT ON THE APPROVAL HEARING OF MR. FRANCIS MEJA, NOMINEE FOR APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

Committee Observations

The Committee, having considered the nominee's filled questionnaire pursuant to Section 6(8) of the Public Appointments (Parliamentary Approval) Act, CAP.7F, the *curriculum vitae* and having heard his oral submissions during the approval hearing, observed as follows:

i. The nominee is a Kenyan citizen and does not hold any other citizenship and therefore meets the requirement of Article 78(1) of the Constitution and section 8(1)(a) of the PSC Act, Cap. 185.
ii. The nominee possesses a Bachelor of Arts Degree in Economics, Public Administration and Political Science from the Maratwada University in India and was issued with a letter of recognition by CUE referenced *CHE/10/9/1Vol.644* dated 9th June 2023. He therefore meets the requirements of section 8(1)(b) of the PSC Act, Cap 185.
iii. The nominee has over ten years' proven experience at management level having served in different managerial capacities at NTSA, Equity Bank Ltd and Housing Finance including as a Director General and Branch Manager from 2002 to 2019. The nominee, therefore, meets the requirements of section 8(1)(d) of the PSC Act, Cap 185.
iv. The nominee, having been cleared by EACC, DCI, ODPP and ORPP and provided a clearance certificate from HELB and a tax compliance certificate from KRA meets the statutory requirements for appointment as Chairperson of PSC.
v. The nominee demonstrated impressive knowledge and deep understanding of the mandate of Chairperson of the PSC. He identified various challenges, displayed good problem-solving and innovative ways to improving the operations of the Commission.
vi. The Committee noted that the nominee is yet to be appointed as chairperson of PSC. His appointment is subject to approval by the National Assembly and resignation before assuming office in accordance with Article 250(5) of the Constitution, Section 11 and the First Schedule of the PSC Act.
vii. The recruitment process and subsequent recommendation for appointment as detailed in report of the Selection Panel of the nominee is in compliance with the Constitution,

the PSC Act, Cap. 185 and the Public Appointments (Parliamentary Approval) Act (Cap.7F).

viii. The Committee noted that Article 250 (6) provides that members of a commission and holders of independent offices are appointed for a single, non-renewable six-year term with no eligibility for re-appointment. However, there has been a practice of members serving across multiple commissions hence the need to clarify whether the intention of the Constitution is to limit the six year-term to a specific commission or to all commissions to ensure that a member serves only in one commissiofor a maximum of six years and is not eligible for re-appointment in any other Commission or beyond six years. The Committee recommends a constitutional amendment of Article 250 (6) to provide clarity on the six year single term non-renewable in any commission or independent office.

Committee Recommendation

Having conducted the approval hearings pursuant to Article 233(2) of the Constitution; Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, Cap 7F; Section 11 of PSC Act, Cap. 185 and Standing Order 216 (5) (f), the Committee recommends that the House ***approves*** the appointment of Mr. Francis Meja as Chairperson of the Public Service Commission.

Adoption or Report

The Committee Report was adopted having been proposed by Hon. Kihungi Kihungi Peter Irungu, MP and seconded by Hon. Kagesi Kivai Ernest Ogesi, MP.

MIN. NO. DDC/LAB/031/2026: ADJOURNMENT

There being no other business, the meeting was adjourned at ten minutes past eleven o'clock. The next meeting will be held on notice.

SIGNED:.....**DATE:** 24/2/2026

(CHAIRPERSON HON. KITI RICHARD KEN CHONGA, MP)

THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 24 FEB 2026	DAY. TUESDAY
TABLED BY:	HON. KITI CHONGA, MP (CHAIRPERSON)
CLERK-AT THE-TABLE:	INZOFU MWALE

Annexure **3**

Transmittal Letter by the Head of Public Service

Departmental Committee on Labour Approval Hearing of Mr. Francis Meja, Nominee for Appointment as the Chairperson of the Public Service Commission (PSC)

(1)

CNA
Prepare the necessary communication -
SNA
10/2/26

EXECUTIVE OFFICE OF THE PRESIDENT

CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

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

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

Ref. No **EOP/CAB.26/4A VOL.VII/(124)**
and date

2nd February, 2026

(2) DIPS
Pls process.
CND 10/2/26.

Hon. Moses F. M. Wetangula, SC, EGH
Speaker
The National Assembly
Parliament of Kenya
Parliament Building
NAIROBI

NATIONAL ASSEMBLY
RECEIVED
09 FEB 2026
SPEAKER'S OFFICE
P. O. Box 41842, NAIROBI.

Dear

TRANSMITTAL

NOMINEE FOR APPOINTMENT TO THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

You are hereby notified that **His Excellency the President** has caused the nomination of the Chairperson to the Public Service Commission.

The statutory nomination has been undertaken in accordance with the recommendation of the Selection Panel appointed *vide* **Kenya Gazette Notice No. 15945 of 4th November, 2025,** and pursuant to **section 7 of the Public Service Commission** (Chapter 185, Laws of Kenya).

Accordingly, and pursuant to **Article 233(2) of the Constitution** as read with **Article 250 (2)(b) of the Constitution** and **Section 5 of the Public Appointments (Parliamentary Approval) Act** (Chapter 7F, Laws of Kenya), you are hereby informed that **MR. FRANCIS MEJA** has been nominated for consideration by the National Assembly for appointment as Chairperson of the Commission.

To aid the August House in its consideration and approval processes, we have the pleasure to forward herewith the **Presidential Nomination Certificate No. 1 of 2026** together with the Report of the Selection Panel and the Nominee's Curriculum Vitae and Testimonials.

NATIONAL ASSEMBLY
RECEIVED
19 FEB 2026

We look forward to the State Nominee's consideration on a priority basis.

Yours



FELIX K. KOSKEI, EGH
CHIEF OF STAFF &
HEAD OF THE PUBLIC SERVICE

Copy to: **Hon. Kimani Ichung'wa, EGH**
Leader of Majority
The National Assembly
Parliament of Kenya
NAIROBI

Mr. Samuel J. Njoroge, CBS
Clerk
The National Assembly
Parliament of Kenya
NAIROBI

Mr. Arthur A. Osiya, CBS
Principal Administrative Secretary
Executive Office of the President
NAIROBI

Mr. Jasper M. Mbiuki, CBS
Head, Constitution Affairs,
Liaison & Assurance
Executive Office of the President
NAIROBI

PRESIDENTIAL
NOMINATION NO. 1 *of* 2026

THE CONSTITUTION OF KENYA

NOMINATION
of
THE CHAIRPERSON
PUBLIC SERVICE COMMISSION (PSC)

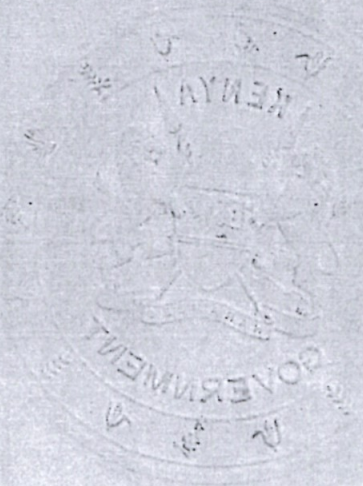
IN EXERCISE of the powers conferred by Article 233 (2) of the Constitution, **I, WILLIAM SAMOEI RUTO,** President and Commander-in-Chief of the Kenya Defence Forces nominates —

FRANCIS MEJA

for appointment as the Chairperson of the Public Service Commission.

IN TESTIMONY WHEREOF, I have caused this Presidential Nomination Certificate to be issued under the **HAND OF THE PRESIDENT** and **PUBLIC SEAL OF THE REPUBLIC**, on this the 3rd Day of February in the **YEAR OF OUR LORD TWO THOUSAND AND TWENTY-SIX.**

WILLIAM SAMOEI RUTO,
President.



Annexure **4**

Report of the Selection Panel

Departmental Committee on Labour Approval Hearing of Mr. Francis Meja, Nominee for Appointment as the Chairperson of the Public Service Commission (PSC)



REPUBLIC OF KENYA

THE CONSTITUTION OF KENYA

THE PUBLIC SERVICE COMMISSION ACT

(Chapter 185, Laws of Kenya)

Report

of the

Selection Panel for the Recruitment of Nominees for Appointment as Chairperson of the Public Service Commission

December, 2025

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

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Report

of the

Selection Panel for the Recruitment of Nominees for Appointment as Chairperson of the Public Service Commission

December, 2025

ADOPTION OF THE REPORT

We, the undersigned members of the Selection Panel for the Recruitment of Nominees for Appointment as Chairperson of the Public Service Commission (PSC) do hereby append our signature to adopt this Report.

Mr. Arthur A. Osiya, C.B.S. .....
Chairperson

CHRP Ruth Wambeti Ruraa, O.G.W. .....
Vice Chairperson

Ms. Jane Joram .....
Member

Prof. Nura Mohammed (PhD.), E.B.S. .....
Member

FCPA Sylvester Ngei Kiini, C.B.S. .....
Member

Dr. Nancy Oundo Dalla, PhD. .....
Member

Ms. Elizabeth Chesang .....
Member

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TABLE OF CONTENTS

1. EXECUTIVE SUMMARY .....
2. BACKGROUND .....
3. PREPARATORY MEETINGS OF THE SELECTION PANEL .....
4. PUBLIC CALL FOR APPLICATIONS .....
5. PUBLIC RESPONSES AND ANALYSIS OF APPLICATIONS .....
6. THE SHORTLISTING CRITERIA AND THE SHORTLISTED CANDIDATES .....
   6.1. The Shortlisted Candidates for the position of Chairperson .....
   6.2. Public Participation .....
   6.3. Due Diligence .....
7. INTERVIEWS .....
   7.1 Conducting of the Interviews .....
   7.2 Performance and Ranking of the Candidates .....
8. RECOMMENDATIONS OF THE SELECTION PANEL .....
9. THE RECOMMENDATIONS .....
10. CONCLUSION .....
APPENDICES .....

1. EXECUTIVE SUMMARY

A vacancy arose in the position of the Chairperson of the Public Service Commission following appointment of the immediate former chairperson, Ambassador Anthony M. Muchiri as Ambassador of Kenya to **Ankara, Turkey**. His appointment to foreign mission is published as **Kenya Gazette Notice No. 14266** of **3rd October, 2025.** Subsequently, **His Excellency the President** appointed the Selection Panel for the recruitment of Nominees for appointment as Chairperson of the Public Service Commission (the **"Selection Panel").** The appointment is pursuant to **Section 7 (3) of the Public Service Commission Act (**Chapter 185 Laws of Kenya), and in accordance with the procedure set out under **Paragraph 1 (1) of the First Schedule** to the Act. This appointment was carried in the Kenya Gazette, as **Notice No. 15945 of 4th November, 2025.**

The Selection Panel comprised of:

Mr. Arthur A. Osiya, C.B.S.

Representing the Office of the President;

Ms. Jane Joram

Representing the Office of the Attorney-General;

Professor Nura Mohammed (PhD.), E.B.S.

Representing the Ministry of Public Service and Human Capital Development;

FCPA Sylvester Kiini Ngei, C.B.S.

Representing the Institute of Certified Public Accountants of Kenya (ICPAK);

CHRP Ruth Ruraa Wambeti, O.G.W.

Representing the Institute of Human Resource Management;

Dr. Nancy Oundo Dalla, PhD.

Representing the Federation of Kenya Employers;

Ms. Elizabeth Chesang

Representing the National Council for Persons with Disabilities.

The Selection Panel for the Recruitment of Nominees for Appointmer Chairperson of the Public Service Commission convened for its inau meeting on 12th November, 2025 at the Executive Office of the Presi pursuant to **Paragraph 3 (1) of the First Schedule** to the PSC Act. was preceded by subscription of the Oath of Office administered by the Registrar of Judiciary at the Supreme Court Building in adheren **Paragraph 2 of the First Schedule to the PSC Act.**

The inaugural meeting was presided over by the Principal Administr Secretary in the Executive Office of the President. Members were info that the position of the Chairperson following re-designation of Ambas Anthony M. Muchiri as Ambassador of Kenya to **Ankara, Turkey** appointment to foreign mission is published as **Kenya Gazette Notice 14266** of **3rd October, 2025**. He highlighted the integral role of the Service Commission as the Commission that offer hope for all Kenyan tribeless, non-religious and non-political. He emphasized that the should uphold the principles of merit, ethics, regional balance professionalism in the selection process.

During the Swearing in Ceremony at the Supreme Court, **Mr. Paul Fa** Chief Executive Officer of the Public Service Commission tasked the Pa onboard a person of high integrity, noting the seminal mandate Commission in the public service as espoused in Articles 232 and 234 Constitution. The Chief Registrar of the Judiciary, **Hon. Winfrida Mokaya** resounded the integral role of the Public Service Commission custodian of meritocratic recruitment that shapes performance administration in the public service.

She noted that leadership must be above reproach, visionary and c integrity, calling upon the Selection Panel to utilize their collective exper execute a fair and transparent selection process that is anchored on me

The CRJ reminded the Panel to **internalize the solemn oath** they had just subscribed to and to pledge to uphold the Constitution and safeguard the trust that Kenyans have bestowed upon them. She urged them to adhere to the principles of accountability, inclusivity and confidence in the national values as well as apply Solomonic wisdom in identifying the best candidate for the Chairperson, PSC.

Subsequently, the Selection Panel invited suitably qualified persons to apply for the position of **Chairperson of the Public Service Commission (PSC)** through advertisement published in The Daily Nation and The Standard newspapers published on 14th November, 2025. The Selection Panel further published the call for applications in the Public Service Commission Website (www.publicservice.go.ke).

The Selection Panel considered and approved the timelines for the call for applications so as to close on **Friday, 28th November, 2025** at **5:00 p.m. East Africa Time (EAT)**. At the lapse of the advertisement period, the Selection Panel had received **Fifty-Two (52) applications**. It then considered and shortlisted Twelve (12) candidates and interviewed them on **15th, 16th** and **17th December, 2025.**

This position attracted **Thirteen (13) PhDs, Twenty-Four (24) Masters Degrees** and **Thirteen (13) Bachelor's Degrees.** There were **Three (3)** applications from **Persons with Disabilities**.

The candidates had diverse professional backgrounds and all the regions of the Republic were represented. The shortlisted candidates comprised of **Nine (9) males** and **Three (3) females** representing **75%** and **25%** of the total shortlisted candidates respectively.

Based on interview scores ***(Appendix I)***, the Selection Panel has t pleasure to recommend the candidates set out hereinafter for considerati for appointment as Chairperson of the Public Service Commission as follows

Position of the Chairperson of the Public Service Commission (PSC

S.NO	CANDIDATE NAME	GENDER	AGE	COUNT
1	Francis Meja	M	57	Kajiado
2	Molu Boya	M	47	Marsabi
3	Mary Kimonye	F	64	Kirinyag

2. BACKGROUND

A Vacancy arose in the Position of the Chairperson of the Public Ser Commission following the appointment of **Amb. Anthony M. Muchir** Ambassador of Kenya to **Ankara, Turkey** as published in the Kenya **Gaze Notice No. 14266** of **3rd October, 2025.** Consequently, His Excellency President appointed the Selection Panel for the recruitment of nominees appointment as the Chairperson of the Public Service Commissio accordance with **Paragraph 1(1)** of the **First Schedule** to the **Pu Service Commission Act (Chapter 185, Laws of Kenya).**

The Commission as currently constituted comprise of the Vice-Chairpe and members appointed *vide* **Kenya Gazette Notices No. 385** and **38 16th January, 2025**, respectively being:

Name	County
Vice -Chairperson	
Ms. Mary Kimonye	Meru
Members	
Mr. Harun Maalim Hassan	Mandera
Ms. Mwanamaka Amani Mabruki, C.B.S.	Mombasa
Mr. Francis Meja	Kajiado
Dr. Irene Asienga	Kericho
Mr. Molu Boya	Marsabit
Ms. Joan Machayo	Bungoma
Dr. Francis Owino, C.B.S.	Migori

The recruitment process and the attendant procedures for the position of Chairperson and Members of the Public Service Commission is regulated by **Article 233** of the Constitution and **Section 7 (3)** of the Public Service Commission Act (Chapter 185 Laws of Kenya), and **Paragraph 3(3)** of the **First Schedule** to the Act.

In that regard, pursuant to **Paragraph 1 (1)** of the **First Schedule** to the PSC Act, **His Excellency the President** appointed a Selection Panel for the Recruitment of Nominees for Appointment as Chairperson of the Public Service Commission.

The Presidential decision was pursuant to requirements of Section 11 (1) and (2) of the PSC Act which provides that;

(1) *Where a vacancy occurs in the office of the **chairperson**, vice-chairperson or member, the appointment procedure provided for in the Constitution and the First Schedule shall apply.*

(2) *In filling vacancies of the **chairperson,** vice-chairperson and members of the Commission, the President shall have due regard to **continuity of service.***

As an antecedent to the appointment of the Selection Panel, **the Chief of Staff and Head of the Public Service** *vide* a circular letter referenced **EOP/CAB.26/4A/VOL.VII (54)** of **27th October, 2025** ***(Appendix II)*** sought nominations of representatives of all institutions and bodies that constitute the Selection Panel.

His Excellency the President *vide* **Kenya Gazette Notice No. 15945** of **4th November, 2025** ***(Appendix III)*** subsequently declared vacancy in the position of the Chairperson of the Public Service Commission and appointed the Selection Panel for Recruitment of Nominees for Appointment as the Chairperson of the Public Service Commission. The following persons to serve as the members of the Selection Panel, namely:

(a) Mr. Arthur A. Osiya, C.B.S.
Office of the President;

(b) Ms. Jane Joram
Office of the Attorney-General;

(c) Prof. Nura Mohammed (PhD), E.B.S.
Ministry of Public Service and Human Capital Development

(d) FCPA Sylvester Kiini Ngei, C.B.S.
Institute of Certified Public Accountants of Kenya (ICPAK);

(e) CHRP Ruth Ruraa Wambeti, O.G.W.
Institute of Human Resource Management;

(f) Dr. Nancy Oundo Dalla, PhD.
Federation of Kenya Employers;

(g) Ms. Elizabeth Chesang
National Council for Persons with Disabilities.

3. PREPARATORY MEETINGS OF THE SELECTION PANEL

The Selection Panel for the Recruitment of Nominees for Appointm Chairperson of the Public Service Commission convened for its ina meeting on **Wednesday the 12th** of **November, 2025** at the Exe Office of the President pursuant to **Paragraph 3 (1) of the First Sch** to the PSC Act. This was preceded by subscription of the Oath of administered by the Chief Registrar of Judiciary at the Supreme Court B in adherence to **Paragraph 2 of the First Schedule to the PSC Act.**

The inaugural meeting was presided over by the **Principal Administ Secretary** in the Executive Office of the President. Members were int that a vacancy arose in the position of the Chairperson followi designation of the Office Holder. He highlighted the integral role of the Service Commission as the Commission that offer hope for all Kenya tribeless, non-religious and apolitical. He emphasized that the Panel uphold the principles of merit, ethics, regional balance and professiona the selection process.

During the Swearing in Ceremony at the Supreme Court, **Mr. Paul Famba, C.B.S.**, the Chief Executive Officer of the Public Service Commission tasked the Panel to onboard a person of high integrity, noting the seminal mandate of the Commission in the public service as espoused in Articles 232 and 234 of the Constitution.

The Chief Registrar of the Judiciary, **Hon. Winfridah. B. Mokaya, C.B.S.** resounded the integral role of the Public Service Commission as the custodian of meritocratic recruitment that shapes performance and administration in the public service. She noted that leadership must be above reproach, visionary and of high integrity calling upon the Selection Panel to utilize their collective expertise to execute a fair and transparent selection process that is anchored on merit.

The CRJ reminded the Panel to internalize the solemn oath they had just subscribed to and to pledge to uphold the Constitution and safeguard the trust that Kenyans have bestowed upon them. She urged them to adhere to the principles of accountability, inclusivity and confidence in the national values as well as apply Solomonic wisdom in identifying the best candidate for the Chairperson, PSC.

Pursuant to **Paragraph 1(2) of the First Schedule to the PSC Act.** Members unanimously elected **Mr. Arthur Osiya, C.B.S.** as the **Chairperson of the Selection Panel.** Members also elected **CHRP. Ruth Ruraa Wambeti, O.G.W.** as the **Vice-Chairperson** of the Selection Panel.

For optimal selection process, the Selection Panel developed rules of procedure pursuant to **Paragraph 1(3)** of the First Schedule to the PSC Act. This included development of a Work Plan ***(Appendix IV)*** to guide the execution of its mandate, detailing activities including meetings and advertisement of the vacancies for the position of the Chairperson of PSC. The Work Plan provided for publishing of the long list of all the applicants

together with their qualifications and the schedule of interviews fo shortlisted candidates, conduct of the interviews, collation of the results preparation and submission of the report of the Selection Panel.

4. PUBLIC CALL FOR APPLICATIONS

The Selection Panel invited suitably qualified persons to apply for the po of **Chairperson of the Public Service Commission (PSC)** th advertisement published in The Daily Nation and The Standard newsp published on Friday, 14th November, 2025 (***Appendix V***). The Sel Panel further published the call for applications for the two positions Public Service Commission Website (www.publicservice.go.ke).

5. PUBLIC RESPONSES AND ANALYSIS OF APPLICATIONS

At the close of the advertisement period on **28th November, 202** Selection Panel had received **Fifty-Two (52)** applications. This p attracted **Thirteen (13) PhDs, Twenty-Four (24) Masters Degree Thirteen (13) Bachelor's Degrees.** There were **Three (3)** appli from **Persons with Disabilities**

Applications Gender Profile

Chairperson		
Gender	**Count**	**Percentage**
Male	41	79 %
Female	11	21%
Total	**52**	

6. THE SHORTLISTING CRITERIA AND THE SHORTLISTED CANDIDATES

The Selection Panel developed a shortlisting criteria/tool to guide the shortlisting of applicants for the position of the Chairperson of PSC, taking into account the guidance under the **Article 233 (3) of the Constitution of Kenya** as read together with **Section 8 (2)** of the Public Service Commission Act and the **Selection Criteria** was made up of Four rounds ***(Appendix V)*** as set out below:

1) **First Round** – It required elimination of any applicant who did not meet any of the requirements set out under **Articles 233 (3) and (4) of the Constitution of Kenya** as read together with **Section 8 (1) and (2) of the Public Service Commission Act**, the advertisement for the position, and;

2) **Second Round** – It required consideration of the quality of service by the applicant during the ten (10) years' minimum experience as specified under the advertisement for the position. The aim of this stage was to ensure that each of the shortlisted candidates had a **distinguished career** and are persons with the capacity to discharge the mandate of the Chairperson the Public Service Commission;

3) **Third Round** – This step necessitated an analysis of the shortlist and considering and providing for the following:

   a. Regional and ethnic balance/diversity;
   b. PWD consideration;
   c. Gender Parity; and
   d. Diversity of skills and competences.

4) **Fourth Round** – It set the scope of the number of candidates to be shortlisted, and applying any other consideration approved and documented by the Selection Panel should the need arise.

In applying the above criteria, the Selection Panel noted the following:

6.2. Public Participation

The Selection Panel invited members of the public to avail any information relating to any of the shortlisted candidates through the notice on the **shortlisted candidates** published in the Daily Nation and the Standard Newspapers of **4th December, 2025**, ***The Kenya Gazette Notice No. 17634*** *of* ***5th November, 2025*** and on the Public Service Commission website (www.publicservice.go.ke)***(Appendix VI)***

The information, in the form of sworn affidavits, was to be availed to the Chairman, Selection Panel, Harambee House, 3rd Floor, Room 306/309, Nairobi or sent to email chairpsc.selection2025@cabinet.go.ke so as to be received on or before **11th December, 2025. 8.00am (EAT).**

Following the above invitation to the public, the Selection Panel received **Two** Memoranda on the suitability or otherwise of the shortlisted candidates. One memorandum was received as a recommendation of a candidate (***Appendix VII***).

6.3. Due Diligence

As part of the due-diligence process necessitated by the statutory compliance obligations with the requirements of Chapter Six (6) of the Constitution and other statutory obligations, the Selection Panel sought status reports of the shortlisted candidates from the following agencies:

I. National Intelligence Service (NIS);

II. Kenya Revenue Authority (KRA);

III. Ethics & Anti-corruption Commission (EACC);

IV. Independent Electoral & Boundaries Commission (IEBC);

V. Commission on University Education (CUE); and

VI. Office of the Registrar of Political Parties (ORPP).

All the State Agencies submitted written status reports on each shortlisted candidates (***Appendix VIII***).

7. INTERVIEWS

7.1 Conducting of the Interviews

The shortlisted candidates were interviewed at **Ke International Convention Centre, 4th Floor Boardroom,** on the dates and times indicated in the schedules abo candidates were asked to report at the venue at least **thir** minutes before the scheduled start time, and to bring **original** following documents:

(a) National Identity Card;

(b) Academic and Professional Certificates and Transcripts;

(c) VALID Clearances from the following Institutions:-

i. Kenya Revenue Authority (KRA);

ii. Directorate of Criminal Investigation (Pc Clearance);

iii. A Registered Credit Reference Bureau; and

iv. Higher Education Loans Board.

(d) Self-Declaration Form duly stamped by the Ethics Anti-Corruption Commission (EACC);

(e) Letter of recognition of qualifications from the Commis for University Education (CUE) for candidates who pos degrees from foreign universities;

(f) Letter of Good Standing from relevant professional bo and associations; and

(g) Other supporting documents and testimonials.

The shortlisted candidates arrived at the stipulated times interviews proceeded on as scheduled.

7.2 Performance and Ranking of the Candidates

The performance of the shortlisted candidates in the interviews and the ranking are as follows:

Position of the Chairperson, Public Service Commission (PSC)

S.NO	CANDIDATE'S NAME	GENDER	AGE	COUNTY	AVERAGE SCORE (%)
1	Francis Meja	M	57	Kajiado	77.1
2	Molu Boya	M	47	Marsabit	75.9
3	Mary Kimonye	F	64	Kirinyaga	74.4
4	Beverly Khasoa Opwora	F	58	Bungoma	71.9
5	Dr. Patrick Omutia	M	63	Busia	64.7
6	Dr. Francis Otieno Owino	M	61	Migori	63.8
7	Amb. Simon W. Nabukwesi	M	59	Bungoma	59.2
8	Prof. James K. Tuitoek	M	67	Nakuru	58.7
9	Dr. Jane Musangi Mutua	F	67	Kitui	57.7
10	Amb. Daniel Waisiko Wambura	M	54	Migori	53.5
11	Simeon Pkiyach	M	61	West Pokot	51.2
*	Dr. Reuben Kipkemoi Chirchir	M	63	Kericho	N/A

8. RECOMMENDATIONS OF THE SELECTION PANEL

The Performance and the ranking of all the Candidates is as shown below:

Position of the Chairperson, Public Service Commission (PSC)

S.NO	CANDIDATE'S NAME	GENDER	AGE	COUNTY	AVERAGE SCORE (%)
1	Francis Meja	M	57	Kajiado	77.1
2	Molu Boya	M	47	Marsabit	75.9
3	Mary Kimonye	F	64	Kirinyaga	74.4
4	Beverly Khasoa Opwora	F	58	Bungoma	71.9
5	Dr. Patrick Omutia	M	63	Busia	64.7
6	Dr. Francis Otieno Owino	M	61	Migori	63.8
7	Amb. Simon W. Nabukwesi	M	59	Bungoma	59.2
8	Prof. James K. Tuitoek	M	67	Nakuru	58.7
9	Dr. Jane Musangi Mutua	F	67	Kitui	57.7
10	Amb. Daniel Waisiko Wambura	M	54	Migori	53.5
11	Simeon Pkiyach	M	61	West Pokot	51.2
*	Dr. Reuben Kipkemoi Chirchir	M	63	Kericho	N/A

*In accordance with **Article 250(6)(a) of the Constitution** provides that a member of a commission shall be appointed for a sing renewable term of six years and is not eligible for re-appointm **Reuben Chirchir** was not interviewed, having previously serve member of the Commission between 2018 and 2024.

9. THE RECOMMENDATIONS

On the basis of the **individual candidates score** as well constitutional imperatives on regional and gender parity, the Selecti recommends to the President the nomination of the following per Chairperson of the Public Service Commission (PSC) with their a qualifications (***Appendix IX)*** as follows:

Position of the Chairperson, Public Service Commission (PSC)

S.NO	CANDIDATE NAME	GENDER	AGE	COUN
1	Francis Meja	M	57	Kajiado
2	Molu Boya	M	47	Marsabit
3	Mary Kimonye	F	64	Kirinyaga

10. CONCLUSION

The Selection Panel confirms that the selection process was cond accordance with the Constitution, the Public Service Commission Act (185 Laws of Kenya) and all other applicable laws.

The Selection Panel now therefore, has the pleasure to submit this re with utmost gratitude to H.E. The President.

APPENDICES

Appendix I	**Interview Score Sheet** duly approved by the **Chairperson** of the Selection Panel for Selection of Nominees for Appointment as Chairperson of the Public Service Commission.
Appendix II	Circular Letters of Reference No. **EOP/CAB.26/4A/VOL.VII (54) (27th October, 2025)** by the Chief of Staff and Head of the Public Service calling for the nominations of the representatives of all institutions and bodies that constitute the selection panel.
Appendix III	**Kenya Gazette Notice No. 15945 of 4th November, 2025.** –appointing the Selection Panel for Selection of Nominees for Appointment as Chairperson of the Public Service Commission.
Appendix IV	The Work Plan and Timelines of the Selection Panel.
Appendix V	**Public Call for Applications (Ident) of 14th November, 2025** inviting suitably qualified persons to apply for the position of the Chairperson and Member of the Public Service Commission.
Appendix VI	**Advertisements** in The Daily Nation and The Standard newspapers inviting suitably qualified persons to apply for the position of the Chairperson of the Public Service Commission.
Appendix VI	**The Shortlisting Criteria** for selection of nominees for appointment as Chairperson of the Public Service Commission.
Appendix VII	**Notification of Interviews:** List of all Applicants and Shortlisted Candidates and an Invitation to the Public to provide any information on the Suitability of the shortlisted candidates **(Public Participation)** published in the Standard and Daily Nation Newspapers of 4th December, 2025 respectively and the **Gazette Notice No 17635** of **5th December, 2025.**
Appendix VIII	**Memoranda** received from members of the public on the suitability of shortlisted candidates.
Appendix IX	**Statutory Clearance Letters** on the Compliance of the Candidates with the Leadership and Integrity Pursuant to **Chapter 6 of the Constitution.**
Appendix X	**Academic Qualifications** of Candidates recommended for the nomination as Chairperson of the Public Service Commission.

REPUBLIC OF KENYA

SELECTION PANEL FOR THE RECRUITMENT
of
NOMINEES FOR APPOINTMENT AS CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION (PSC)

INTERVIEW TOOL FOR THE POSITION OF CHAIRPERSON

DAY: 01
Monday 15th, December, 2025

NAME OF CANDIDATE		**ID NO**	
HOME COUNTY		**TIME**	

PART	QUESTION	MARK	SCORE	REMARK
PART 1: **Introduction Professional and Academic Profile**	**Chairperson -** **Mr. Arthur A. Osiya, CBS** **a.** Briefly introduce yourself and inform the panel why you consider yourself the most suitable candidate to be appointed as the Chairperson of the Public Service Commission (PSC)? **b.** What is your most consequential achievement in your career that places you as a distinguished leader?	**8** **7**		
Part 2: **Knowledge and Insights**	**CHRP Ruth W. Ruraa, OGW** The Public Service Commission has various mandates and powers. As a Chairperson of the Commission, how	**10**		

relevant to the Public Service Commission	would you measure on various facets of consideration in executing the mandate of the Commission.			
	The more things change, the more they remain the same; How does this phrase apply to the Public Service Commission and what structural reforms do you intend to onboard as Chairperson to make public service delivery effective and efficient?	**10**		
Part 3: Applied Knowledge	**Ms. Jane Joram** How will you create synergy between the Commission and the Executive? The Chairperson of PSC is a powerful position. What strategies will you apply to prevent creation of factions (kabaals) within the Commission and how will you ensure the secretariat serves the Commission's mandate?	**8** **7**		
Part 4: Leadership and Integrity	**FCPA Sylvester Ngei Kiini, CBS** Chapter Six of the Constitution is often cited across every public office space yet little is done to operationalize this Chapter and the attendant Statutes. What game changer measures will you bring to the Commission to curb graft in the public service?	**15**		
Part 5: Resource Management	**Prof. Nura Mohammed, EBS** The Chief of Staff and Head of Public Service rolled out campaign towards **zero-Fault Audit, the National Treasury has from 1st July, 2025 initiated the E- GP System** for procurement in all government entities., How can you implement and sustain the two reforms in the Commission? How will you rally the Commission towards prudent financial use of resources?	**8**		

		7		
Part 6 Current Affairs I.	**Dr. Nancy Dalla, PhD** Recently, there was a sale of GOK 15 % Shares in Safaricom PLC to Vodacom, making Vodacom the Majority shareholder while earning the Government Kshs. 204.3 Billion. What is your opinion on this matter?	**10.**		
Part 7 Emerging Trends	**Ms. Elizabeth Chesang** Technological innovations such as Artificial Intelligence are inevitable tools of conducting business in the world today. In fact every economy is fast advancing to seize the gains of AI. How have these novelties impacted on the public service and what safety nets will you employ to have optimal use of technology?	**10**		

PANELIST'S GENERAL COMMENTS		
SCORE	**NAME OF PANELIST:**	
		SIGNATURE:
		TOTAL SCORE:
		DATE

EXECUTIVE OFFICE OF THE PRESIDENT

CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

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

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

Ref. No. **EOP/CAB.26/4A/VOL.VII/(51)**
and date

27th October, 2025

Mr. Arthur A. Osiya, CBS
Principal Administrative Secretary
Executive Office of the President
NAIROBI

Dear Arthur

NOTIFICATION OF VACANCY

CHAIRPERSON OF PUBLIC SERVICE COMMISSION

We refer to the above subject matter.

You are notified that **His Excellency the President** has appointed **Amb. Anthony M. Muchiri** as Ambassador of Kenya to Ankara, Turkey published in the **Kenya Gazette** as **Notice No. 14266** of **3rd October, 2025.** Following this President action, a **vacancy** has arisen in the position of the **Chairperson** of the **Public Service Commission (PSC).**

Section 11(1) of the Public Service Commission Act (Chapter 185 Laws of Kenya) as read together with Paragraph 1 (1) of the First Schedule to the Act provide for procedure for appointment of chairperson and members of the Commission thus;

Whenever a vacancy arises, the President shall, within fourteen days by notice in the Government Gazette, declare vacancies in the Commission and constitute a selection panel.

To ensure the position of the Chairperson of the Commission is substantively filled in line with established best practices in succession management within State offices and pursuant to the procedure set out in Paragraph 1 (1) (a) of the First Schedule to the Public Service Commission Act, the **Executive Office of the President is by law designated as a statutory member of the selection panel** responsible for filling the vacancy that has since arisen.

Accordingly, and by way of this letter, **you are requested to nominate two persons** *(each of either gender)* to enable **His Excellency the President** to

EXECUTIVE OFFICE OF THE PRESIDENT

CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

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

Ref. No. **EOP/CAB.26/4A/VOL.VII/(52)**
and date

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

27th October, 2025, 20.....

Ms. Jacqueline Mugo, EBS
Chief Executive Officer
Federation of Kenya Employers
Bishop Road, Upper Hill,
NAIROBI

Dear Jacqueline,

NOTIFICATION OF VACANCY

CHAIRPERSON OF PUBLIC SERVICE COMMISSION

We refer to the above subject matter.

You are notified that **His Excellency the President** has appointed **Amb. Anthony M. Muchiri** as Ambassador of Kenya to Ankara, Turkey as published in the **Kenya Gazette** as **Notice No. 14266** of 3rd **October, 2025.** Following this President action, a **vacancy** has arisen in the position of the **Chairperson** of the **Public Service Commission (PSC).**

Section 11(1) of the Public Service Commission Act (Chapter 185 Laws of Kenya) as read together with Paragraph 1(1) of the First Schedule to the Act provide for procedure for appointment of chairperson and members of the Commission thus;

Whenever a vacancy arises, the President shall, within fourteen days by notice in the Government Gazette, declare vacancies in the Commission and constitute a selection panel.

To ensure the position of the Chairperson of the Commission is substantively filled in line with established best practices in succession management within State offices and pursuant to the procedure set out in Paragraph 1(1)(f) of the First Schedule to the Public Service Commission Act, the **Federation of Kenya Employers (FKE) is by law designated as a statutory member of the selection panel** responsible for filling the vacancy that has since arisen.

Accordingly, and by way of this letter, **you are requested to nominate two persons** *(each of either gender)* from your office to enable **His Excellency the President** to constitute the selection panel in fidelity to all the applicable laws. We look forward to receiving the nominations on or before **Friday 31st day of October, 2025.**

Your prompt attention to this matter will be greatly appreciated.

Yours Sincerely,

AMOS N. GATHECHA, CBS, ndc (K)
DEPUTY HEAD OF THE PUBLIC SERVICE
FOR: CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

Copy to: **Ms. Mary Kimonye, CBS**
Vice Chairperson
Public Service Commission
Commission House
NAIROBI

Ms. Wanjiku Wakogi, CBS
Chief of Staff
Office of the Deputy President
Executive Office of the President
NAIROBI

Mr. Arthur A. Osiya, CBS
Principal Administrative Secretary
Executive Office of the President
NAIROBI

Mr. Jasper Mbiuki, CBS
Head, Constitutional Affairs,
Liaison & Assurance
Executive Office of the President
NAIROBI

EXECUTIVE OFFICE OF THE PRESIDENT

CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

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

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

Ref. No. **EOP/CAB.26/4A/VOL.VII/(53)**
and date

27th October, 2025

CPA Dr. Grace Kamau, PhD
Chief Executive Officer
Institute of Certified Public Accountants
CPA Center, Ruaraka
Thika Road
NAIROBI

Dear Grace,

NOTIFICATION OF VACANCY

CHAIRPERSON OF PUBLIC SERVICE COMMISSION

We refer to the above subject matter.

You are notified that **His Excellency the President** has appointed **Amb. Anthony M. Muchiri** as Ambassador of Kenya to Ankara, Turkey as published in the **Kenya Gazette** as **Notice No. 14266** of **3rd October, 2025.** Following this President action, a **vacancy** has arisen in the position of the **Chairperson** of the **Public Service Commission (PSC).**

Section 11(1) of the Public Service Commission Act (Chapter 185 Laws of Kenya) as read together with Paragraph 1(1) of the First Schedule to the Act provide for procedure for appointment of chairperson and members of the Commission thus;

Whenever a vacancy arises, the President shall, within fourteen days by notice in the Government Gazette, declare vacancies in the Commission and constitute a selection panel.

To ensure the position of the Chairperson of the Commission is substantively filled in line with established best practices in succession management within State offices and pursuant to the procedure set out in Paragraph 1(1)(d) of the First Schedule to the Public Service Commission Act, the **Institute of Certified Public Accountants of Kenya**

Accordingly, and by way of this letter, **you are requested to nominate two persons** *(each of either gender)* to enable **His Excellency the President** to constitute the selection panel in fidelity to all the applicable laws. We look forward to receiving the nominations on or before **Friday 31st** day of **October, 2025.**

Your prompt attention to this matter will be greatly appreciated.

Yours Sincerely,

AMOS N. GATHECHA, CBS, ndc (K)
DEPUTY HEAD OF THE PUBLIC SERVICE
FOR: CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

Copy to: **Ms. Mary Kimonye, CBS**
Vice Chairperson
Public Service Commission
Commission House
NAIROBI

Ms. Wanjiku Wakogi, CBS
Chief of Staff
Office of the Deputy President
Executive Office of the President
NAIROBI

Mr. Arthur A. Osiya, CBS
Principal Administrative Secretary
Executive Office of the President
NAIROBI

Mr. Jasper Mbiuki, CBS
Head, Constitutional Affairs,
Liaison & Assurance
Executive Office of the President
NAIROBI

EXECUTIVE OFFICE OF THE PRESIDENT

CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

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

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

Ref. No. **EOP/CAB.26/4A/VOL.VII/(54)**
and date

27th October, 2025

CHRP Quresha Abdullahi
Executive Director
Institute of Human Resource Management
KISM Towers, Ngong Road
NAIROBI

Dear ED,

NOTIFICATION OF VACANCY

CHAIRPERSON OF PUBLIC SERVICE COMMISSION

We refer to the above subject matter.

You are notified that **His Excellency the President** has appointed **Amb. Anthony M. Muchiri** as Ambassador of Kenya to Ankara, Turkey as published in the **Kenya Gazette** as **Notice No. 14266** of **3rd October, 2025.** Following this President action, a **vacancy** has arisen in the position of the **Chairperson** of the **Public Service Commission (PSC).**

Section 11(1) of the Public Service Commission Act (Chapter 185 Laws of Kenya) as read together with Paragraph 1(1) of the First Schedule to the Act provide for procedure for appointment of chairperson and members of the Commission thus;

Whenever a vacancy arises, the President shall, within fourteen days by notice in the Government Gazette, declare vacancies in the Commission and constitute a selection panel.

To ensure the position of the Chairperson of the Commission is substantively filled in line with established best practices in succession management within State offices and pursuant to the procedure set out in Paragraph 1(1)(e) of the First Schedule to the Public Service Commission Act, the **Institute of Human Resource Management (IHRM) is by law designated as a statutory member of the selection panel** responsible for filling the vacancy that has since arisen.

(ICPAK) is **by law designated as a statutory member of the selection panel** responsible for filling the vacancy that has since arisen.
Accordingly, and by way of this letter, **you are requested to nominate two persons** *(each of either gender)* to enable **His Excellency the President** to constitute the selection panel in fidelity to all the applicable laws. We look forward to receiving the nominations on or before **Friday 31st day of October, 2025.**

Your prompt attention to this matter will be greatly appreciated.

Yours Sincerely,

AMOS N. GATHECHA, CBS, 'ndc' (K)
DEPUTY HEAD OF THE PUBLIC SERVICE
FOR: CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

Copy to: **Ms. Mary Kimonye, CBS**
Vice Chairperson
Public Service Commission
Commission House
NAIROBI

Ms. Wanjiku Wakogi, CBS
Chief of Staff
Office of the Deputy President
Executive Office of the President
NAIROBI

Mr. Arthur A. Osiya, CBS
Principal Administrative Secretary
Executive Office of the President
NAIROBI

Mr. Jasper Mbiuki, CBS
Head, Constitutional Affairs,
Liaison & Assurance
Executive Office of the President
NAIROBI

EXECUTIVE OFFICE OF THE PRESIDENT

CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

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

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

Ref. No. **EOP/CAB.26/4A/VOL.VII/(56)**
and date

27th October, 2025

Ms. Elizabeth Chesang
Chairperson
National Council for Persons with Disabilities
Kabete Orthopedic Compound opposite ABC Place
NAIROBI

Dear Elizabeth

NOTIFICATION OF VACANCY

CHAIRPERSON OF PUBLIC SERVICE COMMISSION

We refer to the above subject matter.

You are notified that **His Excellency the President** has appointed **Amb. Anthony M. Muchiri** as Ambassador of Kenya to Ankara, Turkey as published in the **Kenya Gazette** as **Notice No. 14266** of **3rd October, 2025.** Following this President action, a **vacancy** has arisen in the position of the **Chairperson** of the **Public Service Commission (PSC).**

Section 11(1) of the Public Service Commission Act (Chapter 185 Laws of Kenya) as read together with Paragraph 1 (1) of the First Schedule to the Act provide for procedure for appointment of chairperson and members of the Commission thus;

Whenever a vacancy arises, the President shall, within fourteen days by notice in the Government Gazette, declare vacancies in the Commission and constitute a selection panel.

To ensure the position of the Chairperson of the Commission is substantively filled in line with established best practices in succession management within State offices and pursuant to the procedure set out in Paragraph 1 (1) (g) of the First Schedule to the Public Commission Service Act, the **National Council for Persons with Disabilities (NCPWD) is by law designated as a statutory member of the selection panel** responsible for filling the vacancy that has since arisen.

Accordingly, and by way of this letter, **you are requested to nominate two persons** *(each of either gender)* to enable **His Excellency the President** to constitute the selection panel in fidelity to all the applicable laws. We look forward to receiving the nominations on or before **Friday 31st** day of **October, 2025.**

Your prompt attention to this matter will be greatly appreciated.

Yours Sincerely,

AMOS N. GATHECHA, CBS, 'ndc' (K)
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FOR: CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

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Head, Constitutional Affairs,
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Executive Office of the President
NAIROBI

SPECIAL ISSUE

THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

Vol. CXXVII—No. 224 **NAIROBI, 4th November, 2025** **Price Sh. 60**

GAZETTE NOTICE NO. 15945

THE PUBLIC SERVICE COMMISSION ACT

(Cap. 185*)*

DECLARATION OF A VACANCY AND APPOINTMENT OF A SELECTION PANEL

WHEREAS, The Public Service Commission is established under Article 233 (1) of the Constitution;

WHEREAS, Pursuant to Article 234 of the Constitution and the Public Service Commission Act, the Commission is mandated, *inter alia*, to establish and abolish offices in the public service; appoint persons to hold or act in those offices and confirm appointments; exercise disciplinary control over and remove persons holding or acting in those offices; and promote the values and principles of public service;

WHEREAS, The Public Service Commission Act operationalises the mandate of the Commission by, *inter alia*, establishing a legal framework for the identification and appointment of the Chairperson, Vice-chairperson, Members, and the Secretary of the Commission in accordance with Article 250 (2) of the Constitution;

WHEREAS, Pursuant to Article 250 (6) of the Constitution, a Member of a Commission or the holder of an independent office is appointed for a single term of six (6) years and is not eligible for re-appointment;

WHEREAS, A vacancy has arisen in the Office of the Chairperson of the Public Service Commission;

WHEREAS, Pursuant to section 10 of the Public Service Commission Act, the President is required within fourteen (14) days after the occurrence of a vacancy to issue a public notification of such vacancy;

NOW THEREFORE, I, William Samoei Ruto, President of the Republic of Kenya and Commander in Chief of the Defence Forces, in exercise of the powers conferred upon me by section 7 (3) of the Public Service Commission Act, and in accordance with the procedure set out under Paragraph 1 (1) of the First Schedule to the Act, do hereby:

I. DECLARE a vacancy in the position of the Chairperson of the Commission;

II. CONSTITUTE a Selection Panel for the recruitment of nominees for appointment as Chairperson of the Public Service Commission; and

III. APPOINT the following persons to the membership of the Panel:

Under paragraph (a)–

Arthur Osiya,

Under paragraph (b)–

Jane Joram,

Under paragraph (c)–

Nura Mohammed (Prof.),

Under paragraph (d)–

Sylvester Ngei Kiini, FCPA,

Under paragraph (e)–

Ruth Wambeti Ruraa,

Under paragraph (f)–

Nancy Oundo Dalla,

Under paragraph (g)–

Elizabeth Chesang.

Dated the 3rd November, 2025.

WILLIAM SAMOEI RUTO,
President.

GAZETTE NOTICE NO. 15946

PANEL OF EXPERTS ON COMPENSATION OF VICTIMS OF DEMONSTRATIONS AND PUBLIC PROTESTS

APPOINTMENT

IT IS notified for the general information of the public that, pursuant to Gazette Notice No. 12002 of 2025, His Excellency the President has appointed—

Accordingly, and by way of this letter, **you are requested to nominate two persons** *(each of either gender)* to enable **His Excellency the President** to constitute the selection panel in fidelity to all the applicable laws. We look forward to receiving the nominations on or before **Friday 31st** day of **October, 2025.**

Your prompt attention to this matter will be greatly appreciated.

Yours Sincerely,

AMOS N. GATHECHA, CBS, ndc (K)
DEPUTY HEAD OF THE PUBLIC SERVICE
FOR: CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE

Copy to: **Ms. Mary Kimonye, CBS**
Vice Chairperson
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Principal Administrative Secretary
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Mr. Jasper Mbiuki, CBS
Head, Constitutional Affairs,
Liaison & Assurance
Executive Office of the President
NAIROBI

THE SELECTION PANEL FOR THE RECRUITMENT
of
THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

WORKPLAN

S/No.	Activity	Meeting No.	Date of the Meeting
1.	Gazettement of Members of the Selection Panel	-	Tuesday, 4th November, 2025, 2024
2.	Inaugural Meeting of the Selection Panel	Inaugural Meeting	Wednesday, 12th November, 2025
3.	i. Nomination of Chairperson and Vice Chairperson of the Panel ii. Preparation of the Selection Panel's Operations and Procedures iii. Preparation of the Advertisement. iv. Approval of the Advertisement for publishing. v. Development of the Work Plan	1st Meeting	Wednesday,12th November, 2025
4.	i. Review and approval of the Advertisement	2nd Meeting	Thursday, 13th November, 2025
5.	i. Placement of the Indent for call for applications on print media ii. Development and approval of Data Capture Tool iii. Briefing/Training of the data capture team	Secretariat	Friday, 14th November, 2025
6.	Data capture	Secretariat	Tuesday, 18th November,2025
7.	i. Receipt of Status update of the applications. ii. Development of Shortlisting Criteria	3rd meeting	Wednesday, 19th November, 2025

CLARIS AWUOR OGANGAH-ONYANGO

as the Vice-Chairperson of the Panel of Experts with effect from the 4th November, 2025. The appointment of the Vice-Chairperson *vide* Gazette Notice No. 12002 of 25th August 2025 is revoked.

Dated the 4th November, 2025.

FELIX K. KOSKEI,
Chief of Staff and Head of the Public Service.

GAZETTE NOTICE NO. 15947

THE KENYA REVENUE AUTHORITY ACT

(*Cap.* 469)

APPOINTMENT

IN EXERCISE of the powers conferred by section 6 (2) (*e*) of the Kenya Revenue Authority Act, the Cabinet Secretary for National Treasury appoints—

SHIMALA NECHEZA LEONARD

to be a Member of the Board of Directors of the Kenya Revenue Authority, for a period of three (3) years, with effect from the 4th November, 2025.

Dated the 4th November, 2025.

JOHN MBADI NG'ONGO,
Cabinet Secretary for the National Treasury.

GAZETTE NOTICE NO. 15948

THE NATIONAL COHESION AND INTEGRATION ACT

(Cap. 7N)

DECLARATION OF IMPENDING VACANCIES AND APPOINTMENT OF SELECTION PANEL

WHEREAS, the National Cohesion and Integration Commission is established under section 15 of the National Cohesion and Integration Act:

WHEREAS, the Commission is constituted of a Chairperson and seven (7) Members;

WHEREAS, pursuant to Article 250 (6) of the Constitution as read with section 19 of the Act, the Chairperson and Members of the commission are appointed for a single term of six (6) years and are not eligible for re-appointment; and

WHEREAS, there are impending vacancies in the membership of the Commission arising from the anticipated expiry of the six (6) year non-renewable term of office of the current members with effect from the 17th November, 2025.

NOW THEREFORE, the Cabinet Secretary for Interior and National Administration, in exercise of the powers conferred by section 17 of the National Cohesion and Integration Commission Act as read with the procedure set out under Paragraph 2 of the First Schedule to the Act, do hereby:

I. DECLARE impending vacancies in the position of Chairperson and seven (7) Members of the Commission, with effect from the 17th November, 2025;

II. CONSTITUTE a Selection Panel for the recruitment of nominees for appointment as Chairperson and Members of the National Cohesion and Integration Commission; and

III. APPOINT the following persons to the membership of the Panel:

Under paragraph 2 (a)–

Reuben Chirchir (Dr.),

Under paragraph 2 (b)–

Francis Meja,

Under paragraph 2 (c)–

Pauline Mcharo,

Under paragraph 2 (d)–

Alfred Mshimba, Col. (Rtd.),

Under paragraph 2 (e)–

Michael Nzomo Mbithuka,

Under paragraph 2 (f)–

Hannah Okwengu, Lady Justice (Rtd).

Dated the 3rd November, 2025.

KIPCHUMBA MURKOMEN,
Cabinet Secretary for Interior and National Administration.

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

S/No.	Activity	Meeting No.	Date of the Meeting
18.	(i) Review initial Draft Report. (ii) Review Memoranda received. (iii) Receive and approve all documents required for the Interviews (iv) Review Letters from Agencies (v) Develop and adopt Interview Scoring Tool (areas to be covered) for the position of the Chairperson (vi) Allocation of interview Questions to Panel Members (vii) Receipt and approval of candidate interview profile.	9th Meeting	**Wednesday 10th December, 2025**
19.	**DAY 1 Interviews** for the position of Chairperson, PSC	10th Meeting	**Monday 15th December, 2025**
20.	**Day 2 Interviews** for the position of Chairperson, PSC	11th Meeting	**Tuesday 16th December, 2025**
21.	**Day 3 Interviews** for the position of Chairperson, PSC	12th Meeting	**Wednesday 17th December, 2025**
22.	Decision making on **three (3)** qualified applicants for the position of the Chairperson in line with PSC Act, CAP 185	13th Meeting	**Thursday 18th December, 2025**
23.	Preparation of the Report recommending **three**(3) Candidates for the position of Chairperson, PSC	14th Meeting	**Thursday 18th December, 2025**
24.	Presentation of the Report with names of **three** (3) qualified applicants for the position of Chairperson to enable the President nominate and forward one name for the position of the Chairperson, PSC to the National Assembly	15th Meeting	**Friday 19th December, 2025**
	NB (i) The Chairperson of the Panel is mandated to convene meetings on need basis (ii) The Chairperson may meet with the Secretariat in consultation with relevant authorities from time to time		

S/No.	Activity	Meeting No.	Date of the Meeting
8.	Data capture	Secretariat	Thursday, November,2025
9.	i. Approval and Adoption of Shortlisting Criteria ii. Update on Status of Applications	4th Meeting	Monday 24th Novemb 2025
10.	Data capture	Secretariat	Wedesday,25th Novemb 2025
11.	(i) Review and adoption of Work Plan (ii) Update on Status of Applications (iii) Review of the shortlisting criteria **(iv) Close of receipt of applications**	5th Meeting	Thursday 27th Novemb 2025
12.	Cleaning of Data Captured	Secretariat	Monday 1st Decemb 2025
13.	Generation of Long List	Secretariat	Tuesday 2nd December, 2025
14.	**Shortlisting** i. Reviewing of the Long list; Regional Clusters; ii. shortlisting of Applicants for the position of the Chairperson, PSC.	6th meeting	Wednesday 3rd Decemb 2025
15.	i. Presentation of the list of all applicants and their qualifications, shortlisted applicants and schedule of interviews for publication in Two Dailies, Kenya Gazette, Head of Public service and PSC websites. ii. Publication of call for Memoranda on shortlisted applicants.	7th Meeting	**Thursday 4th Decemb 2025**
16.	i. Preparation and dispatch of letters to investigating agencies for clearance of shortlisted candidates	Secretariat	Thursday 4th Decem 2025
17.	i. Development and adoption of the Interview Tool ii. Development of Interview Questions	8th Meeting	**Friday 5th Decem 2025**

S/No.	Activity	Meeting No.	Date of the Meeting
18.	(i) Review initial Draft Report. (ii) Review Memoranda received. (iii) Receive and approve all documents required for the Interviews (iv) Review Letters from Agencies (v) Develop and adopt Interview Scoring Tool (areas to be covered) for the position of the Chairperson (vi) Allocation of interview Questions to Panel Members (vii) Receipt and approval of candidate interview profile.	9th Meeting	**Wednesday 10th December, 2025**
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21.	**Day 3 Interviews** for the position of Chairperson, PSC	12th Meeting	**Wednesday 17th December, 2025**
22.	Decision making on **three (3)** qualified applicants for the position of the Chairperson in line with PSC Act, CAP 185	13th Meeting	**Thursday 18th December, 2025**
23.	Preparation of the Report recommending **three**(3) Candidates for the position of Chairperson, PSC	14th Meeting	**Thursday 18th December, 2025**
24.	Presentation of the Report with names of **three** (3) qualified applicants for the position of Chairperson to enable the President nominate and forward one name for the position of the Chairperson, PSC to the National Assembly	15th Meeting	**Friday 19th December, 2025**
	NB (i) The Chairperson of the Panel is mandated to convene meetings on need basis (ii) The Chairperson may meet with the Secretariat in consultation with relevant authorities from time to time		

THE SELECTION PANEL FOR THE RECRUITMENT
of
NOMINEES FOR APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

CALL FOR APPLICATIONS FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

The Selection Panel for the Recruitment of Nominees for Appointment as Chairperson of the Public Service Commission invites applications from suitably qualified persons for consideration for nomination for the position of the **Chairperson** of the Public Service Commission.

A. QUALIFICATIONS FOR APPOINTMENT

A person shall be qualified for appointment as Chairperson of the Public Service Commission if that person-

(a) is a citizen of Kenya;
(b) holds a degree from a university recognized in Kenya;
(c) has at least ten years' experience in their respective profession;
(d) has at least six years' experience in a managerial position either in th public or private sector; and
(e) meets the requirements of leadership and integrity in Chapter Six c the Constitution.

B. GROUNDS FOR DISQUALIFICATION

A person is not eligible for appointment as a chairperson of the Public Servi Commission if such person-

1. has, at any time within the preceding five years, held office, or sto for election* as -

   (a) a member of Parliament or County Assembly; or

(b) a member of the governing body of a political party; or

2. holds any state office; or;
3. is, or has at any one time been, a candidate for election as a member of Parliament or of a County Assembly*; or
4. is or has at any time been, the holder of an office in any political organization that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a member of Parliament or of a County Assembly*; or
5. is an undischarged bankrupt; or
6. has been removed from office for contravening the provisions of the Constitution or any law.

Note*: Paragraphs (1), (3) and (4) cease to apply to a person after two general elections for Parliament have been held since the person ceased to be such a candidate or office holder.

C. TENURE OF APPOINTMENT

Single non-renewable term of six (6) years.

D. TERMS OF SERVICE

(i) Full time

(ii) Shall not hold any other office or employment for profit whether public or private.

(iii) Remuneration and benefits for the position are as set out by the Salaries and Remuneration Commission.

E. HOW TO APPLY

(i) All applications should be accompanied by detailed curriculum vitae, certified true copies of their academic and professional certificates, National Identity card or Passport, together with testimonials and other relevant supporting documents.

(ii) The applications should be clearly and appropriately marked as follows-

(a) **Application for the Position of the Chairperson, Public Service Commission**.

(iii) All Applications should be addressed to:

The Chairperson
Selection Panel for the Recruitment of Nominees for
Appointment as Chairperson of the Public Service Commission
P. O. Box 62345-00200
NAIROBI

(iv) All applications should be delivered in any of the following ways-

(a) **Hand delivery to:**

Third Floor, Room 306
Harambee House
Harambee Avenue
NAIROBI
(Monday - Friday between 8.00am -5.00pm)

(b) **Online through:**

Email to: **chairpsc.selection2025@cabinet.go.ke**
(Send scanned and certified true copies of the requisite documents together with the application)

(c) **The Post Office in ordinary or registered mail.**

Important Note:

(i) Names of all applicants and the interview schedule of the shortlisted candidates shall be published in the Kenya Gazette, the Public Service Commission website (www.publicservice.go.ke) and in two daily newspapers on lapse of the application time.

(ii) Shortlisted candidates shall be required to produce **originals** of their Identity Cards or Passports, academic and professional certificates, transcripts and testimonials during the interview.

(iii) Further to (ii) above, shortlisted candidates will be required to present **VALID** clearance certificates from the following institutions during the interview-

- Kenya Revenue Authority (Tax Compliance Certificate)
- Higher Education Loans Board (Clearance Certificate)
- Ethics and Anti-Corruption Commission (Self Declaration form)
- Credit Reference Bureau (Credit Report and certificate of clearance); and
- Police Clearance Certificate (DCI Clearance certificate)

(iv) Canvassing for the position will lead to automatic disqualification.

(v) It is a criminal offence to produce fake certificates during the interview or to impersonate.

(vi) The candidate nominated shall be required to go through the National Assembly for vetting and approval pursuant to Public Appointments (Parliamentary Approval Act, Cap 7F).

(vii) It is the responsibility of the applicant to ensure that the submitted application reaches the Chairperson of the Selection Panel by the appointed time.

Persons with disabilities, Women, the minorities and marginalized are encouraged to apply

All applications should reach the Chairperson of the Selection Panel not later than **Friday 28th November, 2025 at 5.00 p.m. (East African Time)**

Mr. Arthur A. Osiya, CBS
Chairperson
Selection Panel for the Recruitment of Nominees for the Appointment as Chairperson of the Public Service Commission

THE SELECTION PANEL FOR RECRUITMENT
of
NOMINEES FOR APPOINTMENT AS CHAIRPERSON OF PUBLIC SERVIC COMMISSION

Article 248 (2) (g) as read together with Article 233 (1) of the Constitutio establishes **The Public Service Commission**. Article 233 (2) of the Constitutio further provides the composition of the Commission as;

i. The Chairperson,
ii. The Vice Chairperson, and
iii. Seven Members.

Article 233(3) as read together with Section 8 (1) of the Public Service Commissio Act (Cap 185) provides for the **minimum requirements** for appointment to th Position of the Chairperson, Public Service Commission.

The Public Service Commission Act as well as Article 10,232 and 250(4) of th Constitution provide further guidance on the recruitment process.

It is therefore proposed that the shortlisting for the position of Chairperson of th Commission be undertaken according to the following;

SHORTLISTING CRITERIA /TOOL FOR THE POSITION OF CHAIRPERSON	
1ST Round	**1. Exclude any applicant who does not meet any of th requirements** set out in the **Public Service Commission Act** a the **Advert**: Section 8 (1) of the Public Service Commission Act (Cap 185) provid that a person shall be qualified for appointment as Chairperson of t Public Service Commission if such person- (a) Is a citizen of Kenya; (b) Holds a degree from a university recognized in Kenya; (c) Has at least 10 years' experience in their respective professio (d) Has at **least six (6) years' experience** in a **manager** position either in the public or private sector, and

	(e) Meets the requirements of leadership and integrity in Chapter Six of the Constitution. **2.** Article 233 (3) and (4) of the Constitution provides for disqualifications for persons aspiring for the position of Chairperson PSC. Selection Panel can **apply the disqualification criteria for appointment** by excluding (if applicable) any applicant who: (a) Has, at any time within the preceding five years, held office, or stood for election as: *(i)* A member of Parliament or of a county assembly; or *(ii)* A member of the governing body of a political party; or (b) Is, or has at any time been, a candidate for election as member of parliament or of a county assembly; or (c) Is or has at any time, the holder of an office in any political organization that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for lection as a member of parliament or of a county assembly. *Article 233 (4) states that Clause 3 (c) and (d) cease to apply to a person after two general elections for Parliament have been held since the person ceased to be such a candidate or office holder.*
d Round	**Consider the quality of service by the Applicant during the <u>10 years minimum experience</u> as a requirement under Section 8 (1) of PSC Act.** *(Ensure that each of the candidates shortlisted have had a **distinguished** career and are serious persons who have the capacity to discharge the mandate of the Chairperson of PSC)* **Collins Dictionary meaning** of a person with **a <u>distinguished Career</u>** as **very <u>successful</u> in their <u>career</u> and have a good <u>reputation</u>.** **A person with distinguished career has for example;**

SHORTLISTING CRITERIA /TOOL FOR THE POSITION OF CHAIRPERSON	
	(i) In **public service**, served with honor and made lasting positive impacts on society; (ii) In **academia**, has made groundbreaking discoveries or significantly influenced their academic discipline; (iii) In **Corporate**, is highly respected and admired for significant achievements, has proven record of success, leadership, and positive reputation. In identifying persons who have served in the managerial positions for years, consider the following; (i) **Civil servants** - Job Group 'T'/CSG 4 and above (ii) **University Profession** – Vice-Chancellors, D Vice-Chancellors (iii) **Private Sector** - General Managers and above in the Corporate/Company; and (iv) **Military Profession** – Major-General and above. (v) **Sole practitioners**- specialized expertise, high profile cases, academic contributions, and professional leadership.
3rd Round	**Analyze the shortlist and consider/provide for:** (i) Regional and ethnic balance/diversity (ii) PWD consideration (iii) Gender Balance (iv) diversity of skills and competences
4th Round	**Agree on the number to be shortlisted** and apply any other consideration approved and documented by the Selection Panel should need arise. To recommend 3 nominees – Consider 3 candidates per nominee(shortlist 9)

GENERAL REMARKS

(i) Non-submission of statutory clearances shall not disqualify applicant at shortlisting since the shortlisted candidates shall be required to submit the original statutory clearances from:

(a) Kenya Revenue Authority;

(b) Higher Education Loans Board;

(c) *A Registered Credit Reference Bureaus;*

(d) *Ethics and Anti-Corruption Commission*

(e) *Directorate of Criminal Investigations (certificate of good conduct); and*

(f) *Relevant professional bodies (where applicable);*

(ii) Shortlisted Candidates shall present originals of their academic and professional certificates, transcripts and other supporting documents and testimonials during the interviews;

(iii) Background checks to ascertain the candidates' suitability to be conducted on the shortlisted candidates before the interview date.

(iv) Memoranda received from members of the public on shortlisted candidates' suitability will be analysed ahead of the scheduled interview dates and the affected candidate given right of reply where the Panel deem fit.



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CONTENTS

GAZETTE NOTICES

	PAGE
The Tourism Act—Re-Appointment	8868
The National Electronic Single Window System Act—Revocation of Appointment, etc.	8868, 8869
The Elections Act—Election Petition Court	8868
The Asian Officers' Family Pensions Act—Appointment	8868–8869
The Local Authorities Provident Fund Act—Appointment	8869
The Marriage Act—Appointment	8869
County Governments Notices	8892–8893
The Oaths and Statutory Declarations Act—Appointment	8869–8870
The Kenya Revenue Authority Act—Delegation of Powers, etc.	8870–8871
The East African Community Customs Management Act—Appointment	8871
The Public Service Commission Act—List of Applicants and Shortlisted Candidates for the Position of Chairperson of the Public Service Commission	8871–8872
The Land Registration Act—Issue of Provisional Certificates, etc.	8872–8890, 8901
The Land Act—Reservation of Public Lands to Kenya Railways Corporation	8891–8892
The Co-operative Societies Act—Cancellation/Liquidation Order	8893
The Environmental Management and Co-ordination Act—Environmental Impact Assessment Study Reports	8894–8895
The Mental Health Act—Appointment	8895
The Insolvency Act—Petition for Liquidation, etc	8895–8896

GAZETTE NOTICES—(*Contd.*)

Disposal of Uncollected Goods	8896–8897
Change of Names	8897–8901

SUPPLEMENT Nos. 162 and 166

Legislative Supplements, 2025

LEGAL NOTICE NO.	PAGE
161–The Public Finance Management (Ulinzi Prime Health Services Fund)(Amendment) Regulations, 2025	1845
162–164–The Competition Act—Exclusions	1846
165–Meru University of Science and Technology Statutes	1849

SUPPLEMENT Nos. 163, 164

Senate Bills, 2025

	PAGE
The Autism Management Bill, 2025	257
The Colonial Reparations Bill, 2025	265

SUPPLEMENT Nos. 165, 167, 168 and 169

National Assembly Bills, 2025

	PAGE
The Public Participation Bill, 2025	1125
The Local Content Bill, 2025	1135
The National Cohesion and Integration (Amendment) Bill, 2025	1141
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THE KENYA REVENUE AUTHORITY ACT

(Cap. 469)

TRANSFER OF FUNCTIONS

IT IS notified for the general information of the public that pursuant to the power conferred by section 13A of the Kenya Revenue Authority Act, the Commissioner-General, with the approval of the Cabinet Secretary for the National Treasury and Economic Planning and, following the restructuring of the Kenya Revenue Authority, has—

(a) transferred all functions of the Domestic Taxes Department relating to large and medium taxpayers to the Large and Medium Taxpayers Department; and

(b) transferred all the functions of the Domestic Tax Department relating to micro and small taxpayers to the Micro and Small Taxpayers Department,

with effect from the 10th February, 2025.

Dated the 25th November, 2025.

HUMPHREY WATTANGA,
Commissioner-General.

GAZETTE NOTICE NO. 17633

THE EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT ACT, 2004

APPOINTMENT AND LIMITS OF TRANSIT SHED, CUSTOMS AREAS ETC.

PURSUANT to section 12 of the East African Community Customs Management Act, 2004, the Commissioner of Customs and Border Control appoints the following Customs areas etc:

(a) The place specified in the first column of the First Schedule, as a customs area for the purposes of the Act and the limits shall be those set out in the second column of that schedule;

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FIRST SCHEDULE

Appointment and limits of the Customs Area.

Place	*Limits*
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SECOND SCHEDULE

Appointment of Entry and Exit to and from the Customs Area.

Place	*Limits*	*Purpose*
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Dated the 26th November, 2025.

LILIAN NYAWANDA (Dr.),
SO5578 *Commissioner of Customs and Border Control.*

GAZETTE NOTICE NO. 17634

THE CONSTITUTION OF KENYA

THE PUBLIC SERVICE COMMISSION ACT

(*Cap.* 185)

SELECTION PANEL FOR THE RECRUITMENT OF NOMINEES FOR APPOINTMENT AS CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION (PSC)

LIST OF APPLICANTS AND SHORTLISTED CANDIDATES FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

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CONTENTS

GAZETTE NOTICES

	PAGE
The Tourism Act—Re-Appointment	8868
The National Electronic Single Window System Act—Revocation of Appointment, etc.	8868, 8869
The Elections Act—Election Petition Court	8868
The Asian Officers' Family Pensions Act—Appointment	8868–8869
The Local Authorities Provident Fund Act—Appointment	8869
The Marriage Act—Appointment	8869
County Governments Notices	8869 8892–8893
The Oaths and Statutory Declarations Act—Appointment	8869–8870
The Kenya Revenue Authority Act—Delegation of Powers, etc.	8870–8871
The East African Community Customs Management Act—Appointment	8871
The Public Service Commission Act—List of Applicants and Shortlisted Candidates for the Position of Chairperson of the Public Service Commission	8871–8872
The Land Registration Act—Issue of Provisional Certificates, etc.	8872–8890, 8901
The Land Act—Reservation of Public Lands to Kenya Railways Corporation	8891–8892
The Co-operative Societies Act—Cancellation/Liquidation Order	8893
The Environmental Management and Co-ordination Act—Environmental Impact Assessment Study Reports	8894–8895
The Mental Health Act—Appointment	8895
The Insolvency Act—Petition for Liquidation, etc	8895–8896
Disposal of Uncollected Goods	8896–8897
Change of Names	8897–8901

SUPPLEMENT Nos. 162 and 166

Legislative Supplements, 2025

LEGAL NOTICE NO.	PAGE
161–The Public Finance Management (Ulinzi Prime Health Services Fund)(Amendment) Regulations, 2025	1845
162–164–The Competition Act—Exclusions	1846
165–Meru University of Science and Technology Statutes	1849

SUPPLEMENT Nos. 163, 164

Senate Bills, 2025

	PAGE
The Autism Management Bill, 2025	257
The Colonial Reparations Bill, 2025	265

SUPPLEMENT Nos. 165, 167, 168 and 169

National Assembly Bills, 2025

	PAGE
The Public Participation Bill, 2025	1125
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Place	*Limits*
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CONTENTS

GAZETTE NOTICES

PAGE

The Tourism Act—Re-Appointment 8868

The National Electronic Single Window System Act—Revocation of Appointment, etc. 8868, 8869

The Elections Act—Election Petition Court 8868

The Asian Officers' Family Pensions Act—Appointment 8868–8869

The Local Authorities Provident Fund Act—Appointment 8869

The Marriage Act—Appointment 8869

County Governments Notices 8892–8893

The Oaths and Statutory Declarations Act—Appointment 8869–8870

The Kenya Revenue Authority Act—Delegation of Powers, etc. 8870–8871

The East African Community Customs Management Act—Appointment 8871

The Public Service Commission Act—List of Applicants and Shortlisted Candidates for the Position of Chairperson of the Public Service Commission 8871–8872

The Land Registration Act—Issue of Provisional Certificates, etc. 8872–8890, 8901

The Land Act—Reservation of Public Lands to Kenya Railways Corporation 8891–8892

The Co-operative Societies Act—Cancellation/Liquidation Order 8893

The Environmental Management and Co-ordination Act—Environmental Impact Assessment Study Reports 8894–8895

The Mental Health Act—Appointment 8895

The Insolvency Act—Petition for Liquidation, etc 8895–8896

GAZETTE NOTICES—(*Contd.*)

PAGE

Disposal of Uncollected Goods 8896–8897

Change of Names 8897–8901

SUPPLEMENT Nos. 162 and 166

Legislative Supplements, 2025

LEGAL NOTICE NO. PAGE

161–The Public Finance Management (Ulinzi Prime Health Services Fund)(Amendment) Regulations, 2025 1845

162–164–The Competition Act—Exclusions 1846

165–Meru University of Science and Technology Statutes 1849

SUPPLEMENT Nos. 163, 164

Senate Bills, 2025

PAGE

The Autism Management Bill, 2025 257

The Colonial Reparations Bill, 2025 265

SUPPLEMENT Nos. 165, 167, 168 and 169

National Assembly Bills, 2025

PAGE

The Public Participation Bill, 2025 1125

The Local Content Bill, 2025 1135

The National Cohesion and Integration (Amendment) Bill, 2025 1141

The Books and Newspapers (Amendment) Bill, 2025 1155

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CONTENTS

GAZETTE NOTICES

	PAGE
The Tourism Act—Re-Appointment	8868
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The Environmental Management and Co-ordination Act—Environmental Impact Assessment Study Reports	8894–8895
The Mental Health Act—Appointment	8895
The Insolvency Act—Petition for Liquidation, etc	8895–8896
Disposal of Uncollected Goods	8896–8897
Change of Names	8897–8901

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Legislative Supplements, 2025

LEGAL NOTICE NO.	PAGE
161–The Public Finance Management (Ulinzi Prime Health Services Fund)(Amendment) Regulations, 2025	1845
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CONTENTS

GAZETTE NOTICES

	PAGE
The Tourism Act—Re-Appointment	8868
The National Electronic Single Window System Act—Revocation of Appointment, etc.	8868, 8869
The Elections Act—Election Petition Court	8868
The Asian Officers' Family Pensions Act—Appointment	8868–8869
The Local Authorities Provident Fund Act—Appointment	8869
The Marriage Act—Appointment	8869
County Governments Notices	8869
	8892–8893
The Oaths and Statutory Declarations Act—Appointment	8869–8870
The Kenya Revenue Authority Act—Delegation of Powers, etc.	8870–8871
The East African Community Customs Management Act—Appointment	8871
The Public Service Commission Act—List of Applicants and Shortlisted Candidates for the Position of Chairperson of the Public Service Commission	8871–8872
The Land Registration Act—Issue of Provisional Certificates, etc.	8872–8890, 8901
The Land Act—Reservation of Public Lands to Kenya Railways Corporation	8891–8892
The Co-operative Societies Act—Cancellation/Liquidation Order	8893
The Environmental Management and Co-ordination Act—Environmental Impact Assessment Study Reports	8894–8895
The Mental Health Act—Appointment	8895
The Insolvency Act—Petition for Liquidation, etc	8895–8896
Disposal of Uncollected Goods	8896–8897
Change of Names	8897–8901

SUPPLEMENT Nos. 162 and 166

Legislative Supplements, 2025

LEGAL NOTICE NO.	PAGE
161–The Public Finance Management (Ulinzi Prime Health Services Fund)(Amendment) Regulations, 2025	1845
162–164–The Competition Act—Exclusions	1846
165–Meru University of Science and Technology Statutes	1849

SUPPLEMENT Nos. 163, 164

Senate Bills, 2025

	PAGE
The Autism Management Bill, 2025	257
The Colonial Reparations Bill, 2025	265

SUPPLEMENT Nos. 165, 167, 168 and 169

National Assembly Bills, 2025

	PAGE
The Public Participation Bill, 2025	1125
The Local Content Bill, 2025	1135
The National Cohesion and Integration (Amendment) Bill, 2025	1141
The Books and Newspapers (Amendment) Bill, 2025	1155

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(Cap. 469)

TRANSFER OF FUNCTIONS

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(a) transferred all functions of the Domestic Taxes Department relating to large and medium taxpayers to the Large and Medium Taxpayers Department; and

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with effect from the 10th February, 2025.

Dated the 25th November, 2025.

HUMPHREY WATTANGA,
Commissioner-General.

GAZETTE NOTICE NO. 17633

THE EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT ACT, 2004

APPOINTMENT AND LIMITS OF TRANSIT SHED, CUSTOMS AREAS ETC.

PURSUANT to section 12 of the East African Community Customs Management Act, 2004, the Commissioner of Customs and Border Control appoints the following Customs areas etc:

(a) The place specified in the first column of the First Schedule, as a customs area for the purposes of the Act and the limits shall be those set out in the second column of that schedule;

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FIRST SCHEDULE

Appointment and limits of the Customs Area.

Place	*Limits*
Sagana Industrial City(SAIC)SEZ Limited as a Customs area in Sagana Kirinyaga County.	The area 54.5 Acres on Plot LR No. Kiine/Taigirichi/4042 Ndia sub-County, Kirinyaga County within the area marked 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 bounded co-ordinates -0.662766 37.186892 -0.666012 37.188439 -0.663760 37.188248 -0.666879 37.187169 -0.663905 37.188301 -0.666674 37.186572 -0.664027 37.188480 -0.666338 37.185831 -0.664017 37.188611 - 0.665685 37.184908 -0.665061 37.190011. -0.665071 37.184485 -0.665183 37.190153 -0.665811 37.182361 -0.665723 37.190771 -0.664509 37.181824 -0.666038 37.190485 -0.663301 37.184609 -0.665777 37.189518 -0.663031 37.185194 -0.663726 37.185527 -0.664178 37.185892 on the Sagana Industrial City(SAIC) SEZ Limited Layout Plan (deposited in the Office of the Commissioner of Customs & Border Control)

SECOND SCHEDULE

Appointment of Entry and Exit to and from the Customs Area.

Place	*Limits*	*Purpose*
Sagana Industrial City (SAIC) (SEZ) Limited as a Customs area in Sagana Kirinyaga County	The area within the co-ordinates: -0.663905 37.188301 -0.664027 37.188480 on the Sagana Industrial City (SAIC) SEZ LTD Layout Plan (deposited in the Office of the Commissioner of Customs & Border Control).	Entry Exit

Dated the 26th November, 2025.

LILIAN NYAWANDA (Dr.),
SO5578 *Commissioner of Customs and Border Control.*

GAZETTE NOTICE NO. 17634

THE CONSTITUTION OF KENYA

THE PUBLIC SERVICE COMMISSION ACT

(Cap. 185)

SELECTION PANEL FOR THE RECRUITMENT OF NOMINEES FOR APPOINTMENT AS CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION (PSC)

LIST OF APPLICANTS AND SHORTLISTED CANDIDATES FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

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CONTENTS

GAZETTE NOTICES

PAGE

The Tourism Act—Re-Appointment 8868

The National Electronic Single Window System Act—Revocation of Appointment, etc. 8868, 8869

The Elections Act—Election Petition Court 8868

The Asian Officers' Family Pensions Act—Appointment 8868–8869

The Local Authorities Provident Fund Act—Appointment 8869

The Marriage Act—Appointment 8869

County Governments Notices 8869

8892–8893

The Oaths and Statutory Declarations Act—Appointment 8869–8870

The Kenya Revenue Authority Act—Delegation of Powers, etc. 8870–8871

The East African Community Customs Management Act—Appointment 8871

The Public Service Commission Act—List of Applicants and Shortlisted Candidates for the Position of Chairperson of the Public Service Commission 8871–8872

The Land Registration Act—Issue of Provisional Certificates, etc. 8872–8890, 8901

The Land Act—Reservation of Public Lands to Kenya Railways Corporation 8891–8892

The Co-operative Societies Act—Cancellation/Liquidation Order 8893

The Environmental Management and Co-ordination Act—Environmental Impact Assessment Study Reports 8894–8895

The Mental Health Act—Appointment 8895

The Insolvency Act—Petition for Liquidation, etc 8895–8896

GAZETTE NOTICES—(*Contd.*)

Disposal of Uncollected Goods 8896–8897

Change of Names 8897–8901

SUPPLEMENT Nos. 162 and 166

Legislative Supplements, 2025

LEGAL NOTICE NO. PAGE

161–The Public Finance Management (Ulinzi Prime Health Services Fund)(Amendment) Regulations, 2025 1845

162–164–The Competition Act—Exclusions 1846

165–Meru University of Science and Technology Statutes 1849

SUPPLEMENT Nos. 163, 164

Senate Bills, 2025

PAGE

The Autism Management Bill, 2025 257

The Colonial Reparations Bill, 2025 265

SUPPLEMENT Nos. 165, 167, 168 and 169

National Assembly Bills, 2025

PAGE

The Public Participation Bill, 2025 1125

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GAZETTE NOTICES—(*Contd.*)

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Change of Names 8897–8901

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LEGAL NOTICE NO. PAGE

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PAGE

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30	Kennedy Onsembe Chweya	LLB
31	Dr. Michael Plal Chemorei	PhD, M.Phil EMSc, BSc
32	Ruth Wangeci	BA
33	Dr. Reuben Kipkemoi Chirchir	PhD, MSc, LLB, BSc
34	Dr. Sally Ngeringwony Toroitich	PhD, MBA, BA
35	Dr. Halima Saado Abdillahi	PhD, MSc, BSc
36	Isaac Mugendi Gichovi	BSc
37	Dr. Francis Otieno Owino	PhD, MBA, BA
38	Amb. Peter O. Ole Nkuraiyia	EMBA, BA
39	Ongwae James Omariba Elvis	MA, BA
40	Vincent Oduori Akuka	MA, B.Ed
41	Mary Kimonye	MBA, B.Com
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49	Dr. George Edward Mamati	PhD, MSc, BSc
50	Levi Mukweso	MBA, MA, BA
51	Amb. Daniel Waisiko Wambura	MBA, LLB
52	Beverly Khasoa Opwora	MA, BA

After considering the applications, the Selection Panel shortlisted the following candidates to appear for interviews on the dates and times indicated against their names:

SHORTLISTED CANDIDATES FOR THE POSITION OF CHAIRPERSON, PSC

Monday, 15th December, 2025				
S/No.	Name of Candidate	County	Gender	Time
1.	Francis Meja	Kajiado	M	11.00 a.m.
2.	Francis Otieno Owino (Dr.)	Migori	M	12.00 p.m.
3.	Beverly Khasoa Opwora	Bungoma	F	2.00 p.m.
Tuesday 16th December, 2025				
S/No.	Name Of Candidate	County	Gender	Time
1.	Simeon Pkiyach (PwD)	West Pokot	M	9.00 a.m.
2.	Amb. Daniel Waisiko Wambura	Migori	M	10.00 a.m.
3.	Jane Musangi Mutua (Dr.)	Kitui	F	11.00 a.m.
4.	Amb. Simon W. Nabukwesi	Bungoma	M	2.00 p.m.
5.	Reuben Kipkemoi Chirchir (Dr.)	Kericho	M	3.00 p.m.
Wednesday 17th December, 2025				
1.	Mary Kimonye	Kirinyaga	F	9.00 a.m.
2.	James K. Tuitoek (Prof.)	Nakuru	M	10.00 a.m.
3.	Patrick Omutia (Dr.)	Busia	M	11.00 a.m.
4.	Molu Boya	Marsabit	M	12.00 p.m.

Interviews

The shortlisted candidates will be interviewed at Kenyatta International Convention Centre (Kicc), Fourth (4th) Floor, Boardroom, Nairobi on the dates and times indicated in the schedule. Candidates should report at the Venue at least (30) minutes before the scheduled interview time.

The candidates MUST bring ORIGINALS of the following documents:

(a) National Identity Card;

(b) Academic and Professional Certificates and Transcripts;

(c) VALID clearances from the following Institutions:

(i) Kenya Revenue Authority (KRA);

(ii) Directorate of Criminal Investigation (Police Clearance);

(iii) A Registered Credit Reference Bureau; and

(iv) Higher Education Loans Board (HELB);

(d) Self-Declaration Form duly stamped by the Ethics and Anti-Corruption Commission (EACC);

(e) Letter of recognition of qualifications from the Commission for University Education (CUE) for candidates who possess degrees from foreign universities; and

(f) Any other supporting documents and testimonials.

PUBLIC PARTICIPATION

Members of the Public are invited to avail any information relating to any of the shortlisted candidates (through sworn Affidavits) to the Chairperson, Selection Panel, Harambee House, 3rd Floor, Room 306/309, Harambee Avenue, Nairobi or through email to chairpsc.selection2025@cabinet.go.ke so as to be received on or before Thursday, 11th December, 2025 at 8:00 a.m. (E.A.T.)

LIST OF APPLICANTS

Names and qualifications of ALL the applicants for the position of Chairperson of the Public Service Commission are also available on the Public Service Commission website: (https://publicservice.go.ke).

ARTHUR OSIYA,

Chairperson, Selection Panel for the Recruitment of Nominees for appointment as Chairperson of the Public Service Commission.

GAZETTE NOTICE NO. 17635

THE LAND REGISTRATION ACT

(*Cap*. 300)

ISSUE OF A PROVISIONAL CERTIFICATE

WHEREAS The Church Commissioners For Kenya, of P.O. Box 1647–01000, Thika in the Republic of Kenya, is registered as proprietor of all that parcel of the land, known as L.R. No. 15046/69, situate in Thika Municicipality in Kiambu District, by virtue of a certificate of title, registered as I.R. 63374/1, and whereas sufficient evidence has been adduced to show that the said certificate of title issued thereof has been lost, notice is given that after the expiration of sixty (60) days from the date hereof, I shall issue a provisional certificate of title provided that no objection has been received within that period.

Dated the 5th December, 2025.

M. G. KAHARE,

MR/7862318 *Registrar of Titles, Nairobi.*

GAZETTE NOTICE NO. 17636

THE LAND REGISTRATION ACT

(*Cap*. 300)

ISSUE OF A PROVISIONAL CERTIFICATE

WHEREAS The Church Commissioners for Kenya, of P.O. Box 1647–01000, Thika in the Republic of Kenya, is registered as proprietor of all that parcel of the land, known as L.R. No. 15046/70, situate in Thika Municipality in Kiambu District, by virtue of a certificate of title, registered as I.R. 68001/1, and whereas sufficient evidence has been adduced to show that the said certificate of title issued thereof has been lost, notice is given that after the expiration of sixty (60) days from the date hereof, I shall issue a provisional certificate of title provided that no objection has been received within that period.

Dated the 5th December, 2025.

M. G. KAHARE,

MR/7862318 *Registrar of Titles, Nairobi.*

REPUBLIC OF KENYA

SELECTION PANNEL FOR RECRUITMENT OF PSC CHAIRPERSON

A STATEMENT CONTESTING APPROVAL RELATING TO APPLICATION, SHORTLISTING AND INTERVIEWING OF FRANCIS MEJA, DR. FRANCIS OWINO OTIENO, MARY KIMONYE, MOLU BOYA,DR.REUBEN CHIRCHIR AND PROF.JAMES TUITOEK FOR APPOINTMENT AS CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

1. I, **DR.MAGARE GIKENYI BENJAMIN** *(MBChB(UoN), Mmed(Mu), FCS(ECSA)Gen:Surg,Cert,HLM(University of Washington)* is **a Consultant Trauma and General Surgeon** working for the county government of Nakuru and is a resident of Nakuru of postal address 1805-20100 Nakuru, being *sui juris* and *compos mentis do* hereby make a solemn oath and state as doth"-

2. **THAT I** am a Kenyan National and herein hence competent to make and swear this affidavit.

3. **THAT** I swear this affidavit on my own behalf and, with his permission and consent, **ELIUD KARANJA MATINDI.**

4. **THAT** I am Kenyan Medic by profession, a parent and proud/patriotic citizen of Kenya who looks into a future of Kenya where society strictly follows rule of law for betterment of society. I am also a law-abiding citizen, a public-spirited individual, and a human rights defender. My objectives in life is to promote democratic governance, uphold the rule of law/constitutionalism, defending human rights, and agitating for sustainable economic development for the prosperity and well-being of the general population in this lovely Country of ours.

5. **THAT** I am writing to contest the shortlisting, interviewing, recommendation, approval and appointment of **FRANCIS MEJA, DR. FRANCIS OWINO OTIENO, MARY KIMONYE,MOLU BOYA,DR.REUBEN CHIRCHIR AND PROF.JAMES TUITOEK** under **Article 233(2)** of the Constitution, as read together with **Sections 7** and **8** and **First Schedule, Public Service Commission Act.**

6. **THAT FRANCIS MEJA, DR. FRANCIS OWINO OTIENO, MARY KIMONYE AND MOLU BOYA** are already serving as members of the Public Service Commission, having been appointed as vice-chairperson, (**MARY KIMONYE**) and members, (**FRANCIS MEJA, DR. FRANCIS OWINO OTIENO AND MOLU BOYA)** vide Kenya Gazette Notices **385** and **386** dated **16.01.2025**. They assumed office upon taking the prescribed oath of office under **Article 74** of the Constitution, on **20.01.2025**.

7. **THAT** in her previous application, Mrs. Mary Kimonye indicated that she comes from Meru, but in this one she indicates that she comes from Kirinyaga, one fails to know which one is which? Integrity issues?

8. **THAT** ***Mrs Mary Kimonye's actions and/or omissions is a sign of greed considering that she is already vice chairperson of PSC and her daughter Dr.Maureen Kamene Kimenye is acting director general of the Kenya National Public Health Institute(KNPHI), essentially making senior appointment be left to one family instead of all Kenyans.***

9. **THAT DR.REUBEN CHIRCHIR is an immediate former member(commissioner) of PSC having served the full constitutional term of 6 years and hence not eligible to be shortlisted for that post.**

10. **THAT PROF.JAMES TUITOEK is a former commissioner of NLC(National Land Commission) having served the full constitutional term of 6 years and hence not eligible to be shortlisted for that post**

11. **THAT** just like governors, once served a full term in one county, you cannot go to another county to serve again..That was the intention of the framers of the constitution.

12. **THAT** The shortlisting, interviewing, recommendation, approval and appointment of **FRANCIS MEJA, DR. FRANCIS OWINO OTIENO, MARY KIMONYE,MOLU BOYA,DR.REUBEN CHIRCHIR AND PROF.JAMES TUITOEK** under **Article 233(2)** of the Constitution, as read together with **Sections 7** and **8** and **First Schedule, Public Service Commission Act** is a threat to **Article 250(6)(a)** of the Constitution and **Section 7(4), Public Service Commission Act**, which limit the term in office of a member of the Public Service Commission to a single term of six years.

13. **THAT** As serving member of the Public Service Commission since **20.01.2025**, appointment of **FRANCIS MEJA, DR. FRANCIS OWINO OTIENO, MARY KIMONYE AND MOLU BOYA** as chairperson of the Commission would result in the person appointed to that office serving as a member of the Commission for more than the maximum six years, in violation of the Constitution and the law.

14. **THAT FRANCIS MEJA, DR. FRANCIS OWINO OTIENO, MARY KIMONYE, MOLU BOYA,DR.REUBEN CHIRCHIR AND PROF.JAMES TUITOEK** cannot, therefore, be lawfully be shortlisted, interviewed, recommended, approved and appointed, to the office of the chairperson, Public Service Commission.

15. **THAT** ***actions and/or omissions individually and severally of the named persons-that is* FRANCIS MEJA, DR. FRANCIS OWINO OTIENO, MARY KIMONYE,MOLU BOYA,DR.REUBEN CHIRCHIR AND PROF.JAMES TUITOEK** ***is a sign of Greed and unconstitutionality considering that they are already serving or have served as commissioners PSC and other constitutional commissions but they together with shadowy figures don't want to let other Kenyans be given a chance to serve the public contrary to constitutional***

dictates of independent commissions as provided in chapter 15 of the constitution(2010). Greed and unconstitutionality must be nipped in the bud.

16. **THAT** Shortlisting of serving and already served commissioners of PSC and other constitutional commissioners goes against prudent use of financial resources as provided in article 201(d) of the constitution.

17. **THAT** I make this statement in good faith, (save for what has been deponed to on information, sources of which have been disclosed), believing it to be true and to the best of my knowledge.

SWORN at NAKURU this **10TH** day of **DECEMBER** day of **2025.**

By the said

DR.MAGARE-GIKENYI BENJAMIN

BEFORE ME

COMMISSIONER FOR OATHS

DRAWN & FILED BY:-

DR.MAGARE-GIKENYI B.
Consultant Trauma and General Surgeon
MBChB(UoN),Mmed(Mu),FCS(ECSA),Cert,HLM(Washington University)
Resma Plaza-2nd Floor, Dr.Magare-Gikenyi Surgery Clinic
Email: **magaregikenyi@yahoo.com, magaregikenyi@gmail.com**
Bavance13@gmail.com
Tel: +254721707151/0733705280
P.O Box 1805-20100
NAKURU

To be served upon
Chairpsc.selection2025@cabinet.go.ke

RECOMMENDATIONS IN FAVOUR OF PROF JAMES K. TUITOEK TOWARDS HIS APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION OF KENYA

n- THE SELECTION PANEL

e below named person wish to draw the attention of the Chairman and
inguished Members of the Selection Panel of my good intention and valid reasons
upport the suitability **Prof. James K Tuitoek** to serve as The Chairperson of The
lic Service Commission of Kenya

I do in my capacity as follows:

ident and registered voter in Biashara Ward in Nakuru Town East Constituency in
ru County.
c Participation Team Leader in Nakuru County since 2013
y patriotic Kenyan with a keen interest in all governance and policy issues in
ı

ly, I want the Selection Panel to take note of the following;

'are that the Candidate applied to fill vacant position of the Chairperson of
vice Commission of Kenya.

hortlisted and was invited to appear before the Selection for mandatory
set to take place on Wednesday December 17, 2025

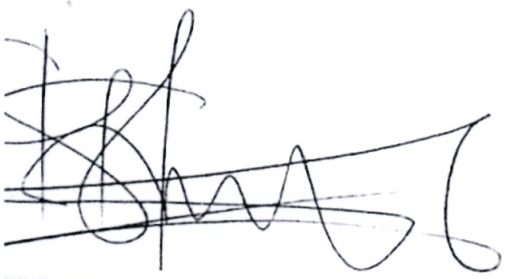
sclosure, I want to divulge to the Selection Panel that I came to know this
when he served as Vice Chancellor of Egerton University, Njoro

came to interact with him when he was later in 2017 appointed to be the
ı of Nakuru County Health Taskforce before becoming a Commissioner of the
nd Commission.

for his suitability to be appointed as the Chairperson of the Public Service of
ıt the Selection Panel to take note of the following;

ıte in his public life has served all Kenyans with total honesty and dedication
Egerton University and the National Land Commission

ice Chancellor at Egerton University the Candidate managed a huge
f staff both academic and non academic.



- Further, through his rich educational background, the candidate will help for forge good collaborations with development partners like European Union in among other proposal writing.

Generally, if appointed to this position, I am certain the Candidate will help to advance the gains of Public Participation in Kenya to ensure members of the public are directly involved in decision making at our two levels of Governments; National and County Governments

Notably, I have maximum faith in the Selection Panel and take this opportunity to wish you the very best in this very demanding task of selection the next Chairperson of the Public Service Commission of Kenya

Signed in Nakuru City Today March 10- 12- 2025

Daniel Murugu

RESIDENT

NAKURU COUNTY

C/O P.O. Box 10076 - 20100

0720988086

capacity he effectively handled recruitment, promotion, transfer, training and ment of academic staff comprising **Professors, Associate Professors and Lecturers** om within and outside Kenya.

ly, he spearhead and coordinated the hiring of non academic support staff g **Drivers, Security personnel, Cooks, Gardeners, Accountants and Supply Chain** and in this ensured their terms of service was protected and respected.

r, he at all times tirelessly worked hard to promote steady career progressions of demic and non academic staff by among others promoting meaningful ations between the university and especially development partners and national rnational labour organizations.

y, the Candidate made good strides cultivating good industrial labour relations in tution by his open door policy when dealing with workers bodies for the c and non academic staff.

didate going by his wealth experience in management of public affairs- **on of workers' terms of service, resolution of industrial disputes and ion of Common Bargaining Agreements** is better suited to serve the son of the Public Service Commission of Kenya.

of the fact that Kenyans want and desire for reforms in the management of the source in the Kenyan Public Service, then the Candidate has all that it may take n the said reforms- **self drive, devotion, dedication, discipline , a high ient to ethical values.**

Prof Tuioek is a very principled person who cannot be influenced by internal nal forces for example to abuse human resource management practices, and norms to suit vested interests of people of ill motives

d Kenyans can be guaranteed of **transparent, competitive, free and fair** nt of senior government official including Principal Secretaries, Chief Executive d Ambassadors in future by having a honest person like **Prof Tuitoek** serving in ed position of the Chairperson of the Public Service Commission of Kenya. ointed as Commissioners.

player the candidate will work very well with other Commissioners and to ensure that the Commission delivers on its core mandate to Kenyans



REPUBLIC OF KENYA

AFFIDAVIT

I, DANIEL MURUGU of P.O. Box 10076-20100, Nakuru, do here-by make oath and state as follows;

THAT I am adult male of sound mind and duly competent to swear this Affidavit

That I am the holder of Kenya National Identity Card NO 11155452

THAT I am a permanent resident and voter in Nakuru County

THAT I am well versed with all the clear provisions of Kenya Constitution 2010 including those on P**ublic Participation.**

THAT I am well informed of my rights and obligations under the Constitution

THAT I know that I have a civic duty in the c**ompetitive, transparent and fair** recruitment of public officers in Kenya

T**HAT** the information I have presented in these recommendation and affidavit is **true, accurate and within my best knowledge**

SWORN BY THE SAID
DANIEL MURUGU
IN NAKURU CITY THIS 10th -DAY OF DEC-2025

COMMISSIONER OF OATH / MAGISTRATE

NIGEL OUMA AWALLO
Advocate
&
Commissioner for Oaths
P.O. Box 2703-20100 NAKURU

KENYA REVENUE AUTHORITY

ISO 9001:2015 CERTIFIED

Office of the Commissioner General

KRA/5/1002/5(13341)

10th December 2025

Mr. Arthur A. Osiya, CBS
Chairperson
Selection Panel
Recruitment of Chairperson of the Public Service Commission
P. O. Box 40530-00100
Nairobi

Dear Chairperson,

VERIFICATION OF TAX COMPLIANCE CANDIDATES SHORTLISTED FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

Reference is made to your letter Ref: OP/CAB 1/31 dated 3rd December 2025 requesting for tax compliance report for twelve (12) shortlisted candidates for the position of Chairperson of the Public Service Commission.

Please see below the tax compliance status of the nominees:

No.	Name	ID No.	PIN	Status
1.	Mr. Simeon Pkiyach	7103602	A001204994V	Compliant
2.	Prof. James K. Tuitoek	323892	A001311348B	Compliant
3.	Mr. Reuben Kipkemoi Chirchir	8289259	A001113189K	Compliant
4.	Dr. Francis Otieno Owino	8579204	A001205386T	Compliant
5.	Ms. Mary Kimonye	16126195	A002041783I	Compliant
6.	Ms. Jane Musangi Mutua	5272398	A002519872K	Compliant
7.	Mr. Boya Molu	22253516	A003558105T	Compliant
8.	Dr. Patrick Omutia	4220286	A001282238I	Compliant
9.	Mr. Francis Mooke Meja	9208760	A002245919Z	Compliant
10.	Amb. Simon W. Nabukwesi	7977245	A001613858Z	Compliant
11.	Amb. Daniel Waisiko Wambura	10793375	A002543412E	Compliant
12.	Ms. Beverly Khasoa Opwora	8110250	A002969192U	Compliant

This is submitted for your further action.

Yours sincerely,

Humphrey Wattanga
COMMISSIONER GENERAL

EXECUTIVE OFFICE OF THE PRESIDENT
15 DEC 2025
PRINCIPAL ADMINISTRATIVE SECRETARY

Kazi Ushuru, Tujitegemee!

CONFIDENTIAL

NATIONAL POLICE SERVICE

Telegrams: "CRIMINAL", Nairobi
Email: director.dci@cid.go.ke
Telephone: 0202603724, 020343312

Directorate of Criminal Investigations
Mazingira House Kiambu Road
P.O. Box 30036-00100
NAIROBI

OFFICE OF THE PRESIDENT
0 8 DEC 2025
PRINCIPAL ADMINISTRATIVE SECRETARY

DIRECTORATE OF CRIMINAL INVESTIGATIONS

DCI/CRO/SEC/6/7/2/A/VOL.XVIII/71 5th December, 2025

Arthur A. Osiya, CBS
Chairperson
Selection Panel for the Recruitment of nominees
For appointment as Chairperson of the Public Service Commission
Executive Office of the President
P O Box 40530-00100
NAIROBI.

Dear Mr. *Arthur,*

CLEARANCE OF CANDIDATES FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

Reference is made to your letter KOF/CAB 1/31 dated 3rd December 2025 on the above matter.

Forensic fingerprint analysis of the below named candidate was conducted in the criminal database and found no previous criminal records.

S/NO.	CANDIDATE	ID NO
1.	Dr. Francis Ohemo Owino	8289259
2.	Mary Kimonyc	16126195
3.	Jane Musangi Mutua	5272398
4.	Boya Molu	22253516
5.	Francis Mooke Meja	9208760

This office requests for the fingerprints of the below named candidates for forensic analysis. For this purpose, please advise the candidates to contact our Principal Criminal Registrar (PCR) office for assistance.

S/NO.	CANDIDATE	ID NO
1.	Simeon Pkiyach	7103602
2.	Prof James K. Tuitoek	323892
3.	Reuben Kipkemoi Chirchir	8289259

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4.	Dr. Patrick Omutia	4220286
5.	Amb. Simon W. Nabukwesi	7977245
6.	Amb. Daniel Waisiko Wambura	10793375
7.	Beverly Khasoa Opwora	8110250

CONFIDENTIAL

ours *sincerely*,

ohamed I. Amin, CBS, OGW, 'ndc' (K)
RECTOR CRIMINAL INVESTIGATIONS

0 9 DEC 2025

HIGHER EDUCATION LOANS BOARD

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

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

HELB/RR/112009/V/465

5th December 2025

Arthur A. Osiya, MBS
Chairperson
Selection Panel for the Recruitment of nominees for appointment as
Chairperson of the Public Service Commission
Executive Office of the President
P.O Box 40530-00100
NAIROBI

Dear Sir,

CLEARANCE OF SHORTLISTED CANDIDATES FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

We acknowledge receipt of your letter dated **3rd December 2025**, with reference number **OP/CAB.1/31**, regarding the background check on the status of HELB loan repayment for candidates applying for the position of **Chairperson of the Public Service Commission.**

HELB is committed to assisting in the comprehensive evaluation of candidates, including their financial responsibilities and obligations. We have utilized the necessary procedures to conduct background checks on the candidates listed in the attached schedule.

Our team has diligently reviewed the HELB loan repayment status of each candidate, ensuring accuracy and compliance with the information provided. We understand the importance of this inquiry in the overall assessment process.

Please find below their status.

S/No.	Name of Nominee	ID No.	Status	Year of Clearance
1.	Simeon Pkyach	7103602	Cert No. 25184	2011
2.	Prof. James K Tuitoek	323892	Cert No.44226	2013
3.	Reuben Kipkemoi Chirchir	8289259	Cert No.21153	2010
4.	Dr. Francis Otieno Owino	8579204	Cert No.7471	2006
5.	Mary Kimonye	16126195	Cert No. 8142	2017
6.	Jane Musangi Mutua	5272398	Cert No. 29512	2011
7.	Boya Molu	22253516	Not a loanee	N/A
8.	Dr. Patrick Omutia	4220286	Not a loanee	N/A
9.	Francis Mooke Meja	9208760	Not a loanee	N/A
10.	Amb. Simon W. Nabukwesi	7977245	Cert No.28022	2011
11.	Amb. Daniel Waisiko Wambura	10793375	Cert No.45007	2013
12.	Beverly Khasoa Opwora	8110250	Not a loanee	N/A

ppreciate the collaboration between the Public Service Commission and HELB. We remain nitted to maintaining the highest standards of professionalism and confidentiality throughout ackground check process. Thank you for entrusting us with this responsibility, and we look ard to contributing to the successful appointments.

Sincerely,

FREY MONARI
EXECUTIVE OFFICER

REPUBLIC OF KENYA

Telephone: +254(0)204022000
Mobile: 0772281357
Email: info@orpp.or.ke
Website: www.orpp.or.ke
When replying please quote

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES
ORPP
Strengthening Political Parties

Lion Place, 1st & 4th Floor
Off Waiyaki Way
P.O. Box 1131-00606
Sarit Centre, Nairobi.

Ref: RPP/ORG/34/1 VOL II (42)

Date: 11th December,2025

Mr. Arthur A. Osiya, CBS
Chairperson
Selection Panel for the Recruitment of nominees
for appointment as the Chairperson of the Public Service Commission

Dear Mr. Arthur Osiya,

RE: VETTING OF CANDIDATES SHORTLISTED FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMSSION

Reference is made to the letter Ref. No. OP/CAB 1/31 dated 10th December, 2025 on the above subject matter.

Pursuant to Article 77 (2) of the Constitution and according to the records held by this Office as at 11th December, 2025 the list of candidates tabulated as follows are **NOT** officials of any registered political party in Kenya.

S/No.	Candidates	County	ID Number	Official of Registered Political Party
1.	Simeon Pkiyach	West Pokot	7103602	Not an official
2.	Prof. James K. Tuitoek	Nakuru	323892	Not an official
3.	Reuben Kipkemoi Chirchir	Kericho	8289259	Not an official
4.	Dr. Francis Otieno Owino	Migori	8579204	Not an official
5.	Mary Kimonye	Kirinyaga	16126195	Not an official
6.	Jane Musangi Mutua	Kitui	5272398	Not an official
7.	Boya Molu	Marsabit	22253516	Not an official
8.	Dr. Patrick Omutia	Busia	4220286	Not an official
9.	Francis Mooke Meja	Kajiado	9208760	Not an official
10.	Amb. Simon W. Nabukwesi	Bungoma	7977245	Not an official
11.	Amb. Daniel Waisiko Wambura	Migori	10793375	Not an official
12.	Beverly Khasoa Opwora	Bungoma	8110250	Not an official

Yours Sincerely

J. C Lorionokou
Registrar of Political Parties/CEO

EXECUTIVE OFFICE OF THE PRESIDENT
15 DEC 2025
PRINCIPAL ADMINISTRATIVE SECRETARY

ETHICS AND ANTI-CORRUPTION COMMISSION
INTEGRITY CENTRE (Jakaya Kikwete/Valley Road Junction) P.O. Box 61130 – 00200, NAIROBI, Kenya
TEL.: 254 (020) 4997000, MOBILE: 0709 781000; 0730 997000
EMAIL: eacc@integrity.go.ke WEBSITE: www.eacc.go.ke

EXECUTIVE OFFICE OF THE PRESIDENT
15 DEC 2025
PRINCIPAL ADMINISTRATIVE SECRETARY

n replying please quote:

Ref: EACC.7/10/5 VOL XXXIV (190) **11th November 2025**

hur A. Osiya, CBS
irperson
ction Panel for the Recruitment of nominees for appointment as
rperson of the Public Service Commission
e House
Box 40530 - 00100
ROBI

Mr. Osiya

INTEGRITY VERIFICATION OF CANDIDATES FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

letter referenced OP/CAB 1/31 dated 3rd December 2025, on the above subject er refers.

e note that the Commission has not undertaken any investigations pursuant to its date against the under listed nor has it recommended prosecution of any of them.

No	Name	ID Number
1.	Simeon Pkiyach Pkatey Muket	7103602
2.	Prof. James Kiprop Tuitoek	323892
3.	Reuben Kipkemoi Chirchir	8289259
4.	Dr. Francis Otieno Owino	8579204
5.	Mary Wanjira Kimonye	16126195
6.	Jane Musangi Mutua	5272398
7.	Boya Molu	22253516
8.	Dr. Patrick Omutia Otulia	4220286
9.	Francis Mooke Meja	9208760
10.	Amb. Simon Wanyonyi Nabukwesi	7977245
11.	Amb. Daniel Waisiko Wambura	10793375
12.	Beverly Khasoa Opwora	8110250

The information provided herein is based on records available as at **11th December 2025**.

Yours Sincerely

FCPA John Lolkoloi, OGW
Director, Ethics and Leadership
FOR: SECRETARY/CHIEF EXECUTIVE OFFICER
PL/fk

SECRET

NATIONAL INTELLIGENCE SERVICE

Telegrams: "SECINTEL"
Telephone: (254-2) 329 90 00
Telephone: (254-2) 293 00 00
Telephone: (254-2) 222 59 01
Fax: (254-2) 8566245
When replying please
Quote Ref. No. and Date

THE DIRECTOR GENERAL,
P. O. BOX 30091 – 00100,
NAIROBI.
Kenya.

CI/NIS/SF. 17/1 VOL. 136 (42) 11th December, 2025

Arthur A. Osiya, CBS,
Chairperson,
Selection Panel for the Recruitment
of Nominees for Appointment as Chairperson
of the Public Service Commission,
State House,
P.O. Box 40530 – 00100,
NAIROBI.

REQUEST FOR VETTING OF SHORTLISTED CANDIDATES FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

The National Intelligence Service (NIS) acknowledges with appreciation, receipt of your letter Ref: No. OP/CAB 1/31 dated 3rd, December, 2025 on the above subject.

2. Checks against records did not reveal adverse findings against the attached list of twelve (12) persons as of now.

3. The Service avails itself of this opportunity to assure you of continued cooperation.

J. NYAIKUBA, EBS
For: **DIRECTOR GENERAL**

Encl (1)

SECRET

EXECUTIVE OFFICE OF THE PRESIDENT
RECEIVED
15 DEC 2025
OPS
PRINCIPAL ADMINISTRATIVE SECRETARY

The information provided herein is based on records available as at **11th December 2025**.

Yours Sincerely

FCPA John Lolkoloi, OGW
Director, Ethics and Leadership
FOR: SECRETARY/CHIEF EXECUTIVE OFFICER
PL/fk

SECRET

NATIONAL INTELLIGENCE SERVICE

Telegrams: "SECINTEL"
Telephone: (254-2) 329 90 00
Telephone: (254-2) 293 00 00
Telephone: (254-2) 222 59 01
Fax: (254-2) 8566245
When replying please
Quote Ref. No. and Date

THE DIRECTOR GENERAL,
P. O. BOX 30091 – 00100,
NAIROBI.
Kenya.

CI/NIS/SF. 17/1 VOL. 136 (42) 17th December, 2025

Arthur A. Osiya, CBS,
Chairperson,
Selection Panel for the Recruitment
of Nominees for Appointment as Chairperson
of the Public Service Commission,
State House,
P.O. Box 40530 – 00100,
NAIROBI.

REQUEST FOR VETTING OF SHORTLISTED CANDIDATES FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

The National Intelligence Service (NIS) acknowledges with appreciation, receipt of your letter Ref: No. OP/CAB 1/31 dated 3rd, December, 2025 on the above subject.

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J. NYAIKUBA, EBS
For: **DIRECTOR GENERAL**

Encl (1)

SECRET

EXECUTIVE OFFICE OF THE PRESIDENT
RECEIVED
15 DEC 2025
OPS
PRINCIPAL ADMINISTRATIVE SECRETARY

91

SECURITY VETTIING

Checks against records did not reveal adverse findings against the attached list of twelve (12) persons as of now:

1. Simeon Pkiyach
2. Prof. James K. Tuitoek
3. Reuben Kipkemoi Chirchir
4. Dr. Francis Otieno Owino
5. Mary Kimonye
6. Jane Musangi Mutua
7. Boya Molu
8. Dr. Patrick Omutia
9. Francis Mooke Meja
10. Amb. Simon W. Nabukwesi
11. Amb. Daniel Waisiko Wambura
12. Beverly Khosoa Opwora

**********END**********

Commission for University Education

Recognition and Equation of Qualifications

REF: CUE/10/9 VOL. 38

15th December 2025

Mr. Arthur A. Osiya, CBS
The Chairperson
Selection Panel for the Recruitment of Nominees for Appointment as Chairperson of the Public Service Commission
Executive Office of the President
Chief of Staff and Head of the Public Service
State House
P. O. Box 40530 - 00100
NAIROBI, KENYA

Dear Mr. Osiya,

RE: RECOGNITION OF QUALIFICATIONS

Thank you for your letter, reference number OP/CAB 1/31 dated 3rd December 2025, and the subsequent email and WhatsApp messages sent by your office on 15th December 2025, regarding the above-named subject.

The Commission for University Education is mandated by Sections Section 5 (1) (j) and (k) of the Universities Act CAP 210 of the Laws of Kenya to accredit universities and regulate university education in the country. Section 5 (1) (g) of the said act empowers the Commission to "recognize and equate degrees, diplomas and certificates conferred or awarded by foreign universities and institutions in accordance with the standards and guidelines set by the Commission from time".

Pursuant to your request, the Commission hereby confirms that the individuals listed hereunder possess recognized qualifications conferred by either local and/or foreign institutions. The local qualifications were awarded by duly accredited institutions in Kenya, while the foreign ones were conferred by institutions that are duly accredited and recognized in their respective home countries and by international protocol in Kenya:

1. **Simeon Pkatey Pkyiach (Identity Number: 7103602):**
   a) Bachelor of Science in Animal Production: Egerton University in Kenya.
   b) Master of Science in Pig Production: University of Aberdeen in the United Kingdom.

2. **James Kiprop Tuitoek (Identity Number 323892):**
   a) Doctor of Philosophy: University of Guelph in Canada.
   b) Master of Science: University of Manitoba in Canada.
   c) Bachelor of Science (in Agriculture): University of Nairobi in Kenya.

Redhill Rd., off Limuru Rd., Gigiri
P. O. Box 54999-00200, Nairobi, Kenya. Tel: 254 (020) 7205000.
E-mail: recognition@cue.or.ke, Website: www.cue.or.ke

3. **Reuben Kipkemoi Chirchir (Identity Number 8289259):**
    a) Bachelor of Science: University of Nairobi in Kenya.
    b) Bachelor of Laws with Honours: University of Huddersfield in the United Kingdom.
    c) Degree of Master of Science: The University of Edinburgh in Scotland (United Kingdom).

4. **Boya Molu (Identity Number 22253516)**
    a) Bachelor of Business Administration: Karnatak University in India.
    b) Master of Business Administration: Periyar University in India.

5. **Patrick Omutia (Identity Number 4220286)**
    a) Bachelor of Commerce: Makerere University in Uganda.
    b) Baccalaureus Legum (Bachelor of Laws): University of the Free State in South Africa.
    c) Master's in Theology (Systematic Theology): St. Paul's University in Kenya.
    d) Master of Science in Management and Organizational Development: United States International University in Kenya.
    e) Doctor of Philosophy in Business Administration: University of Nairobi in Kenya.

6. **Francis Mooke Meja (Identity Number 9208760)**
    a) Bachelor of Arts: Marathwada University (Currently Dr. Babasaheb Ambedkar Marathwada University) in India.
    b) Master of Business Administration: University of Nairobi in Kenya.

7. **Beverly Khasoa Opwora (Identity Number 8110250)**
    a) Bachelor of Arts: Panjab University in India.

8. **Francis Otieno Owino (Identity Number 8579204)**
    a) Bachelor of Arts: University of Arts in Kenya.
    b) Master of Business Administration: Kenya Methodist University in Kenya.
    c) Doctor of Philosophy (Peace and Conflict Studies): Masinde Muliro University of Science and Technology in Kenya.

9. **Mary Kimonye (Identity Number 16126195)**
    a) Bachelor of Commerce (Business Administration Option): University of Nairobi in Kenya.
    b) Mater of Business Administration: University of Nairobi in Kenya.

10. **Jane Musangi Mutua (Identity Number 5272398)**
    a) Bachelor of Arts: University of Nairobi in Kenya.
    b) Degree of Master of Public Administration: University of Canberra in Australia.

c) Doctor of Philosophy (in Business Administration): University of Nairobi in Kenya.

11. Simon W. Nabukwesi (Identity Number 7977245)

a) Bachelor of Education (Arts): Kenyatta University in Kenya.
b) Master of Education in Educational Planning and Management: Masinde Muliro University of Science and Technology in Kenya.

12. Daniel Waisiko Wambura (Identity Number 10793375)

a) Bachelor of Laws: University of Nairobi in Kenya.
b) Global Executive Master of Business Administration: United States International University – Africa in Kenya.

ırs faithfully,

LBERT W. OPANGA
R: COMMISSION SECRETARY/CHIEF EXECUTIVE OFFICER

NATIONAL POLICE SERVICE

Telegrams: "CRIMINAL", Nairobi
Email: director.dci@cid.go.ke
Telephone:0202603724/0203412312

Directorate of Criminal Investigations
Mazingira House Kiambu Road
P.O. Box 30036-00100,
NAIROBI

DIRECTORATE OF CRIMINAL INVESTIGATIONS

DCI/CRO/SEC/6/7/2/A/VOL.XVIII/78 10th December 2025

Mr. Arthur A. Osiya, CBS
Chairperson,
Selection Panel for the Recruitment of nominees for
Appointment as Chairperson of the Public Service Commission,
Executive Office of the President,
P. O. Box 40530-00100,
NAIROBI.

Dear Mr. Osiya,

CLEARANCE OF CANDIDATES FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

Further to our letter Ref.DCI/CRO/SEC/6/7/2/A/VOL.XVIII/71 dated 9th December 2025, the below named candidate presented himself and forensic fingerprint analysis was conducted in the criminal database and found no previous criminal records.

S/NO.	CANDIDATE	ID NO.
1.	James Kiprop Tuitoek	0323892

Yours sincerely,

Mohamed I. Amin, CBS, OGW, 'ndc' (K)
DIRECTOR OF CRIMINAL INVESTIGATIONS

EXECUTIVE OFFICE OF THE PRESIDENT
RECEIVED
11 DEC 2025
PRINCIPAL ADMINISTRATIVE SECRETARY

80

C. 24A

NATIONAL POLICE SERVICE

DIRECTORATE OF CRIMINAL INVESTIGATIONS

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

Ref. No. **PCC-BQSMVLEAL**

Date. **25 November 2025**

POLICE CLEARANCE CERTIFICATE

I hereby certify that the fingerprints recorded from

JAMES KIPROP TUITOEK

holder of ID No. **0323892** *have been searched in Criminal Records Office's database with/without previous record. The validity of the information on this certificate is as of the date of issue.*

REMARKS IN CASE OF PREVIOUS RECORD

OFFENCE(S): **NIL**

RESULTS OF TRIAL: **NIL**

DATE: **NIL**

This Certificate has been issued without any alteration or any erasure

(W.N KIRAI)

For: Director, Directorate of Criminal Investigations

(P.T.O)

NOTE: This is a computer generated certificate, to verify the authenticity of this document, scan the QR Code or use the link https://dci.ecitizen.go.ke/verify, send DCI to 21546 Then Dial *512# and select "Police Clearance"

REMARKS

2. OFFENCE(S): **NIL**

RESULTS OF TRIAL: **NIL**

DATE: **NIL**

3. OFFENCE(S): **NIL**

RESULTS OF TRIAL: **NIL**

DATE: **NIL**

4. OFFENCE(S): **NIL**

RESULTS OF TRIAL: **NIL**

DATE: **NIL**

5. OFFENCE(S): **NIL**

RESULTS OF TRIAL: **NIL**

DATE: **NIL**

OFFENCE(S): **NIL**

RESULTS OF TRIAL: **NIL**

DATE: **NIL**

7. OFFENCE(S): **NIL**

RESULTS OF TRIAL: **NIL**

DATE: **NIL**

ıme of ılicant	Academic Qualifications
is Meja	Master of Business Administration, University of Nairobi; Bachelor of Arts (Economics, Public Administration, Political Science) Marathwada University
lary ıonye	Masters of Business Administration, University of Nairobi; Bachelor of Commerce, University of Nairobi
Molu	Masters of Business Administration (HMR), Periyar University; Bachelor of Business Administration, Karnataka University; Higher Diploma in Human Resource Management, KNEC

Annexure **5**

Message No. 001 of 2026 from the Speaker

Departmental Committee on Labour Approval Hearing of Mr. Francis Meja, Nominee for Appointment as the Chairperson of the Public Service Commission (PSC)

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT - FIFTH SESSION
THE NATIONAL ASSEMBLY

MESSAGES
MESSAGE FROM THE PRESIDENT
_____ (No. 001 of 2026) ____
NOMINATION OF PERSONS FOR APPOINTMENT TO STATE OFFICES

Honourable Members,

1. Pursuant to the provisions of Standing Order 42(1), I wish to report to the House that I have received **two (2) Messages** from His Excellency the President, seeking approval of persons nominated for appointment to specific State Offices.

2. In the First Message, His Excellency the President conveys that, in exercise of the powers conferred on him by the provisions of Article 132(2)(e) of the Constitution as read together with section 20(2) and 22(2)(a) of the Foreign Service Act, Cap. 185E, he has nominated **Canon (Dr.) Ida Betty Odinga, EGH,** for appointment as **Permanent Representative of the Republic of Kenya to the United Nations Environment Programme (UNEP).**

3. **Honourable Members**, in the second Message, His Excellency the President notifies that, in exercise of the powers conferred on him by the provisions of Article 233(2) and 250(2)(b) of the Constitution as read together with section 5 of the Public Appointment (Parliamentary Approval) Act, Cap. 7F, he has nominated **Mr. Francis Meja** for appointment as **Chairperson of the Public Service Commission (PSC).**

4. **Honourable Members,** the President now seeks the approval of the National Assembly on the appointment of the two (2) distinguished nominees to the respective offices.

5. **Honourable Members,** Standing Order 45 provides that, upon receipt of notification of nomination for appointment, such nomination shall stand committed to the relevant Departmental Committee for consideration.

6. In this regard, with respect to the nomination of the Permanent Representative to the United Nations Environment Programme (UNEP), the name of the nominee, together with her curriculum vitae and other testimonials, is hereby referred to the **Departmental Committee on Defence, Intelligence and Foreign Relations** for consideration.

7. With respect to the nominee for appointment as the **Chairperson of the Public Service Commission**, the name of the nominee, together with his curriculum vitae and other testimonials, is hereby referred to the **Departmental Committee on Labour** for consideration.

8. **Honourable Members,** it is important to note that the First Schedule to the Public Service Commission Act, Cap. 185 requires the National Assembly to consider the nominee for appointment to the Commission within fourteen days, while the Foreign Service Act, Cap. 185E does not provide any timelines. However, section 8 of the Public Appointments (Parliamentary Approval) Act, Cap. 7F provides that the Committee to which such nomination is referred shall consider the matter and table a report in the House within **twenty-eight (28) days**. Accordingly, the approval processes shall proceed in accordance with the provisions of the Public Appointments (Parliamentary Approval) Act to afford the two Committees sufficient time to undertake the exercise.

9. **Honourable Members,** in this regard, the two (2) Departmental Committees are expected to immediately commence the approval processes, notify the nominees and the general public of the time and place for holding the approval hearings, and thereafter, upon conclusion, table their respective reports, within set timelines to enable the House to consider the matters.

I thank you!

Wetang'ula

THE RT. HON. (DR.) MOSES F. M. WETANG'ULA, SC, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY
Tuesday, 10th February 2026

Annexure **6**

Advertisement Notifying the Public of the Approval Hearing and Submission of Memoranda

Departmental Committee on Labour Approval Hearing of Mr. Francis Meja, Nominee for Appointment as the Chairperson of the Public Service Commission (PSC)

workers

be made at source to end

Agencies further owed Saccos Sh10.9 billion, funds already deducted from employees, alongside Sh2.4 billion in staff loan repayments. Pension arrears stood at Sh2.6 billion, while the National Hospital Insurance Fund – now the Social Health Authority – was yet to receive Sh39 billion.

Salary arrears of up to Sh37 billion remained unpaid, compounded by suppliers' debts of Sh36 billion.

Audit reports by Auditor General Nancy Gathungu show that cash-strapped agencies, particularly universities and large state corporations, are among the worst affected.

Universities alone had outstanding payments totalling Sh29.6 billion, with Kenyatta University leading at Sh17 billion.

Under the new arrangement, deductions and loan repayments will be remitted directly from the Exchequer before salaries are released to institutions, closing loopholes that allowed agencies to sit on employees' money.

Cabinet directed that Principal Secretaries, accounting officers and heads of parastatals meet to oversee the implementation of the new system and ensure compliance.

GOVERNMENT
NANDI
30300, KAPSABET
p@nandi.go.ke
535252355

TY TREASURY
ANCE AND ECONOMIC PLANNING

ON FORUM ON THE NANDI TRATEGY PAPER, 2026

titution Kenya 2010 and Section 125 (2) of the ides for undertaking of the public participation in In this respect, Nandi County Government invites ty, Network, Special Interest Groups, the Diaspora, Private Sector Representatives for public hearings **ISCAL STRATEGY PAPER (CFSP) for Financial**

ailed to the Office of the CECM Finance rnment of Nandi on the email ad- l.go.ke or hand delivered to the mic Planning, County Government of Nandi g) P.O Box 802- 30300, Kapsabet to be 026.

eld on **Thursday, 19th February, 2026** sabet beginning 10:00 am.

6 can be obtained from the County Govern- lownload/cfsp-fy-2026-27/

THIRTEENTH PARLIAMENT – FIFTH SESSION (2026)

IN THE MATTER OF ARTICLES 118(1)(b), 132(2), 233(2) AND 250(2)(c) OF THE CONSTITUTION
AND
IN THE MATTER OF SECTION 20 OF THE FOREIGN SERVICE ACT(CAP.185E)
AND
IN THE MATTER OF SECTION 11 OF THE PUBLIC SERVICE COMMISSION ACT (CAP 185)
AND
IN THE MATTER OF THE PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT (CAP. 7F)
AND
IN THE MATTER OF APPROVAL BY THE NATIONAL ASSEMBLY OF PERSONS NOMINATED FOR APPOINTMENT AS AMBASSADOR/PERMANENT REPRESENTATIVE OF THE REPUBLIC OF KENYA TO THE UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP) AND CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

NOTIFICATION OF APPROVAL HEARINGS AND INVITATION TO SUBMIT MEMORANDA

WHEREAS, in accordance with provisions of Articles 132(2)(e), 233(2) and 250(2) of the Constitution, Section 20 of the Foreign Service Act, Cap.185E, and Section 11 of the Public Service Commission Act, Cap. 185, His Excellency the President is empowered to nominate and with the approval of the National Assembly, appoint High Commissioners, Ambassadors and Diplomatic and Consular Representatives and the Chairperson of a Commission;

In exercise of the said powers, His Excellency the President nominated the following persons for appointment as Ambassador/Permanent Representative of the Republic of Kenya to the United Nations Environment Programme (UNEP) and the Chairperson of the Public Service Commission—

NOMINEE	POSITION	STATION
Canon (Dr.) Ida Betty Odinga, EGH	Ambassador/Permanent Representative	Permanent Mission of Kenya to the United Nations Environment Programme (UNEP), Nairobi

NOMINEE	POSITION
Mr. Francis Meja	Chairperson of the Public Service Commission

AND WHEREAS, following receipt of the nominations from H.E the President, the Hon. Speaker of the National Assembly vide a Notification made on **Tuesday, 10th February 2026** conveyed the Message to the Members of the National Assembly and referred the names and *curricula vitae* of the nominees to the **Departmental Committee on Defence, Intelligence and Foreign Relations** and the **Departmental Committee on Labour** for consideration and reporting to the House;

IT IS NOTIFIED to the general public that pursuant to **Article 118(1)(b) of the Constitution** and **section 6(4) of the PublicAppointments (Parliamentary Approval) Act (Cap. 7F)**, the **Departmental Committees** shall conduct Approval Hearings (Vetting) of the nominees on Friday 20th February, 2026 at 10.00am at the venues indicated in the schedule below—

NOMINEE	POSITION	STATION	VENUE
Canon ((Dr.) Ida Betty Odinga, EGH	Ambassador/ Permanent Representative	Permanent Mission of Kenya to the United Nations Environment Programme (UNEP), Nairobi	Mini-Chamber, County Hall, 1st Floor

NOMINEE	POSITION	VENUE
Mr. Francis Meja	Chairperson of the Public Service Commission	Bunge Tower, 3rd Floor, Room 18

AND WHEREAS, section 6(9) of the Public Appointments (Parliamentary Approval) Act (Cap. 7F) provides that ***"any person may prior to the approval hearing and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated";***

IN COMPLIANCE with Article 118(1)(b) of the Constitution and section 6(9) of the Public Appointments (Parliamentary Approval) Act (Cap. 7F), the Clerk of the National Assembly hereby invites members of the public to submit any representations they may have, by way of **written statements on oath (affidavits) with supporting evidence contesting the suitability of the candidates** for appointment to the offices they have been nominated to.

The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi;** hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi;** or emailed to **cna@parliament.go.ke** to be received on or before **Thursday, 19th February 2026 by 5.00 p.m.**

IT IS FURTHER NOTIFIED THAT the nominees are required to—

(1) Appear for the approval hearings with their original identity cards, academic and professional certificates and other relevant testimonials; and

(2) Obtain letters/certificates of compliance from the following institutions—
- (a) The Ethics and Anti-Corruption Commission;
- (b) The Kenya Revenue Authority;
- (c) The Higher Education Loans Board;
- (d) The Directorate of Criminal Investigations;
- (e) The Office of the Registrar of Political Parties;
- (f) The Commission for University Education; and
- (g) A Credit Reference Bureau.

S. NJOROGE, CBS
CLERK OF THE NATIONAL

HARAMBEE

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FIFTH SESSION (2026)

IN THE MATTER OF ARTICLES 118(1)(b), 132(2), 233(2) AND 250(2)(c) OF THE CONSTITUTION
AND
IN THE MATTER OF SECTION 20 OF THE FOREIGN SERVICE ACT(CAP.185E)
AND
IN THE MATTER OF SECTION 11 OF THE PUBLIC SERVICE COMMISSION ACT (CAP 185)
AND
IN THE MATTER OF THE PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT (CAP. 7F)
AND
IN THE MATTER OF APPROVAL BY THE NATIONAL ASSEMBLY OF PERSONS NOMINATED FOR APPOINTMENT AS AMBASSADOR/PERMANENT REPRESENTATIVE OF THE REPUBLIC OF KENYA TO THE UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP) AND CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

NOTIFICATION OF APPROVAL HEARINGS AND INVITATION TO SUBMIT MEMORANDA

WHEREAS, in accordance with provisions of Articles 132(2)(e), 233(2) and 250(2) of the Constitution, Section 20 of the Foreign Service Act, Cap.185E, and Section 11 of the Public Service Commission Act, Cap. 185, His Excellency the President is empowered to nominate and with the approval of the National Assembly, appoint High Commissioners, Ambassadors and Diplomatic and Consular Representatives and the Chairperson of a Commission;

In exercise of the said powers, His Excellency the President nominated the following persons for appointment as Ambassador/Permanent Representative of the Republic of Kenya to the United Nations Environment Programme (UNEP) and the Chairperson of the Public Service Commission—

NOMINEE	POSITION	STATION
Canon (Dr.) Ida Betty Odinga, EGH	Ambassador/Permanent Representative	Permanent Mission of Kenya to the United Nations Environment Programme (UNEP), Nairobi

NOMINEE	POSITION
Mr. Francis Meja	Chairperson of the Public Service Commission

AND WHEREAS, following receipt of the nominations from H.E the President, the Hon. Speaker of the National Assembly vide a Notification made on **Tuesday, 10th February 2026** conveyed the Message to the Members of the National Assembly and referred the names and *curricula vitae* of the nominees to the **Departmental Committee on Defence, Intelligence and Foreign Relations** and the **Departmental Committee on Labour** for consideration and reporting to the House;

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NOMINEE	POSITION	STATION	VENUE
Canon ((Dr.) Ida Betty Odinga, EGH	Ambassador/ Permanent Representative	Permanent Mission of Kenya to the United Nations Environment Programme (UNEP), Nairobi	Mini-Chamber, County Hall, 1st Floor

NOMINEE	POSITION	VENUE
Mr. Francis Meja	Chairperson of the Public Service Commission	Bunge Tower, 3rd Floor, Room 18

AND WHEREAS, section 6(9) of the Public Appointments (Parliamentary Approval) Act (Cap. 7F) provides that ***"any person may prior to the approval hearing and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated";***

IN COMPLIANCE with Article 118(1)(b) of the Constitution and section 6(9) of the Public Appointments (Parliamentary Approval) Act (Cap. 7F), the Clerk of the National Assembly hereby invites members of the public to submit any representations they may have, by way of **written statements on oath (affidavits) with supporting evidence contesting the suitability of the candidates** for appointment to the offices they have been nominated to.

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(2) Obtain letters/certificates of compliance from the following institutions—
- (a) The Ethics and Anti-Corruption Commission;
- (b) The Kenya Revenue Authority;
- (c) The Higher Education Loans Board;
- (d) The Directorate of Criminal Investigations;
- (e) The Office of the Registrar of Political Parties;
- (f) The Commission for University Education; and
- (g) A Credit Reference Bureau.

S. NJOROGE, CBS

Annexure 7

Letter from the Clerk of the National Assembly to inviting the Nominee for the Approval Hearing

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote
Ref. NA/DDC/LAB/2026/006

12th February, 2026

Mr. Francis Meja
Email: francismeja2@gmail.com
NAIROBI

Dear Mr Meja

RE: INVITATION FOR APPROVAL HEARING (VETTING) BY THE DEPARMENTAL COMMITTEE ON LABOUR

Following your nomination by His Excellency the President for appointment as the Chairperson of the Public Service Commission, the Departmental Committee on Labour hereby invites you for approval hearing (vetting) pursuant to provisions of Section 6(3) of the Public Appointments (Parliamentary Approval) Act (CAP 7F) on **Friday, 20th February 2026** in **Committee Room 18, 3rd Floor, Bunge Tower, Parliament Buildings** at **10:00 a.m.**

Kindly fill out the attached questionnaire as required by the Public Appointments (Parliamentary Approval) Act (CA 7F) and attach copies of your national identity card, academic and professional certificates, and any other testimonials. The questionnaire and the said attachments should be returned **on or before Wednesday, 18th February 2026.**

Further, you are required to bring along originals of the above documents and letters/certificates of clearance/compliance from the following institutions:-

1. Ethics and Anti-Corruption Commission;
2. Kenya Revenue Authority;
3. Higher Education Loans Board;
4. Directorate of Criminal Investigations;
5. Office of the Registrar of Political Parties; and
6. A Credit Reference Bureau.

The Committee's liaison officers for this subject are **Mr. Adan Gindicha** who may be contacted on tel. no. **0720450112** or email: adan.gindicha@parliament.go.ke and **Ms. Hellen Ekadeli** tel. no. **0733132322** or email: hellen.ekadeli@parliament.go.ke.

Yours

JEREMIAH NDOMBI, MBS
For: - CLERK OF THE NATIONAL ASSEMBLY

Annexure **8**

Letters from the Clerk of the National Assembly to DCI, EACC, HELB, KRA, ODPP and ORPP

Departmental Committee on Labour Approval Hearing of Mr. Francis Meja, Nominee for Appointment as the Chairperson of the Public Service Commission (PSC)

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote
Ref. NA/DDC/LAB/2026/001

12th February, 2026

Mr. Abdi A. Mohamud, MBS
Secretary/Chief Executive Officer
Ethics and Anti-Corruption Commission (EACC)
Integrity Centre, Milimani/Valley Road Junction
NAIROBI

Dear Mr Mohamud

RE: REQUEST FOR INFORMATION ON MR. FRANCIS MEJA, NOMINEE FOR APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

The National Assembly is in receipt of a notification of nomination of **Mr. Francis Meja** of **ID No. 9208760** as the Chairperson of the Public Service Commission.

As you are aware, the National Assembly is required to approve the nominee for appointment in accordance with the provisions of Article 233(2) of the Constitution and the Public Appointment (Parliamentary Approval) Act (CAP. 7F).

Article 124(4) (a) of the Constitution provides that "***when a House of Parliament considers any appointment for which its approval is required under the Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the House***".

In view of the foregoing, and in accordance with Standing Order 216(5) (f) as read with the Second Schedule to the National Assembly Standing Orders, the relevant Departmental Committee of the National Assembly is mandated to consider, for approval by the House, appointment under Articles 233(2).

Further, pursuant to Section 7(b) of the Public Appointment (Parliamentary Approval) Act (CAP 7F), Committees are mandated to consider whether the nominees meets all Constitutional and Statutory requirements relating to the office in question.

In this regard, the matter has since been committed to the **Departmental Committee on Labour** for consideration. As the Constitutional body mandated to oversee the implementation

of the provisions of Chapter Six of the Constitution, the Committee requests you to provide any information touching on the integrity of the nominee that may be in the possession of the Commission. This information will assist the Committee to effectively undertake its mandate. We will appreciate if the information is received by **Wednesday, 18th February, 2026.**

The Committee's liaison officers for this subject are **Mr. Adan Gindicha, Head of Department(Social Sector)** who may be contacted on tel. no. **0720450112** or email: adan.gindicha@parliament.go.ke and **Ms. Hellen Ekadeli, Committee Clerk,** tel. no. **0733132322** or email: hellen.ekadeli@parliament.go.ke.

Yours

JEREMIAH NDOMBI, MBS
For: - CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote
Ref. NA/DDC/LAB/2026/002

12th February, 2026

Mr. Humphrey Wattanga
Commissioner General
Kenya Revenue Authority (KRA)
Times Towers, 30th Floor
Haile Selassie Avenue
NAIROBI

Dear Mr. Wattanga

RE: REQUEST FOR INFORMATION ON MR. FRANCIS MEJA, NOMINEE FOR APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

The National Assembly is in receipt of a notification of nomination of **Mr. Francis Meja** of **ID No. 9208760** as the Chairperson of the Public Service Commission.

As you are aware, the National Assembly is required to approve the nominee for appointment in accordance with the provisions of Article 233(2) of the Constitution and the Public Appointment (Parliamentary Approval) Act (CAP. 7F).

Article 124(4) (a) of the Constitution provides that "***when a House of Parliament considers any appointment for which its approval is required under the Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the House***".

In view of the foregoing, and in accordance with Standing Order 216(5) (f) as read with the second schedule to the National Assembly Standing Orders, the relevant Departmental Committee of the National Assembly is mandated to consider, for approval by the House, appointment under Article 233(2).

Further, pursuant to Section 7(b) of the Public Appointment (Parliamentary Approval) Act (CAP 7F), Committees are mandated to consider whether the nominee meet all Constitutional and Statutory requirements relating to the office in question.

In this regard, the matter has since been committed to the **Departmental Committee on Labour** for consideration. Consequently, the Committee requests you to provide a report on tax compliance by the nominee. This information will assist the Committee to effectively undertake its mandate. We will appreciate if the information is received by **Wednesday, 18th February, 2026.**

The Committee's liaison officers for this subject are **Mr. Adan Gindicha** who may be contacted on tel. no. **0720450112** or email: adan.gindicha@parliament.go.ke and **Ms. Hellen Ekadeli** tel. no. **0733132322** or email: hellen.ekadeli@parliament.go.ke.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
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www.parliament.go.ke/the-national-assembly

When replying, please quote
Ref. NA/DDC/LAB/2026/003

12th February, 2026

Mr. Geoffrey Monari
Chief Executive Officer
Higher Education Loans Board
Anniversary Towers, University Way
NAIROBI

Dear Mr Monari

RE: REQUEST FOR INFORMATION ON MR. FRANCIS MEJA, NOMINEE FOR APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

The National Assembly is in receipt of a notification of nomination of **Mr. Francis Meja** of **ID No. 9208760** as the Chairperson of the Public Service Commission.

As you are aware, the National Assembly is required to approve the nominee for appointment in accordance with the provisions of Article 233(2) of the Constitution and the Public Appointment (Parliamentary Approval) Act (CAP. 7F).

Article 124(4) (a) of the Constitution provides that "***when a House of Parliament considers any appointment for which its approval is required under the Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the House***".

In view of the foregoing, and in accordance with Standing Order 216(5) (f) as read with the second schedule to the National Assembly Standing Orders, the relevant Departmental Committee of the National Assembly is mandated to consider, for approval by the House, appointment under Articles 233(2).

Further, pursuant to Section 7(b) of the Public Appointment (Parliamentary Approval) Act (CAP 7F), Committees are mandated to consider whether the nominee meets all Constitutional and Statutory requirements relating to the office in question.

In this regard, the matter has since been committed to the **Departmental Committee on Labour** for consideration. Consequently, the Committee requests you to provide a report on repayment of any loans that may have been advanced by the Board to the nominee. This information will assist the Committee to effectively undertake its mandate. We will appreciate if the information is received by **Wednesday, 18th February, 2026**.

The Committee's liaison officers for this subject are **Mr. Adan Gindicha** who may be contacted on tel. no. **0720450112** or email: adan.gindicha@parliament.go.ke and **Ms. Hellen Ekadeli** tel. no. **0733132322** or email: hellen.ekadeli@parliament.go.ke.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

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Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote
Ref. NA/DDC/LAB/2026/004

12th February, 2026

Mr. Amin Mohamed Ibrahim, EBS, MBS, OGW
Director
Directorate of Criminal Investigations
Mazingira House, Kiambu Road
NAIROBI

Dear Mr Ibrahim

RE: REQUEST FOR INFORMATION ON MR. FRANCIS MEJA, NOMINEE FOR APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

The National Assembly is in receipt of a notification of nomination of **Mr. Francis Meja** of **ID No. 9208760** as the Chairperson of the Public Service Commission.

As you are aware, the National Assembly is required to approve the nominee for appointment in accordance with the provisions of Article 233(2) of the Constitution and the Public Appointment (Parliamentary Approval) Act (CAP. 7F).

Article 124(4) (a) of the Constitution provides that "***when a House of Parliament considers any appointment for which its approval is required under the Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the House***".

In view of the foregoing, and in accordance with Standing Order 216(5) (f) as read with the second schedule to the National Assembly Standing Orders, the relevant Departmental Committee of the National Assembly is mandated to consider, for approval by the House, appointment under Article 233(2).

Further, pursuant to Section 7(b) of the Public Appointment (Parliamentary Approval) Act (CAP 7F), Committees are mandated to consider whether the nominees meet all Constitutional and Statutory requirements relating to the office in question.

In this regard, the matter has since been committed to the **Departmental Committee on Labour** for consideration. Consequently, the Committee requests you to provide information on whether the nominee is adversely mentioned in any investigations carried out by the Directorate of Criminal Investigations in the normal course of discharging its mandate. This information will assist the Committee to effectively undertake its mandate. We will appreciate if the information is received by **Wednesday, 18th February, 2026.**

The Committee's liaison officers for this subject are **Mr. Adan Gindicha** who may be contacted on tel. no. **0720450112** or email: adan.gindicha@parliament.go.ke and **Ms. Hellen Ekadeli** tel. no. **0733132322** or email: hellen.ekadeli@parliament.go.ke.

Yours

JEREMIAH NDOMBI, MBS
For: - CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

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Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote
Ref. NA/DDC/LAB/2026/005

12th February, 2026

Mr. John Cox Lorionokou
Registrar of Political Parties/CEO
Office of the Registrar of Political Parties (ORPP)
Lions Place, 1st Floor, Waiyaki Way, Westlands
NAIROBI

Dear Mr Lorionokou

RE: REQUEST FOR INFORMATION ON MR. FRANCIS MEJA, NOMINEE FOR APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

The National Assembly is in receipt of a notification of nomination of **Mr. Francis Meja** of **ID No. 9208760** as the Chairperson of the Public Service Commission.

As you are aware, the National Assembly is required to approve the nominee for appointment in accordance with the provisions of Article 233(2) of the Constitution and the Public Appointment (Parliamentary Approval) Act (CAP. 7F).

Article 124(4) (a) of the Constitution provides that "***when a House of Parliament considers any appointment for which its approval is required under the Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the House***".

In view of the foregoing, and in accordance with Standing Order 216(5) (f) as read with the second schedule to the National Assembly Standing Orders, the relevant Departmental Committee of the National Assembly is mandated to consider, for approval by the House, appointment under Articles 233(2).

Further, pursuant to Section 7(b) of the Public Appointment (Parliamentary Approval) Act (CAP 7F), Committees are mandated to consider whether the nominees meet all Constitutional and Statutory requirements relating to the office in question.

In this regard, the matter has since been committed to the **Departmental Committee on Labour** for consideration. Taking into consideration Article 77(2) of the Constitution, which prohibits an appointed state officer from holding office in a political party, the Committee requests you to provide information on whether the nominee holds office in any political party in Kenya. This information will assist the Committee to effectively undertake its mandate. We will appreciate if the information is received by **Wednesday, 18th February, 2026.**

The Committee's liaison officers for this subject are **Mr. Adan Gindicha** who may be contacted on tel. no. **0720450112** or email: adan.gindicha@parliament.go.ke and **Ms. Hellen Ekadeli** tel. no. **0733132322** or email: hellen.ekadeli@parliament.go.ke.

Yours

JEREMIAH NDOMBI, MBS
For: - CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202840000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote:
Ref: NA/DDC/LAB/2026/007

12th February, 2026

Mr. Renson M. Ingonga, OGW
Director of Public Prosecutions
ODPP House, Rigati Road, Upper Hill
NAIROBI

Dear Mr Ingonga

RE: REQUEST FOR INFORMATION ON MR. FRANCIS MEJA, NOMINEE FOR APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

The National Assembly is in receipt of a notification of nomination of **Mr. Francis Meja** of **ID No. 9208760** as the Chairperson of the Public Service Commission.

As you are aware, the National Assembly is required to approve the nominees for appointment in accordance with the provisions of the Public Appointment (Parliamentary Approval) Act (Cap. 7F).

Article 124(4) of the Constitution provides that ***"when a House of Parliament considers any appointment for which its approval is required under the Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the House".***

In view of the foregoing and in accordance with Standing Order 216(5)(f) as read with the Second Schedule to the National Assembly Standing Orders, the relevant Departmental Committee of the National Assembly is mandated to consider, for approval by the House, appointment under Article 233(2).

Further, pursuant to Section 7(b) of the Public Appointment (Parliamentary Approval) Act (CAP 7F), Committees are mandated to consider whether the nominee meets all Constitutional and Statutory requirements relating to the office in question.

In this regard, the matter has since been committed to the **Departmental Committee on Labour** for consideration. Consequently, the Committee requests you to provide a report on whether there are any active criminal proceedings against the nominee or any other previous charges against him. This information will assist the Committee to effectively undertake its mandate. We will appreciate if the information is received by **Wednesday, 18th February, 2026.**

The Committee's liaison officers for this subject are **Mr. Adan Gindicha** who may be contacted on tel. no. **0720450112** or email: adan.gindicha@parliament.go.ke and **Ms. Hellen Ekadeli** tel. no. **0733132322** or email: hellen.ekadeli@parliament.go.ke.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Annexure **9**

Letters of Clearance from DCI, EACC, HELB, KRA, ODPP, and ORPP

(1) D/DC
Please deal
18/02/26

DIRECTORATE OF DEPARTMENTAL COMMITTEES
RECEIVED
18 FEB 2026

ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Jakaya Kikwete/Valley Road Junction) P.O. Box 61130 – 00200, NAIROBI, Kenya
TEL.: 254 (020) 4997000, MOBILE: 0709 781000; 0730 997000
EMAIL: eacc@integrity.go.ke WEBSITE: www.eacc.go.ke

When replying please quote:

Our Ref: EACC.7/10/5 VOL. XXXV (83) **18th February, 2026**

The Clerk
National Assembly
Office of the Clerk, Main Parliament Buildings
P O Box 41842 – 00100
NAIROBI

(1) Adan Gindicha
pls facilitate
18/2/26

Attn: Jeremiah Ndombi, MBS

RE: REQUEST FOR INFORMATION ON MR. FRANCIS MEJA, NOMINEE FOR APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

Your letter referenced **NA/DDC/LAB/2026/001** dated **12th February 2026**, on the above subject matter refers.

Please note that the Commission has not undertaken any investigations pursuant to its mandate nor has it recommended prosecution against **Francis Mooke Meja** of **ID No. 9208760**.

The information provided herein is based on records available as of **17th January 2026**.

Yours sincerely

Abdi A. Mohamud, EBS, MBS
SECRETARY/CHIEF EXECUTIVE OFFICER

NATIONAL ASSEMBLY
RECEIVED
18 FEB 2026
CLERK, S. KIOKO
00100, NAIROBI

NATIONAL ASSEMBLY
RECEIVED
18 FEB 2026
CLERK'S OFFICE
P.O. Box 41842, NAIROBI

(2) Ms Ekadeli
Please deal
19/02/26

Tuangamize Ufisadi, Tuijenge Kenya

(1) DDC
Please deal.
18/02/26

19 FEB 2026

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Telegraphic address: "Personnel", Nairobi
Telephone: Nairobi 0202732090
Fax: 2243524
Email: info@odpp.go.ke
When replying, please quote

ODPP HOUSE, RAGATI ROAD
P.O. BOX 30701 – 00100
NAIROBI,
KENYA.

URGENT

REF: ODPP/CONF/5/50A

Date: 17th February, 2026

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Main Parliament Buildings
P.O. Box 41842 – 00100
NAIROBI

(2) Adan Gindicha Bora, HOD
To place before the Dept. Committee on Labour to aide in the approval hearing. DM 19/02/26

Dear *Mr. Njoroge,*

RE: INFORMATION ON MR. FRANCIS MEJA – NOMINEE FOR APPOINTMENT AS CHAIRPERSON, PUBLIC SERVICE COMMISSION

Reference is made to the above subject matter and your letter **Ref. NA/DDC/LAB/2026(007)** dated **12th February, 2026,** requesting information on **Fracis Meja, of ID No. 9208760,** who has been nominated for appointment as Chairperson of the Public Service Commission, specifically whether he is subject to any active criminal proceedings or has any prior charges.

Following a review of our records, I wish to confirm as follows: -

S/No	Name	I.D. No.	Gender	Ongoing Criminal Proceedings
1	Francis Meja	9208760	Male	None

Accordingly, there are no active criminal proceedings or previous charges recorded against the nominee.

Thank you for your continued cooperation.

(3) Ms Ekadeli
Please TNA
19/02/26

Yours *sincerely,*

RECEIVED
18 FEB 2026
CLERK'S OFFICE
P O Box 41842-00100, NAIROBI

NATIONAL ASSEMBLY
RECEIVED
18 FEB 2026
CLERK'S OFFICE
P O Box 41842, NAIROBI

RENSON M. INGONGA, CBS, OGW
DIRECTOR OF PUBLIC PROSECUTIONS

REPUBLIC OF KENYA

Telephone: +254(0)204022000
Mobile: 0772281357
Email: info@orpp.or.ke
Website: www.orpp.or.ke
When replying please quote

(1) DDC
Please deal.
18/02/26

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES
ORPP
Strengthening Political Parties

Lion Place, 1st & 4th Floor
Off Waiyaki Way
P.O. Box 1131-00606
Sarit Centre, Nairobi.

Ref: ORPP/ORG/34 Vol IX (58)

Date: 13th February, 2026

(ii) Adan Gindicha
to facilitate consideration by the DC Labour.
18/2/26

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

(iii) Ms. Ekadeli
Please deal urgently.
18/06/25

Attn: Jeremiah Ndombi, MBS

Dear Sir,

RE: REQUEST FOR INFORMATION ON MR. FRANCIS MEJA, NOMINEE FOR APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

Reference is made to letter Ref: NA/DDC/LAB/2026/005 dated 12th February, 2026 on the above subject matter.

Pursuant to Article 77 (2) of the constitution and according to the records held by this office as at 13th February, 2026 the nominee tabulated herein is not official nor a member of any registered political party in Kenya.

S/No.	Nominee	National Identity Card Number	Official of Registered Political Party
1.	Mr. Francis Mooke Meja	9208760	Not an Official

Yours faithfully,

J.C Lorionokou
Registrar of Political Parties/CEO

DIRECTORATE OF DEPARTMENTAL COMMITTEES
RECEIVED
16 FEB 2026

NATIONAL ASSEMBLY
RECEIVED
17 FEB 2026

NATIONAL ASSEMBLY
RECEIVED
16 FEB 2026
CLERK'S OFFICE
P.O. Box 41842, NAIROBI

(1) D/DC
Please deal
18/02/26

NATIONAL POLICE SERVICE

Telegrams: "CRIMINAL". Nairobi
Email: director.dci@cid.go.ke
Telephone:0202603724/020343312

Directorate of Criminal Investigations
Mazingira House Kiambu Road
P.O. Box 30036-00100,
NAIROBI

DIRECTORATE OF CRIMINAL INVESTIGATIONS

DCI/CRO/SEC/6/7/2/A/VOL.XVIII/155

13th February 2026

(1) Ms. Erad
Please deal
18/02

The Clerk of the National Assembly,
Main Parliament Buildings,
P. O. Box 41842-00100,
NAIROBI.

(1) Adan Gindicha
pls TNA
18/2/26

Attn: Jeremiah Ndombi, MBS

REQUEST FOR INFORMATION ON MR. FRANCIS MEJA, NOMINEE FOR APPOINTMENT AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

Reference is made to your letter NA/DDC/LAB/2026/004 dated 12th February 2026 on the above subject matter.

Forensic fingerprint analysis of Mr. Francis Meja holder of ID No. 9208760 was conducted in the criminal database and found no previous criminal records.

Mohamed I. Amin, CBS, OGW, 'ndc' (K)
DIRECTOR OF CRIMINAL INVESTIGATIONS

NATIONAL ASSEMBLY RECEIVED 17 FEB 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES RECEIVED 18 FEB 2026

NATIONAL ASSEMBLY RECEIVED 16 FEB 2026 CLERK'S OFFICE P.O. Box 41842, NAIROBI

Annexure **10**

Curriculum Vitae, certificates and testimonial of the nominee

Departmental Committee on Labour Approval Hearing of Mr. Francis Meja, Nominee for Appointment as the Chairperson of the Public Service Commission (PSC)



CURRICULUM VITAE

FRANCIS MEJA
P.O. Box 517, Ngong Hills,
Tel: 0722 774 696,
Email: francismeja2@gmail.com

PERSONAL INFORMATION

DATE OF BIRTH: 16th April 1968
COUNTY OF BIRTH: Kajiado
LANGUAGE SPOKEN: English, Swahili & Maasai

SUMMARY PROFILE

LEADERSHIP | QUALITY | RESULTS | INTEGRITY

Appointed as a Commissioner of the Public Service Commission on January 21, 2025, for a six-year term. As a Commissioner, I am part of the independent Constitutional Commission established under Article 233 of the Constitution of Kenya, responsible for managing human resources in the government. Previously, I served as the Director General, National Transport and Safety Authority (NTSA) and Council Member Muranga University.

MEJA

As a results-driven and seasoned strategic management professional, I bring a wealth of experience spanning over 25 years in business development, administration, and corporate performance management, gained from both public and private sectors. Proven expertise in driving business growth, improving performance, and leading high-performing teams. Skilled in managing strategic change, providing strategic leadership, tactical and financial management, and aligning organizations with their vision and strategic plan.

I hold a Master of Business Administration (MBA) in Strategic Management from the University of Nairobi and a Bachelor of Arts degree in Economics, Public Administration &Political Science from Maratwada University-India.

KEY PROFESSIONAL SKILLS AND ATTRIBUTES:

- Excellent leadership and organizational skills with the ability to lead large teams;
- Ability to formulate policies and effectively implement the same;
- Ability to manage business holistically across functional units;
- Ability to prioritize and effectively manage assigned work;
- Exceptional people management skills and innate ability to lead, motivate and inspire teams at all levels of the organization;
- Development of Project, management and planning abilities with the capacity to coordinate multiple projects;
- Well-honed interpersonal and communication skills;
- Experience in managing confidential information and matters;
- Track record for implementing standardized competency-based performance management tools across the enterprise; and
- Ability to provide general oversight in day-to-day management of organizations and assuring a smooth and efficient running organization.

MEJA

LEADERSHIP AND MANAGEMENT EXPERIENCE

- Commissioner Public Service Commission (PSC)
- Director General, National Transport & Safety Authority (NTSA);
- Registrar of motor vehicles, Ministry of Transport and Infrastructure;
- Business Development Manager, Equity Bank Ltd;
- Branch Manager, Housing Finance Company of Kenya (HFCK); and
- Assistant branch manager Housing Finance Company of Kenya.

ACADEMIC AND PROFESSIONAL QUALIFICATIONS

2004-2007: Masters of Business Administration - Strategic Management, University of Nairobi.

1990-1993: Bachelor of Arts (Economics, Public Administration, Political Science), Maratwada University-India.

1987-1988: Kenya Advanced Certificate of Education, Oloolaiser High School.

PROFESSIONAL EXPERIENCE

Commissioner, Public Service Commission : 21st January 2025 – To date.

Key Responsibilities

The Commission is tasked with the overall management and overseeing management of the public service under Article 233 of the constitution. I was appointed Chairperson of the Recruitment and Selection Committee of the Commission, Member of the Organizational Design and Career Development Committee and Member of the Information and Communication Committee Member.

Achievements:

i. As Chairperson of the Recruitment and Selection Committee, I spearhead initiatives to boost efficiency and effectiveness in the Commission, driving reforms that enhance talent acquisition and optimize organizational performance.

ii. Under my leadership, the Commission has successfully cleared the backlog of recruitments dating back to 2023 and introduced innovative measures to streamline recruitment processes, reducing turnaround time to just three months.

iii. Initiated with the collaboration of Kenya National Examination Council (KNEC) an efficient system of verification of academic Certificates .

iv. Successfully lobbied for and secured Ksh 560 million to overhaul the Commission's core ICT systems, aiming to significantly boost efficiency in key functions. The project is currently at an advanced procurement stage, being processed through the Ministry of ICT.

Director General at National Transport and Safety Authority : February 2014 – December 2019.

Duties and Responsibilities

i. Setting up the new Authority having been newly created through an Act of Parliament by creating all enabling structures, systems and recruitment of critical staff; and

ii. Providing strategic leadership and driving the delivery of the Authority's mandate.

Achievements:

- Successfully lead the delinking of all NTSA functions from other Government agencies previously undertaking the functions with minimum interruption of services with minimum resistance.

MEJA

- Timely settings up the Authority's organization structures that enabled the Authority effectively carry out its mandate and included recruitment and placement key Authority staff.

- Leveraged on IT to enhance service delivery to the citizen and in doing so, the Authority has collected Revenue to the tune of 5.3 Billion in Kenya shilling and USD 661,127 through online services. Currently we are doing an average of Kshs. 235 Million from 220,000 applications per month using the online platform.

- Significant enhancement of service delivery through development and implementation of online services by the Authority. The Public have an access to our services on a 24/7 basis reducing the cost of doing business significantly. Currently 100% of the services are available online from a nil position three years ago.

- Successfully lead senior management working closely with the board of Directors to Development the first Five year strategic of the Plan for the Authority
- Reduction of road traffic crushes fatalities by 10% in the Financial Year 2016/2017 this being the best performance recorded despite increased motorization and a wider road network and in addition increase in population
- Greater awareness of road safety by the public through public education and sensitization programmers . I have written several opinion articles in mainstream media and TV and Radio Interviews.
- Reduction of corruption through innovative means such as online services and firmly dealing with corruption cases reported to management
- Successful development and implementation of key ICT projects:
    - Kshs. 817 million projects for Transport Integrated Management System (TIMS) funded by the world bank;
    - Kshs. 247 million ICT infrastructure –LAN/WAN, Data Centre, IP/PABX telephony, Enterprise Resource Planning System (ERP), CCTV and mail servers

- Kshs. 2.1 billion projects on New Smart Driving License

❖ Initiated and secured funding from Development Partners, leading to World Bank financing of key projects;

- Kshs. 94 million projects for the Supply, Delivery, Installation and Commissioning of Automated Vehicle Test Lanes and Equipment to Improve Motor Vehicle Inspection Centres in Nairobi and Mombasa;
- Kshs. 49 million projects for the Supply and delivery of Mobile Night and Day Vision Camera;
- Kshs. 27 million projects for Supply and delivery of 12 motor cycles, 4 stroke, 700-900 cc;
- Kshs. 19 million project for Supply and delivery of drunk driving breathalyzer machines;
- Kshs. 17 million supply and Delivery of Body Cameras;
- Kshs. 25 million consultancy Services for Design and Implementation of Road Safety Campaign on Motorcycles and Public Service Vehicles Regulations;
- Kshs. 15 million consultancy Services for The Design of a Five-Year Road Safety Communication Strategy;
- Kshs. 10 million consultancy Services for Development of Infomercials;
- USD 4.5 million project to enhance our core system security and disaster recovery center under the Eastern Africa Regional Transport, Trade and Development Facilitation Project (EARTTDEP); and
- € 4.3 million project Support for Kenyan Road Safety Policy and Programme of which 80% in a donation

❖ Successful development of several regulations to support the operationalization of the NTSA Act:

- PSV Regulation 2014
- Breathalyzer Regulation
- Motorcycles Regulation
- Bus Body Standards

- Minor traffic offenders

- ❖ Development and implementation of New Driver Testing Curriculum. In addition, review and development of drivers Syllabus and Highway Code.
- ❖ Financial stewardship that led to qualified accounts since the establishment of the Authority by The Auditor General.
- ❖ Building a strong NTSA Brand that is highly visible and respected

September 2010 – January 2014: Registrar of Motor Vehicles, Ministry of Transport and Infrastructure,

Duties and Responsibilities

i. Responsible for motor vehicle registration, transfers and licensing as per the provisions of the Traffic Act (Cap 403).
ii. Driver licensing, keeping and maintaining of records of all motor vehicles and drivers.
iii. Licensing of motor vehicles dealers and foreign motor vehicles licensing.
iv. Collection of traffic revenue, licensing fees and other charges related to the administration of the Traffic Act (Cap 403) and the second-hand motor vehicle purchase tax (Cap 484) of the laws of Kenya.
v. General administration of the Traffic Act (Cap 403).
vi. Chairman, Transport Integrated Management System (TIMS).
vii. Member of the National Road Safety Council.

Achievements:

- Provided leadership since 2010 **in lobbying Government to initiate reforms in the road transport sub sector that led to the formation of the National Transport and Safety Authority (NTSA).**

- Championed for reforms within the Road Transport Department of Kenya Revenue Authority that led to enhanced use of ICT, automated processes and integration with other key stakeholders.

MEJA

- Decentralization of registration of motor vehicles service to other KRA Regional Offices – Mombasa, Kisumu and Nakuru, thus enhancing service delivery significantly in addition to increased revenue collection.

- Decentralization of renewal of driver licenses to National Bank of Kenya thus significantly improving service delivery. Through this intervention, revenue grew by about Kshs. 127 million per year from Kshs. 702 million in 2010/2011 to Kshs. 829 million in 2012/2013.

- Provided strategic leadership to the road sub-sector by preparing the sector to increase the usage of ICT as a way of addressing the many sectoral challenges. In addition, through my leadership, we were able to integrate all data from the various road transport stakeholders. This formed the basis of the initial thoughts around the TIMS Project (Transport Integrated Management System). I have offered leadership in developing the system requirements (to be) after analyzing carefully the current situation (as is) and after benchmarking visits to countries such as India, China and United Arab Emirates (UAE). The Request for Proposal (RFP) has been approved by various stakeholders (including The World Bank) and is ready for a public invitation of bids.

- Led departmental teams in the road transport department that reviewed all internal controls leading to enhanced revenue growth of approximately Kshs. 100 million per year i.e., from Kshs. 2.751 billion (in 2010/2011) to 3.050 billion (in 2012/ 2013).

- Led the team that segregated motor vehicle number plates by introducing unique number plates for vehicles such as motor cycles, tractors and heavy machinery thereby minimizing evasion of duty and falsification of motor vehicle identity.

- Re-designed the current log book by incorporating additional and more secure features such as bar code thus minimizing forgery and ease of duplication. Notably, we not only achieved enhancement of security

features but also achieved a more than 50%-unit cost reduction in production of log books.

- Have been joint Chair with KRA Representative, for the team negotiating the delinking of Road Transport Department from KRA to NTSA. A key product of our discussions is a comprehensive delinking report outlining the road map for delinking and how to ensure efficiency and smoothness of the process. The report has since been adopted by both NTSA and KRA Managements for implementation.

- Participated as a member of the National Road Safety Council in engaging and lobbing Government to mainstream road safety in its development agenda. As a result, and for the first time, in the Financial Year 2012/2013, The National Treasury allocated Kshs. 290 million towards road safety through The Ministry of Transport.

- Lobbied Government to adopt and implement the **UN Decade of Action on Road Safety**. This has helped create the necessary awareness in and without Government of the need for all to prioritize road safety matters.

- By virtue of sitting on the Road Safety Council, I and others engaged **Private Sector** with a view to interesting them to participate in road safety activities. Consequently, 16 No. speed cameras were donated to the Police Service to help in traffic enforcement on our major highways.

Manager - Business Growth & Development (Narok)
Equity Bank Ltd, July 2006-September 2010

Duties and Responsibilities

1. Identified trendsetter ideas by researching industry and related events, publications and announcements; tracked individual contributors and their accomplishments.

2. Sourced and proposed potential business deals by contacting potential partners, discovering and exploring opportunities.

3. Screened potential business deals by analyzing market strategies, deal requirements, potential and financials. Evaluated options, resolving internal priorities, recommending equity investments.

4. Developed negotiating strategies and positions by studying integration of new ventures with company strategies and operations. Examining risks and business potential, estimating partners' needs and goals.

5. Closed new business deals by coordinating requirements, developing and negotiating contracts and integrating contract requirements with business operations.

6. Protected organization's value by keeping information confidential.

7. Updated job knowledge by participating in educational opportunities, reading professional publications, maintaining personal networks, participating in professional organizations.

8. Enhanced organizations' reputation by accepting ownership for accomplishing new and different requests, exploring opportunities to add value to job accomplishments.

Achievements:

- Was instrumental in conceiving the idea of using smart card to collect park fee revenue at Maasai Mara (through Equity Bank).

- Broke even within the first six months of operation.

- Increased the customer base to over 20,000 in one year.

- Achieved a high-quality loan book (portfolio at risk of 0.5% against bank average of 7.5 and industry rate of 15%).

MEJA

- ❖ Achieved a deposit base of Kshs. 1.2 billion and a loan book of over Kshs. 800 million and an annual profitability of Kshs. 100 million within 4 years (from zero balance as is normal with newly set up branch).

- ❖ Achieved a compliant assessment of 96% against Equity Bank set Policy and Procedure.

- ❖ Created through servant leadership and coaching a cohesive and motivated branch team where 5 staff were promoted within one and a half years (of joining as new employees) and 70% of the branch team assessed as above target in annual performance review.

- ❖ Was awarded the **Managing Director Recognition** as among the best performing branches of Equity Bank Year 2008 against Equity Bank's set parameters of assessment.

Branch Manager
Housing Finance - Mombasa, 2002-June 2006

Duties and Responsibilities

1. Developed, implemented and monitored the branch business portfolio.

2. Planned and strategized the business budget (net interest).

3. Reviewed the branch business, ensuring it was in line with the Company's Strategy.

4. Sourced for sales opportunities and closed deals, generated credit applications, cross selling the Company's products, carried out market intelligence, expanded savings and deposit products.

5. Managed the branch public relations image, presented ideas for development of new products.

6. Managed staff performance in the branch and ensured full customer satisfaction at the branch.

7. Interpreted customer needs and guided them accordingly (within limits).

8. Interviewed and agreed on interest rates with the term deposit customers (within limits).

9. Confirmed that edit runs were produced on new client accounts and authorized any changes on client information; and ensured submission for edit checking and archiving.

10. Authorized issuance of term deposit certificates and renewals (within limits), reviewed renewal reports, interest renewal vouchers, updated register and signed notification letters to customers.

11. Detected and addressed irregularities e.g., frauds, money laundering etc.

OTHER SIGNIFICANT WORK EXPERIENCE

- Assistant Branch Manager, Housing Finance Company of Kenya Ltd (HFCK), 1998-2002

- Banking Officer, Housing Finance Company of Kenya Ltd, 1994-1998

PROFESSIONAL DEVELOPMENT COURSES UNDERTAKEN

Attend the following workshops and seminars:

- Leadership Skills for Successful Performance Management – Capacity Building Institute.

MEJA

- Effective Customer Care – Paldim Management Consultants & Associates Ltd.
- Marketing Financial Services, Customer Service for Banks and Non-Financial Institutions – Kenya Institute of Management.
- Credit Management and Debt Recovery Skills – Kenya Institute of Bankers.
- Business and Report Writing – Artemis Ltd.
- MS Office (Word, Excel and Power Point) KPMG – Training Solutions
- And several teams building training and other seminars.

PUBLICATIONS

- Change Management Practices at Equity Bank Ltd, un-published MBA project.

GENERAL INTEREST AND HOBIES

- Volunteer community work
- Reading – Management Literature

REFEREES

Please feel free to contact the under mentioned in regard to my competence, work ethic and performance.

MEJA
Mr. Allan Waititu
Director
Information Technology and Innovation
Equity Bank Center
P.O. Box 75104 – 00200
Nairobi

Dr. Richard Lesiyampe
Ag. Managing Director& CEO
Kenyatta National Hospital
P.O. Box 20723 – 00202
Nairobi

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT – (FIFTH SESSION-2026)
DEPARTMENTAL COMMITTEE ON LABOUR

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

QUESTIONNAIRE

Notes:

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

1. **Name:** (State full name) Francis Mooke Mega.
2. **Position:** (State office to which you have been nominated).
   Chairperson- Public Service Commission
3. **Gender:** Male
4. **Date of Birth:** (State year and place of birth) 16/04/1968 - Kajiado West.
5. **Marital Status:** Married
6. **Daytime phone number:**
7. **Mobile phone number:** 0722-774696.
8. **Email Address:** francismega2@gmail.com

9. **ID Number:** 9208760

10. **PIN Number:** A002245919Z

11. **Nationality:** Kenyan

12. **Postal Address:** 517-20800, NGong-Hills

13. **Town/City:** NGong.

14. **Knowledge of Languages:** (Specify Languages): English, Kiswahili & Kimaasai

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

1 Master of Business Administration (MBA) University of Nairobi 2007 – 2009

2. BA. (Economics, Public Adm. & Political Science Marathwada University India 1990 – 1993

3. KACE – ololaiser High School 1987 – 1988

4. KCE – Ololaiser High School 1983 – 1986

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

1) Commissioner – Public Service Commission – January 2025 to date

2. Director General – NTSA – 2014 – 2020

3. Registar of Motor Vehicles – Ministry of Transport – 2010 – 2013

4. Manager – Equity Bank – 2006 – 2010

5. Manger – Housing Finance – 2001 – 2006

6. Asst. Manger – Housing Finance – 1998 – 2001

7. Banking officer – Housing Finance – 1994 – 1998.

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

MBS – Moran of the Burning Spear.

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

None.

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

None.

19. **Published Writings:**

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

- What Can Kenya learn from Malaysia's Development Journey. The Star News Paper 05/09/25
- Ntsa digital System bearing fruits - The standard 29/09/16
- Cleaner Transport System will Reduce deaths - The Standard 25/09
- Traffic offences - A case for Instant fines - The Standard 27/8/2015
- Nisa Safety Measures reducing Road death - The Standard 21/09/2014.

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

None.

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

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

None

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

None

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

NO.

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

NO.

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

None.

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

No.

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

- Salary 12 Months PSC – 8,088,000
- Dairy farming activities – 1,200,000
- Beef Cattle farming – 2,500,000
- Hides export busines – 1.800,000

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

fully compliant as per the attached tax clearance certificate.

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

320,757,804 see attached listing of Assets & liabilities.

26. **Potential Conflict of Interest:**

(a) Identity the family members or other persons, parties, categories of litigation or financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to rise.

None!

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

None.

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

Kimilili Girls Capacity Building for Mayanei Board - On a need basis.

FRANCIS MEJA- ASSETS AND LIABILITIES AS AT 16/02/2026

ASSETS

1.	Residential House No. 71 Ngei 1 Estate	-	30,000,000.00
2.	Ancestral Land (No Title Deed)	-	200,000,000.00
3.	LR. NO. 940 Cis Mara Oleleshwa	-	60,000,000.00
4.	LR. No. 110 Cis Mara Nailogilog	-	20,000,000.00
5.	Developed Plot No. 3 Kimoka Centre	-	10,000,000.00
6.	Nairobi Block 19/364	-	25,000,000.00
7.	Toyota Land Cruiser KBS 505Y	-	2,500,000.00
8.	Cash in Bank	-	257,804.00
	Totals	-	**347,757,804.00**

LIABILITIES

1.	AFC Ngong Loan	-	2,000,000.00
2.	KCB Mortage Loan	-	25,000,000.00
	Totals	-	**27,000,000.00**

Net Worth - **320,757,804.00**

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

NO.

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

NO.

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

I have no. Objection.

31. **References:**

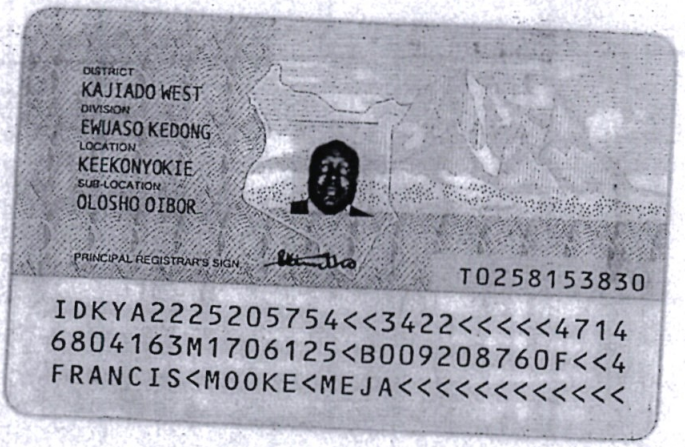
(List three persons who are not your relatives who are familiar with your character, qualification and work).

1) Mary Kimonye - Vice chairperson PSC
0722-702488

2. Job Chirchir - Business Man Nairobi
0721-689560

3. Saitoti ole Maika - DG - Financial Reporting Centre.
0700-649549.


JAMHURI YA KENYA
REPUBLIC OF KENYA
SERIAL NUMBER: 222520575
ID NUMBER: 9208760
FULL NAMES
FRANCIS MOOKE MEJA
DATE OF BIRTH
16.04.1968
SEX
MALE
DISTRICT OF BIRTH
KAJIADO CENTRAL
PLACE OF ISSUE
CENTRAL
DATE OF ISSUE
12.06.2017
HOLDER'S SIGN.


DISTRICT
KAJIADO WEST
DIVISION
EWUASO KEDONG
LOCATION
KEEKONYOKIE
SUB-LOCATION
OLOSHO OIBOR
PRINCIPAL REGISTRAR'S SIGN.
T0258153830
IDKYA2225205754<<3422<<<<<4714
6804163M1706125<BOO9208760F<<4
FRANCIS<MOOKE<MEJA<<<<<<<<<<<

UNIVERSITY OF NAIROBI



This is to certify that

Francis Mooke Meja

having satisfied the requirements
for the award of the degree of the

MASTER OF BUSINESS ADMINISTRATION

was admitted to the degree
at a Congregation held at
this University on the

Fourth Day of December in the Year
2009

VICE-CHANCELLOR

DEPUTY VICE-CHANCELLOR (ACADEMIC AFFAIRS)

2924

We,

the Chancellor, Vice-Chancellor
and Members of the Executive Council of the

Marathwada University

Certify

that the withinsigned

Moake Meja Francis

having been examined and found duly qualified for the Degree of Bachelor of Arts and placed in the Second Division in April 1993, the Degree of

Bachelor of Arts

has been conferred on him at Aurangabad, on the thirtieth day of the month of November in the year one thousand nine hundred and ninety three.

The subjects in which he was examined were: Economics, Public-Administration and Political-Science

In Testimony whereof are set the Seal of the said University and the signature of the said Vice-Chancellor.

Seal No. 2273.
Place: Aurangabad
Date of issue of the Degree Certificate: 4 MAR 199

Vice-Chancellor

THE KENYA NATIONAL EXAMINATIONS COUNCIL

This is to certify that the candidate named below sat for the Examination for the Kenya Advanced Certificate of Education and qualified for the award of a

KENYA
ADVANCED CERTIFICATE OF EDUCATION

The candidate passed at the level shown (Principal or Subsidiary) in the subject(s) named and attained the Grade(s) as indicated.

MOOKE MEJA FRANCIS 55002/519

OLOOLAISER HIGH SCHOOL

		Grade
GENERAL PAPER	SUBSIDIARY	
HISTORY	SUBSIDIARY	
CHRISTIAN REL EDUCATION	PRINCIPAL	E
GEOGRAPHY	PRINCIPAL	E

SUBJECTS RECORDED FOUR

EXAMINATION OF NOVEMBER/DECEMBER 1988

Secretary
Kenya National Examinations Council

Philip M. Mbithi

Chairman
Kenya National Examinations Council

(See overleaf)

A 160931

THE KENYA NATIONAL EXAMINATIONS COUNCIL

This is to certify that the candidate named below sat for the Examination for the Kenya Certificate of Education and qualified for the award of a

KENYA CERTIFICATE OF EDUCATION

DIVISION III

THE CANDIDATE REACHED THE GRADE SHOWN IN THE SUBJECTS NAMED

FRANCIS MOOKE MEJA 55002/035

OLOOLAISER SECONDARY SCHOOL

	Grade
ENGLISH LANGUAGE	9
LITERATURE IN ENGLISH	7
FASIHI YA KISWAHILI	7
CHRISTIAN REL. EDUCATION	3
HISTORY	7
GEOGRAPHY	3
LUGHA YA KISWAHILI	6
MATHEMATICS	9
BIOLOGY	9

SUBJECTS NAMED NINE SUBJECTS PASSED SIX

EXAMINATION OF NOVEMBER/DECEMBER 1986

Secretary
Kenya National Examinations Council

Chairman
Kenya National Examinations Council

O 528435

(See overleaf)

REPUBLIC OF KENYA

Telephone: +254(0)204022000
Mobile: 0772281357
Email: info@orpp.or.ke
Website: www.orpp.or.ke
When replying please quote

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES
ORPP
Strengthening Political Parties

Lion Place, 1st & 4th Floor
Off Waiyaki Way
P.O. Box 1131-00606
Sarit Centre, Nairobi.

Ref: ORPP/3/2/ VOL. XIII (29)

Date: 13th February, 2026

Francis Mooke Meja
P.O. Box 517
NGONG HILLS

Dear Sir,

RE: REQUEST FOR POLITICAL PARTY MEMBERSHIP CLEARANCE
FRANCIS MOOKE MEJA – ID NO. 9208760

The above subject matter refers.

This Office acknowledges receipt of your letter dated 12th February 2026 and duly notes the content therein.

According to the records held by this Office as at 13th February, 2026, **Francis Mooke Meja** of **ID No. 9208760** is not an official nor a member of any registered political party in Kenya.

Yours faithfully,

J. C. Lorionokou
Registrar of Political Parties/CEO

LEADERSHIP AND INTEGRITY ACT, 2012 /KIFUNGU CHA SHERIA CHA UONGOZI NA UADILIFU, 2012

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

SELF-DECLARATION FORM / FOMU YA KUJITANGAZA

1. GENERAL INFORMATION / *TAARIFA YA JUMLA*

Title / *Cheo*	Surname / *Jina la ukoo*	First Name / *Jina la Kwanza*	Middle Name / *Jina la Katikati*	Other Names / *Majina Mengine*
Mr/Mrs/Prof/ Miss/Ms/Dr *Bw/Bi/Prof/ Binti/Bibi/Dkt*	MEJA	FRANCIS	MOOKS	—

ID CARD No. *Na. ya Kitambulisho*	PASSPORT NO. *NA. ya PASIPOTI*	EXPIRY DATE OF PASSPORT *TAREHE YA MUDA WA PASIPOTI KUISHA*	PIN NO. *NA. ya PIN*
9208760			A002245919Z

SEX (Tick) *JINSIA (Weka Alama)*

Male *Kiume* ☑

Female *Kike* ☐

Occupation: *Kazi:* State officer PSC

E-Mail Address: *Anwani ya Baruapepe:* francismga20@gmail.com

Postal Address: PO Box *Anwani ya Posta: SL Posta:* 517 Code: *Msimbo:* 20800

Other Addresses: *Anwani Nyingine:* —

Telephone No. *Na. ya Simu*	Mobile No. *Na. ya Rununu*	Other Numbers *Nambari Nyingine*
	0722-774696	—

RESIDENCE *MAKAZI*		
	ESTATE/TOWN/LOCATION *MTAA/MJI/LOKESHENI*	Nairobi Ngeri
	DISTRICT *WILAYA*	Langata
	COUNTY *KAUNTI*	Nairobi
	TOWN/CITY *MJI/JIJI*	Nairobi Ngeri
	COUNTRY *NCHI*	Kenya.

2. BIRTH INFORMATION / *TAARIFA YA KUZALIWA*

DATE OF BIRTH /*TAREHE YA KUZALIWA*

ETHICS AND ANTI-CORRUPTION COMMISSION ★ P.O. Box 61130 - 00200, NAIROBI ★
RECEIVED
27 NOV 2025

BIRTH CERTIFICATE NO. / *NA. YA CHETI CHA KUZALIWA*	
PLACE OF BIRTH / *MAHALI PA KUZALIWA*	Kajiado West
DISTRICT OF BIRTH / *WILAYA YA KUZALIWA*	Kajiado
COUNTY OF BIRTH / *KAUNTI YA KUZALIWA*	Kajiado
COUNTRY OF BIRTH / *NCHI YA KUZALIWA*	Kenya.

3. NATIONALITY /*UTAIFA*

Kenyan *Mkenya* ☑	Dual *Kotekote* ☐ (Provide details_____) (*Toa maelezo*_____)

4. MARITAL STATUS / *HALI YA NDOA*

SINGLE *NINGALI SIJAOA/ SIJAOLEWA* ☐ MARRIED *NIMEOA/NIMEOLEWA* ☑ SEPARATED *NIMETENGANA* ☐

DIVORCED *NIMETALAKIANA* ☐ WIDOWED *NIMEFIWA* ☐

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

NATIONALITY OF SPOUSE *UTAIFA WA MKE/MUME*	

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

None

5. EDUCATIONAL QUALIFICATIONS / *KUFUZU KWA KIELIMU*

PRIMARY CERTIFICATE *CHETI CHA MSINGI* ☑ SECONDARY *SHULE YA UPILI* ☑ 'A' LEVEL *KIWANGO CHA 'A'* ☑

DIPLOMA *STASHAHADA* ☐ DEGREE *SHAHADA* ☑ MASTERS *UZAMILI* ☐ PHD *UZAMIFU* ☐

OTHERS *VINGINE*

ETHICS AND ANTI-CORRUPTION COMMISSION ★ P.O. Box 61130 - 00200, NAIROBI ★
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27 NOV 2025

HIGHEST ACADEMIC QUALIFICATION OBTAINED
KUFUZU KWA JUU ZAIDI KWA KIAKADEMIA ULIKOPATA

Qualification / *Kufuzu*	Institution / *Taasisi*	Year /*Mwaka*
Master of Business Adm. (MBA)	VON	2007

6. LANGUAGE SPOKEN / *LUGHA UNAZOZUNGUMZA*

First Language *Lugha ya Kwanza*	Second Language *Lugha ya Pili*	Others *Nyingine*
Kimaasai	Kiswahili	English

7. MEMBERSHIP OF PROFESSIONAL ORGANISATION(s) (If any)
UANACHAMA WA SHIRIKA(MA) YA KITAALAMU (Kama yapo)

Name of Organization *Jina la Shirika*	Date of Admission *Tarehe ya Kuandikishwa*	Membership No. *Na. ya Uanachama*
N/A	N/A	N/A

8. REASON(S) FOR DECLARATION / *SABABU ZA KUJITANGAZA*

Purpose for which declaration is required / *Kusudio la kuhitajika kwa kujitangaza huku*

Election *Upigaji kura* ☐ Employment *Kuajiriwa* ☑

Others (Specify) _____
Nyingine (Bainisha)

State office for which the declaration is being submitted *Ofisi ya serikali ambayo kujitangaza huku kunawasilishwa*	

9. MORAL AND ETHICAL QUESTIONS / *MASWALI YA NIDHAMU NA KIMAADILI*

Answers to the following questions are mandatory. If YES to any question you must provide additional information on a supplementary sheet.
Majibu kwa maswali yafuatayo ni lazima. Kama NDIYO katika swali lolote lazima utoe taarifa ya ziada kwenye karatasi nyingine.

	YES	NO
a) Have you ever engaged in any form of dishonesty in the conduct of public affairs *a) Umewahi kujihusisha na hali yoyote ya kutokuwa mwaminifu katika kazi zako na shughuli za umma*		✓
b) Have you ever abused a public office? *b) Umewahi kutumia vibaya ofisi ya umma?*		✓
c) Have you ever misrepresented information to the public? *c) Umewahi kuwakilisha kwa njia isiyofaa habari kwa umma?*		✓
d) Have you ever engaged in wrongful conduct whilst in the furtherance of personal benefit?		✓

ETHICS & ANTI-CORRUPTION COMMISSION ★ P.O. Box 61130 - 00200, NAIROBI ★
RECEIVED
27 NOV 2025

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

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

10. EMPLOYMENT INFORMATION / *TAARIFA YA KUAJIRIWA*

NAME OF EMPLOYER *JINA LA MWAJIRI*	POSITION/RANK *CHEO/WADHIFA*	DATE OF FIRST APPOINTMENT *TAREHE YA KUAJIRIWA KWA KWANZA*	DATE OF PRESENT APPOINTMENT *TAREHE YA KUAJIRIWA KWA SASA*
HFCK	Manger	02/02/94	2006
Equity Bank	Manger	2006	2010
Min. of Transport	Registrar MV.	2010	2014
NTSA	Director General	2014	2020
Commissioner	PSC	2025	todate.
WORKSTATION *KITUO CHA KAZI*	**NATURE OF EMPLOYMENT** (Constitutional/Elective/Permanent/Contractual/Other) ***AINA YA KUAJIRIWA*** *(Kikatiba/Kuteuliwa/Kudumu/Kikandarasi/Nyingine)*		

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OATH AND AFFIRMATION / *KIAPO NA UTHIBITISHWAJI*

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

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

Dated at / *Mnamo tarehe* ....25/11/25...., this / *kwenye*...November.....

day of / *siku hii ya* .....

SIGNATURE OF DECLARANT: .....
SAINI YA ANAYEJITANGAZA:

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

This / *Mnamo* ....25th.... day of / *siku hii ya* ...November..., 20 ..25...,

at / *katika mahali hapa*....Nairobi.....

ANNA MAMBORI
ADVOCATE & COMMISSIONER
P. O. Box 47252 - 00100 NAIROBI

COMMISSIONER FOR OATH/MAGISTRATE
KAMISHNA WA KIAPO/ HAKIMU

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KENYA REVENUE AUTHORITY

Tax Compliance Certificate

For General Tax Questions
Contact KRA Call Centre
Tel: +254 (020) 4999 999
Cell: +254(0711)099 999
Email: callcentre@kra.go.ke

www.kra.go.ke

Taxpayer PIN : A002245919Z

Certificate Date: 27/11/2025

Name and Address :

FRANCIS MOOKE MEJA
TIMES, NAIROBI CITY (WEST), Langata District,
PO Box:517,
Postal Code:00208

Certificate Number:
KRASON1527846825

PERSONAL TCC

This is to confirm that FRANCIS MOOKE MEJA, Personal Identification Number A002245919Z has filed relevant tax returns and paid taxes due as provided by Law.

This Certificate will be valid for twelve (12) months up to 26/11/2026.

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

Disclaimer : This certificate is system Generated and therefore does not require signature.You may confirm validity of this certificate on the iTax Portal by using the TCC Checker.This certificate confirms your compliance status for a period of five years preceding the date of issue. The certificate may however be with withdrawn on grounds of outstanding debt affecting periods prior to this.

SERIAL NO. 21418

Commission for University Education

Recognition and Equation of Qualifications

CUE/10/9/1/Vol. 644

9th June, 2023

COMMISSION FOR UNIVERSITY EDUCATION
09 JUN 2023
SECRETARY/CEO

Mooke Meja Francis
P. O. Box 517 - 20800
NGONG HILLS

RE: RECOGNITION OF QUALIFICATIONS
MOOKE MEJA FRANCIS

Thank you for your application dated 8th June, 2023 in which you requested the Commission for University Education to recognize the following qualification awarded by Marathwada University (Currently Dr. Babasaheb Ambedkar Marathwada University) in India:

- **Bachelor of Arts in Economics, Public Administration and Political Science**

It is hereby confirmed Dr. Babasaheb Ambedkar Marathwada University is a recognized institution in India. The qualification awarded by the said institution is also recognized in India and by convention in Kenya.

Kindly note, that in addition to this recognition, you may be required to meet other requirements set by Kenyan professional organizations.

MERCY MWERERERKU
FOR: COMMISSION SECRETARY/CHIEF EXECUTIVE OFFICER

MM/mmm

NB:

- *The Commission is not accountable for the authenticity of the certificate or the identity of the certificate holder presented for recognition and/or equation.*
- *The Commission retains the right to revoke recognition of the award in the event that it establishes any reason that makes the award in question ineligible for recognition and/or equation.*

Redhill Rd., off Limuru Rd., Gigiri
P. O. Box 54999 00200, Nairobi, Kenya. Tel: 254 (020) 7205000.
E-mail: recognition@cue.or.ke, Website: www.cue.or.ke

Certificate Serial No. 907552

HIGHER EDUCATION LOANS BOARD

Compliance Certificate

This is to confirm that;

FRANCIS MOOKE MEJA

Holder of National IDNO. **9208760** is not a beneficiary of the University Loans scheme

Chief Executive Officer

Chief Operations Officer

Caveat

a) This certificate is issued on the basis of information available to the Board as at the date shown above. The Board reserves the right to withdraw the certificate if new evidence materially alters the compliance status of the recipient.

b) This is a system generated certificate.To confirm genuineness and validity of this certificate use the HELB checker available at : https://portal.hef.co.ke or contact our office.

Date of Issue: 24-11-2025

Valid until: 24-11-2026

Date of Issue **November 17, 2025**

Serial No. **CIC29578-76404317-890329**

CREDITINFO

Clearance Certificate

This is to certify that

FRANCIS MOOKE MEJA

Of National ID **9208760**

Has no adverse listing as per information held by Creditinfo CRB Kenya Ltd

This certificate is valid at the date of issue, changes may occur after issue date

Chief Executive Officer

Chief Operating Officer

The Conclusion herein is based on the information obtained from public records and other third party sources.
Creditinfo makes no representation as to the accuracy of this information and shall not be liable for any loss, damages or claims whatsoever arising from reliance in this certificate.

C. 24A

NATIONAL POLICE SERVICE

DIRECTORATE OF CRIMINAL INVESTIGATIONS

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

Ref. No. **PCC-G5SVJM7JJ** Date. **1 December 2025**

POLICE CLEARANCE CERTIFICATE

I hereby certify that the fingerprints recorded from

FRANCIS MOOKE MEJA

holder of ID No. **9208760** *have been searched in Criminal Records Office's database with/without previous record. The validity of the information on this certificate is as of the date of issue.*

REMARKS IN CASE OF PREVIOUS RECORD

OFFENCE(S): **NIL**

RESULTS OF TRIAL: **NIL**

DATE: **NIL**

This Certificate has been issued without any alteration or any erasure

(W.N KIRAI)

For: Director, Directorate of Criminal Investigations

(P.T.O)

NOTE: This is a computer generated certificate, to verify the authenticity of this document, scan the QR Code or use the link https://dci.ecitizen.go.ke/verify, send DCI to 21546 Then Dial *512# and select "Police Clearance"

编号
Serial Number
25EGLCNCIC007XN008

TRAINING CERTIFICATE

培训证书

本证书授予
This is to certify that Mr./Ms.

Francis Meja

From 自 2025-12-15 to 至 2025-12-19 has successfully completed the following training
完成以下培训

HUAWEI Digital Leadership Training

华为全球培训中心
Huawei Global Training Center

HUAWEI

2025-12-19
Date of Issue
签发日期

UNIVERSITY OF BIRMINGHAM

International Road Federation

SENIOR ROAD EXECUTIVES PROGRAMME 2016

This is to certify that

Mr Francis Meja

attended the module on

ROAD SECTOR REFORMS AND FINANCING

20th – 22nd June 2016, University of Birmingham, United Kingdom

Harry Evdorides
Module & Programme Leader
University of Birmingham

Adam Andreski
Module Leader

Kiran Kapila
Chairman of the International Road Federation

The

INTERNATIONAL ROAD FEDERATION

awards the

SUSTAINABLE ROADS CERTIFICATE

to

FRANCIS MEJA

In merited recognition of having satisfactorily completed the following Senior Road Executive Programme in June/July 2016:

Road Sector Reforms and Financing
Road Services Procurement and Integrity
Road Maintenance Management
Road Safety

at the University of Birmingham
United Kingdom

Kiran Kapila
Chairman of the International Road Federation

Institute of Certified Secretaries

Certificate of Participation

This is to certify that

FRANCIS MEJA

Attended the PUBLIC SERVICE COMMISSION CORPORATE GOVERNANCE TRAINING FOR COMMISSIONERS AND SENIOR MANAGEMENT STAFF held on June 3 - 5, 2025 at Lake Naivasha Resort

FCS Jacqueline Waihenya C.ARB (FCIArb) CHAIRMAN Institute of Certified Secretaries

FCS Jacqueline Waihenya
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FCS Jeremiah Karanja, MBS
CHIEF EXECUTIVE OFFICER

UNIVERSITY OF BIRMINGHAM

International Road Federation

SENIOR ROAD EXECUTIVES PROGRAMME 2016

This is to certify that

Mr Francis Meja

attended the module on

ROAD SERVICES PROCUREMENT AND INTEGRITY

23rd – 25th June 2016, University of Birmingham, United Kingdom

Harry Evdorides		
Harry Evdorides Module & Programme Leader University of Birmingham	Adam Andreski Module Leader	Kiran Kapila Chairman of the International Road Federation

UNIVERSITY OF BIRMINGHAM

International Road Federation

SENIOR ROAD EXECUTIVES PROGRAMME 2016

This is to certify that

Francis Meja

attended the module on

ROAD SAFETY

30th June – 2nd July 2016, University of Birmingham, United Kingdom

Harry Evdorides
Module & Programme Leader
University of Birmingham

Michael Burrow
University of Birmingham

Kiran Kapila
Chairman of the International Road Federation

Certificate of Completion

awarded to

Francis Meja

for successfully completing the **Finance for non Finance Directors Training** from **22nd - 25th January, 2018**

Strathmore UNIVERSITY

Dean,
School of Management
& Commerce

Strathmore
UNIVERSITY

Director,
Professional Development
Courses

Certificate No: **SMC/2262/18**

Date of Issue: **25th January, 2018**

Strathmore UNIVERSITY
BUSINESS SCHOOL

National Transport and Safety Authority

EXECUTIVE EDUCATION

This is to certify that

Francis Meja

has successfully completed the National Transport and Safety Authority Board Development Programme held from 13th - 15th March 2019.

Dr. Angela Ndunge

Deputy Executive Dean,
Strathmore University
Business School,
Nairobi, Kenya

Dr. George Njenga

Executive Dean,
Strathmore University
Business School,
Nairobi, Kenya

FRANCIS MEJA: What can Kenya learn from Malaysia's development journey

Industrialisation played a major role in Malaysia's growth.

by FRANCIS MEJA

Opinion05 September 2025 - 18:31

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In Summary

- In 1965, Kenya's GDP was approximately $0.63 billion, while Malaysia's was around $2.4 billion.
- By 2023, Kenya's GDP had grown to $108 billion, whereas Malaysia's reached $399 billion.

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Malaysia High Commissioner Ruzaimi Mohamad and Lands CS Alice Wahome cut a cake with ambassadors and guests /DOUGLAS OKIDDY

In the 1960s, Kenya and Malaysia were both newly independent nations with comparable economic structures. Both economies were largely agrarian and relied on the export of primary commodities. Interestingly, in 1968, Kenya gave a $5 million grant to Malaysia, reflecting a perception of equality—or even relative Kenyan advantage—at that time.

However, by 2023, Malaysia had developed into a diversified, semi-industrialised economy with a significantly higher GDP, per capita income, and development index, while Kenya's growth has remained modest.

In 1965, Kenya's GDP was approximately $0.63 billion, while Malaysia's was around $2.4 billion. By 2023, Kenya's GDP had grown to $108 billion, whereas Malaysia's reached $399 billion. GDP per capita presents a starker contrast: Kenya grew from $100 in 1965 to $1,950 in 2023. Malaysia, by comparison, grew from $316 to $11,650. These figures highlight Malaysia's rapid industrial growth and diversification, compared to Kenya's continued dependence on low-value agriculture and services.

During the 1970s and early 1980s, Kenya experienced relatively strong growth, averaging around 6–7 per cent annually. However, this growth slowed in subsequent decades due to poor governance and political instability. Malaysia, on the other hand, maintained growth through consistent economic planning, including its New Economic Policy and later Vision 2020.

Early this month, I had the opportunity to visit Malaysia and from the time I landed at the airport, one question that kept bothering me was why the divergent economic trajectories between the two countries.

Malaysia has been successful in attracting foreign direct investment, particularly into its manufacturing, electronics, and energy sectors. As of 2023, Malaysia had an FDI inflow of $8.6 billion compared to Kenya's $1.6 billion. Malaysia's supportive infrastructure, business-friendly policies, and political stability made it an attractive destination for investors.

Industrialisation played a major role in Malaysia's growth. The industrial sector contributed 38 per cent to Malaysia's GDP in 2023, compared to just 16 per cent for Kenya. Malaysia capitalised on its export zones and technology parks to foster growth in electronics, automotives, and petrochemicals.

Kenya's manufacturing sector, despite being prioritised in policy (like Vision 2030), has not grown significantly, due to constraints such as unreliable power, corruption, weak infrastructure and policy inconsistency. I kept hoping that before the end of our short visit I would get a convincing answer to my concern of the glaring differences.

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An arranged meeting with a private consulting company PEMANDU associates who served as Malaysia's delivery unit under the Prime Minister's Department from 2010 to 2017 gave me an insight and an answer to some of my concerns. Spearheading the National Transformation Programme, PEMANDU chairman Idris Jala served as a cabinet minister during this period, having been poached from the private sector.

Jala made a compelling presentation on how they successfully used what he terms as Big Fast Results and the eight-step methodology framework for the National Transformational Programme. The prime minister and cabinet ministers placed the transformational programme as their number one priority.

The first step was to hold strategic leadership workshops, where leaders obtained clarity on the True North, defined the measurements of success, and aligned key priorities across the government. Step two involved leaders collaborating with their teams and developing a detailed implementation plan. This involved breaking down high-level plans to the lowest level of details. To achieve this objective, there was the establishment of what Jala called labs. Teams with similar deliverables are locked up in a hotel to come up with workable solutions and are only allowed to leave upon arriving and all agreeing at workable solutions.

Some labs could take up to eight weeks. The lab was therefore used as a tool to break siloes and force people to work together. The third step involved holding open days (townhalls) to inform the entire nation of the plan and secure their buy-in. The fourth step involved publishing a roadmap to rally the entire nation to become part of the high -performing team.

The fifth step is setting clear key performance indicators, which are cascaded to the entire government. Sixth is to pursue what Jala referred to as DMS implementation (do it relentlessly, monitor consistently and solve problems recursively).

The seventh step is ensuring external validation of results by an independent body for the results to be credible and not fudged. The final step is to publish the result annually so that the public is informed of the achievements and shortfalls.

While the above strategy appears simple and nothing out of the ordinary, the results it delivered were impressive. From the start of implementation of the National Transformation Programme in 2010 to 2017 Malaysia achieved a year-on-year fiscal sustainability and record government revenues.

Private investments dramatically increased during the period, from $101.3 billion in 2010 to $225.6 billion in 2017. Government investments grew but at a slower pace during the same period. This implies that the growth was majorly driven by private sector investments and therefore a pointer to investor confidence.

During this period Malaysia was just a little shy of hitting the high-income status per capita income, achieving $11,120 per capita against the World Bank measurement of $12,735. This growth significantly impacted all sectors of the economy.

Infrastructure provided inclusive rural development, energy and transportation to over 6.2 million people. On Social protection, over 7 million low-income households were impacted and their economic status lifted. Millions of jobs were created across all sectors of the economy.

Kenya has a lot learn from the case of Malaysia and other emerging Asian Tigers such as Singapore and South Korea, who have successfully transformed their economies from underdeveloped to developed within a short period. To achieve the development that we all as citizens of our republic dream of, all have a role to play and it cannot be business as usual. We must be ready to do business unusual, with the government leading. Kenya is perfectly positioned to leap into this future. But only if we seize that opportunity. Big, fast results is what we must embrace.

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Francis Meja, Commissioner, Public Service Commission. The views expressed are personal.

GUEST COLUMNS



We can underwrite Africa's future through agriculture

Joshua Oigara

It is now widely recognised by experts and policy makers that agriculture will underwrite Africa's promising growth prospects; that the dream of Africa rising can actually fly on the wings of the sector's vast untapped potential across the continent. With 60 per cent of the world's uncultivated arable land and low crop yields, the prediction that Africa is ripe for a green revolution is no longer a far-fetched ambition.But a litany of barriers hinder Africa's agricultural production potential. From a lack of advanced seeds and other inputs suited to the continent's ecological conditions to inadequate infrastructure to bring crops to market, the complexities of achieving a 'green revolution' are well known and documented.

An economic review of the agricultural sector by the Ministry of Agriculture, Livestock and Fisheries in Kenya reveals that in Africa today, 70 per cent of the population derives their livelihood from Agriculture.

In Kenya, the agricultural sector contributes close to 26 per cent of the country's GDP and employs about 75 per cent of the population. The sector is also a major source of revenue with agricultural produce exports accounting for nearly two thirds of total domestic export. Rallying support in this sector holds the key to securing the future of a majority of livelihoods in the country through improved living standards. It is paramount that that we gear all efforts and resources to boost the agriculture sector, according it the high priority it deserves. The Malabo Declarations that we committed to back in 2014 are aimed at pursuing a future of prosperity with agriculture forefront, by doubling agricultural productivity by 2025. Skeptics have been quick to throw cold water on these targets. But the numbers are achievable.

The Mckinsey Institute predicts that if Africa could overcome the barriers, agriculture output could increase from $280 billion per year today to as much as $880 billion by 2030. Achieving growth of this magnitude might sound ambitious yet this transformation has been witnessed in Asia and Brazil.

The resulting impact across the Africa's agricultural value chain would lead to an increased demand for upstream products such as fertilizers, seeds and pesticides, while spurring growth of downstream activities such as grain refining, biofuels and other types of food processing. Collectively, Mckinsey estimates that the sector could be worth an additional $275 billion in revenue by 2030. We are therefore at a crucial point in time where we need to move beyond words to the actual implementation of our big dreams and plans to see transformative change in this sector.

Recently in Kenya, the government committed to investing Sh 2 billion in the next five years that will benefit young farmers and entrepreneurs in the agricultural sector. This outlay will allow them to access markets, enjoy the security of insurance, improve their access to modern agricultural technologies and increase value addition.

The significance of such government-led initiatives cannot be underestimated. Yet at the same time, we should bear in mind that the government would be hard pressed to drive a green evolution while working in isolation. The private sector will have to stand and be counted.

Our population today is dominated by the youth whose role in building our economy correlates with the optimal use of technology. Agriculture goes beyond working on the farm, planting seeds and harvesting when time is due. Today, agriculture exists in the realm of technology, more so on mobile platforms. The constituents of the agriculture value chain from the farmer to the consumer, play different significant roles all geared towards one main objective; a sustainable sector. Technology handily offers farmers access to information on the most efficient farm inputs, retailers receive information on where to purchase stock and consumers acquire information on what to buy and where to buy depending on their personalised preferences. With best practice in technology for farming, we can save on resources and ensure maximisation of outputs. Regrettably, a majority of the population still view agriculture primarily for subsistence farming. Though this is not ideal. But an opportunity duly presents itself and this is where all players can step in. Education and awareness will dispel this mentality from the minds of the population, opening their eyes to the great benefits that are made possible through the commercialisation of the sector.

We must play our role in helping the masses see agriculture as a source of job creation and most importantly wealth creation for individuals, the country and the African continent.

This mind renewal is our only hope in promoting the sustainable productivity and success of the agricultural sector, consequently offering dignity to the lives of the masses by elevating their quality of life.

The just-concluded African Green Revolution Forum which saw Heads of State and other dignitaries gather together to discuss their achievements and plans for the future, is a great example of how agriculture in Africa will establish our motherland as the next frontier for investments and take us a step further in achieving our dreams.

The writer is KCB Group CEO and MD

Digitisation of state services bearing fruit



Francis Meja

A move to digitise government payments, which started in April 2014, is bearing fruit at the National Transport and Safety Authority (NTSA). The process, which started with a directive that all payments to government be digitised, would later be concretised with the formation of a taskforce for Government Digital Payment (GDP).

The task force was handed a wide mandate that included consulting with all relevant stakeholders, including all ministries, departments and agencies which receive payments; cataloguing all government payment receipts; reviewing and where necessary, proposing updates to legal frameworks, developing functional requirements for the government payment gateway and undertaking pre-rollout planning and a pilot rollout. With support from the International Finance Corporation (IFC), the taskforce embarked on implementing a pilot portal as a proof of concept to demonstrate the anticipated end-to-end processing of digital payments and service provision within the government and hence the establishment of the www.ecitizen.go.ke portal. Perhaps the biggest departure of the system is what was achieved from the very outset— the establishment of a single sign-in process that registers users of the portal and authenticates them using the national ID database.

Also and as a complement, the users are validated through an e-mail to registered e-mail and SMS, where a code is sent to the user for entry into the portal for authentication of the phone number provided. The single sign-in system ensures that one cannot create an account with an already registered ID number, mobile phone number or e-mail address. The NTSA was lucky to have been designated as one of the agencies identified for the piloting of the GDP programme. The pilot started in July of the same year with three services: application and payment for provisional driving license, test booking and issuance of driving license once the applicant passes the test. Such has been the high level of adoption.99.9 per cent of NTSA services are online.

The e-citizen portal enables citizens to make payments in whichever electronic mode they prefer. Payment instruments include mobile money, internet banking, debit and credit cards.

Before digitisation, most payments to government were in form of cash, thus inconveniencing citizens who had to make payments only at designated payment points and times. Huge revenue leakages resulting from the cash-based system through printing of fake receipt books and other forms of fraud were observed. The taking out of human inferface in the payment system has greatly contributed to removing layers of bureaucracy, besides eliminating corruption.

Poor ICT systems with no linkage between payment and service delivery, was the other major challenge. The digitisation system helps clients in saving on time as initially candidates for driving licenses would queue and waste a lot of time at the Kenya Revenue Authority or NTSA offices to pay for a provisional driving license, make a test booking or pay for an interim license. The same applicant would have to wait for a minimum of six months for the driving license to be posted to them. Currently, they pay for and obtain the provisional license online through the e-citizen portal, book the test online at their convenience and on passing the test, leave the test centre with a driving license. Renewal of driving licenses previously meant queuing at National Bank of Kenya or at the Post Office. Today, it takes a citizen less than five minutes to renew a driver's license.

The dispatch of new drivers' licences was bedevilled by numerous challenges such as lost documents or inability to reach owners due to the limited postal infrastructure in place. To date, there has been a major increase in the accuracy of data held by the authority as well as a marked reduction in administrative as well as collection costs, among other benefits.

The uptake of the service since launch has been quite encouraging and consistent. Currently, the number of citizens registered with NTSA is over 2,489,941, with an average of 9,600 transactions per day. Even then, the rollout has not been devoid of challenges. The authority has been faced by lack of funds to carry out change management, sensitisation and capacity building among the relevant stakeholders. The other challenge has been the lack of adequate enforcement gadgets to validate documentation and help counter any fake documents out there.

The writer is NTSA Director General

Let's keep politics off funerals

Hezron Mogambi

A constant message from many people has been: keep politics out of funerals. This has been repeated by all and sundry and with good reason — funerals are solemn occasions to pay one's last respect to the dead.

The reality, however, has been different. Funerals have increasingly become ideal battlegrounds for political titans in Kenya. The pace at which this is happening is alarming to the extent that election fever has already gripped ordinary Kenyans.

As a modern-day campaign platform and strategy, politicians have mobilised key supporters in almost all areas of their voting constituency and even beyond to report on any deaths or impeding funerals.

In return, funeral committee members also contact such people to communicate to the politicians about such deaths and funerals. Of course, politicians contribute cash for the funeral arrangements for their own selfish political interests. It is such symbiotic relationship that has now brought funerals to the centre of Kenya's political scene.

Undoubtedly, funerals are now becoming a serious political platform. Many politicians attend funerals of people they do not even know and send condolences to families that they know not. In some instances, politicians get an opportunity to speak at funerals only to show ignorance about the deceased and family.

In Kenya, the use of funerals for political mileage gained currency and grew during the days when ordinary citizens and opposition leaders were denied avenues of expressing themselves freely.

Meetings which were organised by the then 'opposition' were broken up or cancelled at the eleventh hour on flimsy grounds. Then, politicians' only one option was funerals where the license could neither be cancelled nor denied.

It is in this light that the recent war of words between President Uhuru Kenyatta and Opposition leader Raila Odinga can be understood.

Ironically, the President, himself looking like he was responding to Raila's remarks on Ntimama's party loyalty, had earlier told the mourners that he would not talk politics during the funeral. However, in his concluding remarks, using the same funeral platform, he faulted Raila for delving into Jubilee affairs.

It is not lost on Kenyans that, earlier, Ntimama's family had asked politicians to steer clear of politics during the event as a show of respect for the fallen leader.

Even former minister Simeon Nyachae broke his silence on politics in Kisii since retiring nine years ago during the burial of his first wife, Estheri Nyaboke, in Nyosia village, Kisii, last month when he called on Kisii politicians to shun divisive politics and concentrate on the social and economic agenda of the community.

Just weeks ago, the clergy in western Kenya demanded that politics be banned at funerals after a senator insulted a governor at a funeral. National Assembly Majority Leader Aden Duale last year indicated he was to file a motion in Parliament to ban politicians from speaking at funerals. We are yet to hear anything on it.

The social implication of politics at funerals is plain to see. At time when people are mourning and consoling the bereaved, the last thing one wants to hear is politics. Or is it?

The writer is a lecturer at the University of Nairobi and Director, Southern Sahara Group

THE STANDARD

Heed envoys' call for political dialogue

For the umpteenth time, our trade and diplomatic partners, particularly European Union ambassadors to Kenya, have called for political dialogue ahead of the 2017 General Election. This concern for our welfare should sober the belligerents on both sides of the political divide. Leaders must step down from their high perches, stop trading insults in public and embrace dialogue as the only way forward in making Kenya a safe place.

A lot of investment and effort have been put into marketing Kenya as a safe place to set up business or simply visit. Such efforts should not be defeated by the lack of political consensus on how to manage and run the country for the benefit of all.

The political maturity of Kenyans is directly proportional to that of their leaders who, sadly, have exhibited high levels of intolerance. Often, such intoleras acted as a trigger to violence. The Eldoret t on Tuesday this week highlights such danger. Supporters of leaders who had been asked to record statements with the police on account of allegedly inflammatory utterances engaged the police in running battles.

Such incidents not only polarise the country, they give us a preview of what to expect if the country goes to the 2017 General Election without adequate structures in place to preclude discontent. It is important that the truce agreed upon by the Government and the Opposition leading to the formation of a joint select parliamentary committee to initiate electoral reforms bears fruit. Sobriety must prevail to allow for a logical conclusion without either party appearing to act as the stumbling block.

But because the onus of implementation of recommendations falls on the Government, it must go out of its way to ensure everything runs on schedule, thereby washing its hands of blame. The interests of the country must override any other concerns.

Discipline pupils mildly

The adage 'spare the rod and spoil the child' is not an idle one. It is laden with wisdom but sadly, policy makers at the Ministry of Education and society at large have chosen to ignore it in the quest to keep up wi odernity.

oral punishment was outlawed from schools wi d reason. There have been cases where overzealous teachers have caned students to death. Many students have been scarred from punishment that was not commensurate with the offence. Viewed in isolation, these cases form a good argument for banning punishment in schools.

The downside of the withdrawal of punishment has been a rise in indiscipline cases. Some students ignore school rules, fail to do homework and disrespect teachers fully aware nothing could be done to them. The result is raising a generation that has scant respect for rules and order.

Acts of indiscipline were recently witnessed in arson attacks in many schools last term. It is a proven fact that children behave well when faced with the prospects of retribution whenever they step out of line. Clearly, there is need for a review of the rules on punishment even as teachers are urged to appreciate that they are dealing with little children and any form of punishment should be minimal, serving only to correct and not to harm.

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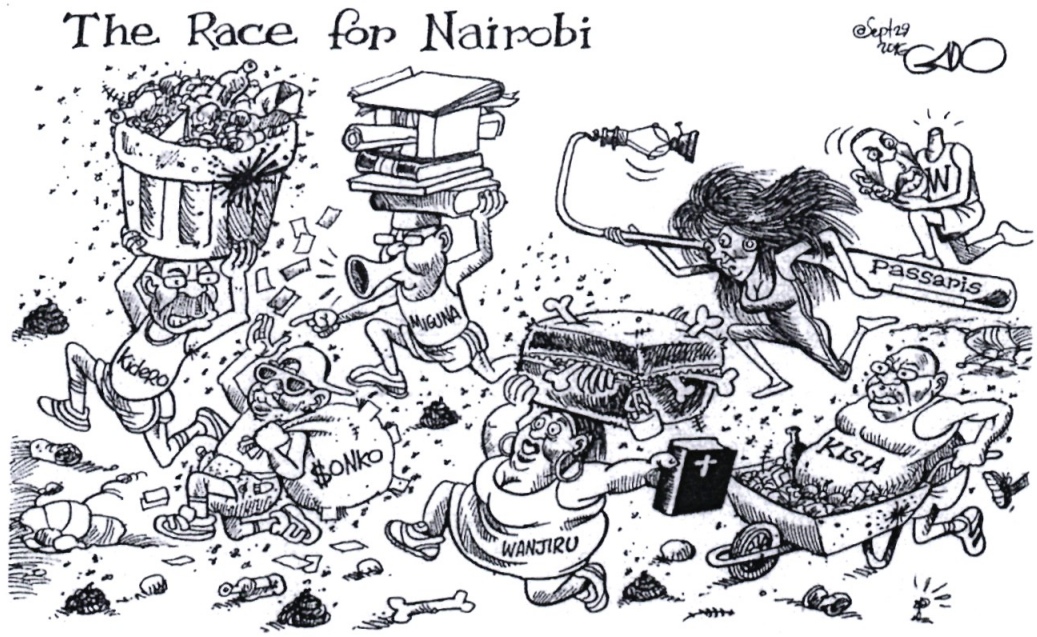

FRANCIS MEJA} EFFICIENCY

NTSA digital system bearing fruit

Efforts started in April 2014 to digitise Government payments are bearing results. The process, which started with a directive that all payments to Government be digitised, would later be concretised with the formation of a Task Force for Government Digital Payment (GDP).

The Task Force was handed a wide mandate that included consulting with all relevant stakeholders including all Government ministries, departments and agencies (MDAs) which receive payments; cataloguing all Government payment receipts; reviewing and where necessary, proposing updates to legal frameworks; developing functional requirements for the Government Payment Gateway, engaging partners to establish the Government Payment Gateway and finally, undertaking pre-roll-out planning and a pilot roll-out.

With support from the International Finance Corporation (IFC), the Task Force embarked on implementing a pilot portal as proof of concept to demonstrate the anticipated end-to-end processing of digital payments and service provision within the Government of Kenya and hence the establishment of the www.ecitizen.go.ke portal.

Perhaps the biggest departure of the system is the establishment of a single sign-in process that registers users of the portal and authenticates them using the National ID Database.

As a complement, the users are validated through e-mail to registered e-mail addresses and SMS, where a code is sent to the user for entry into the portal for authentication of the phone number provided. The single sign-in system ensures that one cannot create an account with an already registered ID number, Mobile phone number or e-mail address.

NTSA was designated one of the agencies for piloting the GDP programme. The pilot started in July 2014 with three services: application and payment for Provisional Driving License, Test Booking and issuance of Driving License once the applicant passes the test. Such has been the high level of adoption that currently, 99.9 per cent of NTSA services are online.



The uptake of the service since launch has been quite encouraging and consistent

The e-Citizen portal enables citizens to make payments through mobile money, internet banking, debit and credit cards. Before digitisation, most payments into Government were in form of cash, thus inconveniencing citizens who had to make payments only at designated payment points and times.

Huge revenue leakages resulting from the cash-based system through printing of fake receipt books and other forms of fraud were observed. The taking out of human interface in the payment system has greatly contributed to removing layers of bureaucracy, besides eliminating corruption.

Poor ICT systems with no linkage between payment and service delivery, was the other major challenge. The digitisation system helps clients in saving on time as initially, candidates for driving licences would queue and waste a lot of time at the Kenya Revenue Authority or NTSA offices to pay for a Provisional Driving Licence, make a test booking or pay for an interim licence. The same applicant would have to wait for a minimum of six months for the driving licence to be posted to them.

Currently, they pay for and obtain the provisional license online through the e-Citizen portal, book the test online at their convenience and on passing the test, leave the test centre with a driving licence. Renewal of driving licences previously meant queuing at National Bank of Kenya or at the Post Office. Today, it takes a citizen less than five minutes to renew a driver's license.

The dispatch of new drivers' licences was bedevilled by numerous challenges such as lost documents or inability to reach owners due to the limited postal infrastructure. To date, there has been a major increase in the accuracy of data held by the Authority as well as a marked reduction in administrative costs.

The uptake of the service since launch has been quite encouraging and consistent. Currently, the number of citizens registered with NTSA is over 2,489,941, with an average of 9,600 transactions per day.

This translates into material cost-cutting on accountable documents (Renewal slips, PDL, Test booking); elimination of parallel accountable documents and fraud; reduction in time taken to process applications as the service is available on 24/7 basis to the clients as well as helping in revenue tracking from payment to settlement of account. The authority has witnessed a steady progress in cash flow from inception of the piloting to the present.

Even then, the roll-out has not been devoid of challenges. The authority has been faced by lack of funds to carry out change management, sensitisation and capacity building among the relevant stakeholders to ensure that they are aware of the e-Citizen service delivery channel, its mechanics and advantages.

The other challenge has been the lack of adequate enforcement gadgets to validate documentation and help counter any fake documents out there.

Finally, the implementation of digital payments for government services has helped in the Government's goal of attaining a cashless economy with the aim of reducing costs; improving service delivery to citizens; increasing efficiency in revenue collection; improving the accounting and audit procedures to ensure a proper tracking of the cash flow, hence combating corruption.

Mr Meja is the Director General, NTSA

OPINION

SUNDAY HARDBALL

Our Constitution needs ample space to mature



Kamotho Waiganjo
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New laws can work, even against the incumbent, if we just give it space

This week the High Court made two major rulings that significantly reduce presidential discretion in the exercise of executive power vis-a-vis the Judiciary. In one case, the court declared that the President had no power to review the persons nominated as judges by the Judicial Service Commission (JSC). He was obliged to appoint those nominated, and without delay.

In the other, Section 30(3) of the Judicial Services Act was declared unconstitutional. These decisions raise interesting jurisprudential questions on the true content of the constitutional powers of the President as appointor of State officers. For those unfamiliar with the latter matter, Article 166 of the Constitution provides that the Chief Justice and Deputy Chief Justice shall be appointed by the President "in accordance with the recommendation of the Judicial Service Commission...".

Consequently, the Judicial Services Act was enacted in 2011 giving the JSC powers to recommend one name each to the President for these positions. In 2015, the National Assembly amended Section 30 requiring that instead of one name, three names would be submitted to the President for each of the two positions, for him to appoint one. There was hue and cry from the opposition CORD and significant portions of civil society. In the views of those opposed to the changes, the amendments converted the President from a mere ceremonial role of crowning the JSC nominated candidate, to a substantive appointment role, contrary to the intentions of the Constitution.

In their view, this amounted to Executive encroachment on the independence of the Judiciary. Those supportive of the amendments argued that the Constitution had foreseen a role for the President, which was not merely ceremonial. In their mind, the amendment was balancing between the JSC's selection role and the President's appointive role. In their view, as long as the person appointed emanated from the JSC three, there was no interference with the JSC's substantive mandate. On the face of it, this issue appears to be academic but once it is considered in its wider context, it raises fundamental issues. Prior to the enactment of the Constitution, the Judiciary had become and extension of the Executive, the President having the powers to hire and fire judges including the Chief Justice. One of the major reform pillars was the need to unshackle the Judiciary from the Executive.

Consequently, any action that appears to even give a hint of Executive overreach in relation to the Judiciary sends legitimate panic and is viewed with utmost suspicion. Such suspicion is enhanced when the amendments come at a time when both the Office of the CJ and deputy will be vacant soon. Once one further recognises that the Supreme Court, where the two preside, has the sole jurisdiction on the ultimate political question in Kenya, the presidential petition, the matter moves from an academic plane. Purely as a legal point, I believe that Section 30(3) was not unconstitutional and so I disagree with the findings of the court. But taking into account the political and social context in which these amendments were made, they were fundamentally unwise. It must be remembered that in the context of the JSC, the incumbent already has a hand in the pie, with three members in the JSC being his appointees, if one counts the Attorney General.

The incumbent must therefore never be seen to be trying to get a further hand into the pot, however, good intentioned he may be. Furthermore, in the context of an election, the incumbent already has the instrumentalities of the State acting in his favour; appearing to tilt the deck further in his favour just creates unnecessary suspicion. Even though I know there will be an appeal and the courts may yet reverse this week's decisions, my view is that the Section 30 amendment was in any event ill-advised and would serve the country better if just repealed. As a parting shot, I hope that these rulings send a message to those pursuing unconstitutional means to achieve their purposes that the Constitution can work, even against the incumbent, if we just give it the space. Unless it's the only option available, and I posit that it is not, move off the streets and allow our young Constitution space to mature.

The writer is an advocate of the High Court of Kenya

Cleaner transport systems will reduce deaths



Francis Meja

On the lips of many Kenyans today is talk about respiratory track illnesses. The irony of it all is that there is a fair body of knowledge of the causes of such illnesses but little is being done to nip the cancerous ailments in the bud.

Cancer of the lung is one of the most talked about type of cancer. One of the causes of lung cancer, asthma, allergies, chronic bronchitis and even pneumonia, is toxic air pollution; some of the pollution associated with exposure to vehicle emissions. The end result of these is premature deaths among people and animals.

The transport sector remains the main source of urban air pollution in many developing countries and in countries with economies under transition.

In Nairobi, for instance, vehicular emissions are estimated to contribute close to 40 per cent of urban air pollution. The economic loss arising from vehicle emission-related illnesses and deaths is estimated at Sh115 billion per year (University of Nairobi, 2012). The figure could be higher. With the knowledge that deaths resulting from such pollutions can be prevented, the big question remains how?

One of the ways out of this fatal problem is reducing transport emissions by introducing low sulphur fuels, adopting cleaner and efficient vehicle technologies and implementing vehicle emissions standards that would ultimately improve air quality and health.

Introducing soot-free buses in cities would help reduce cases of diseases caused by the black smoke from these vehicles.

Kenya National Transport and Safety Authority (NTSA), in exercising its mandate to register and license public service vehicles, as well as emissions testing, could work with like-minded organisations to reduce the number of deaths resulting from such toxic vehicle emissions, especially in the highly informal public transport sector.

NTSA is responsible for implementing policies on road transport and safety, including regulating the public transportation sector. A lot of these emissions come from public transport vehicles because of the informal nature in which the sector is run. There are many national and international organisations dedicated to tackling air pollution.

The United Nations Environmental Program (UNEP) is one such organisation, with a stated resolve to "...strengthen the ability of countries to move towards climate-resilient and low emission pathways for sustainable development and human well-being". UNEP has made this commitment as an expected accomplishment in its 2016-2017 climate change sub programme.

The other one is Climate and Clean Air Coalition (CCAC), a global partnership that brings together governments, civil society and private sector bodies committed to improving air quality and protecting the climate in the next few decades by reducing short-lived climate pollutants across sectors.

CCAC has rolled out an initiative to "reduce black carbon emissions from heavy duty diesel vehicles and engines".

Already, Nairobi and Accra, Ghana, have been identified by CCAC as project sites to achieve this goal. Nairobi has even adopted low sulphur fuel standards that could support cleaner bus technologies. This is a move in the right direction.

Nairobi can, therefore, be supported to commit to procuring cleaner buses as part of a wider strategy to promote a safe, reliable and efficient public transport system for the city.

This can be done by supporting a multi-agency task team, which would then review and update the country's bus standards and propose an implementation roadmap to cleaner buses.

The team should work to know the role and importance of the informal sector in public transport, and the advantages of its transformation. It should then develop and implement minibus sector organisational and transformation techniques, share knowledge and experiences in the transformation of the informal sector, discuss and make recommendations on the introduction of cleaner buses and issues related to their supply and demand in the African market. The team should be able to identify technical experts to develop cleaner bus specifications, conduct a thorough review of the relevant fuel and bus standards and draft cleaner bus specifications.

Finally, stakeholders can then be presented with the draft cleaner bus standards, policy options and implementation roadmap.

NTSA has a chance to reduce the unnecessary deaths and save the country money for other developmental projects.

> "The transport sector remains the main source of urban air pollution in many developing countries and in those with their economies under transition

The writer is director general of the National Transport and Safety Authority

GREEN MONEY

Like in Pakistan, let's raise stakes in key markets



Isaac Kalua
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Ortum in West Pokot produces about 2,000 tonnes of onion annually making it one of the onion powerhouses in Kenya. This puts its potential at par with Pakistan, another onion producing conflict-prone region.

Pakistan is among the top five onion producers in the world. Last year, Pakistan produced a record onion yield that resulted in an onion export worth at least Sh22.1 billion.

This onion revenue was almost twice the Sh14.9 billion set aside in last year's budget towards rural electrification. The fact that Pakistan's 2015 onion revenue can fund nearly two years of Kenya's rural electrification programme further vindicates the utter potential of agriculture in enhancing livelihoods and powering a country's economy.

It is, however, critical for the farmers of Ortum in West Pokot to similarly sell their onions on the global market. Currently, what mostly happens is that middlemen descend into their farms to buy onions at throwaway prices. Consequently, the farmers mostly farm to survive, not to prosper. This model of farming and selling farm produce is simply unsustainable and must be changed.

West Pokot together with other agriculturally rich counties need to embrace Sustainable Agriculture and Rural Development (SARD). Currently our farmers are mostly left to their own farming devices and challenges. SARD seeks to increase food production in a sustainable way and enhance food security. According to a UNEP report, this involves education initiatives, utilisation of economic incentives and the development of appropriate and new technologies. If West Pokot farmers and County Government embraced this three-pronged approach, the County and Country at large would experience stable supplies of nutritionally adequate food, access to those supplies by vulnerable groups, and production for markets.

This latter aspect is the dividing line between onion farming that leads to prosperity and that leading to bare survival. It's about farm produce accessing reliable and competitive markets. The litmus test lies in the answer to this question – do farmers in West Pokot know a foreign market where they can sell their onions and what it would take to export the onions? Such knowledge should be available to the farmers as it would minimise a reliance on local and foreign middlemen.

Accessibility to foreign markets is preceded by knowledge of these foreign markets. In this regard, such knowledge is just as important as the manure, water, land and labour without which there can be no farm produce. But because knowledge of these relevant global markets and means of utilising it is often treated as an exclusive domain for a chosen few, farmers often end up surviving and not prospering despite their diligence and ensuing bumper harvests. If Pakistan's farmers can earn at least Sh22.1 billion from their onions, then surely onion farmers in West Pokot and across Kenya should claim their stake in the lucrative global market.

Think green, act green!

The writer is the founder and chairperson, Green Africa Foundation and runs a blog on conservation—www.isaackalua.com

SUZANNE GARMENT}

OBAMA SUCCESSION

Hillary Clinton's problems aren't just politics

In Las Vegas a few days ago, former Secretary of State Hillary Clinton seemed to almost crack. Correspondent Ed Henry - yes, representing Mrs Clinton nemesis FOX News, but still a journalist with undoubted chops - asked her: "Did you try to wipe the entire server?" Mrs Clinton answered, in this order: a) "I have no idea." b) "What? Like with a cloth or something?" and c) "I don't know how it works digitally at all." As she left the room. she delivered a final riposte to the assembled press: "Nobody talks to me about it other than you guys."

Nobody? In a week when the State Department told a court that 305 emails from her private [illegible] were being reviewed for security breaches? How did Hillary Clinton, the better half of a couple that has batted away this kind of scandal for a quarter-century, start sounding like a cornered Richard Nixon in a pink pantsuit?

Actually, the answer has a lot to do with Mr Nixon.

Let's be clear up front: We are not by any stretch talking Watergate here. But Mrs Clinton's email scandal - like many modern political scandals - is being given Watergate-like treatment. The scandal is now being fueled not just by journalists with fitful attention spans or congressional committees rabid with partisanship, but by the formidable investigative apparatus that Mr Nixon and Watergate left behind as their gifts to the American political system. A lot of physical and digital ink has already been spilled over Mrs Clinton's emails, so let's be brief. On the first day of Mrs Clinton's Senate confirmation hearings, an aide began setting up the private email account and server that she used instead of State Department email to do her public and private business throughout her tenure in office.

This spring, the State Department - spurred by Trey Gowdy head of the House committee investigating Benghazi - asked former secretaries of state for any emails they had on private servers. Clinton decided which emails to turn over and which ones to withhold and erase. Things might have ended there, sputtering and inconclusive. But the Republican chairmen of the Senate intelligence and foreign relations committees asked the inspectors general of the State Department and the intelligence community to investigate whether any classified information had been kept on private email servers.

Federal inspectors general have existed for a long time, but their offices were greatly strengthened after Watergate. In 1978, legislation established new inspectors general for the different intelligence agencies. These officials multiplied past the point of redundancy. In 2010, some of their functions were consolidated in a new office of the Inspector General of the Intelligence Community.

The first occupant of the office, former FBI agent Charles McCullough, examined Clinton email messages that the Benghazi committee had extracted from the State Department and said he had found classified information in them. McCullough tried to get wider access to the Clinton emails in State Department custody. But the department's undersecretary for management resisted, and the Clinton campaign claimed that the emails he cited hadn't been classified at the time they were sent.

> It no longer seems prudent to put her survival chances at more than 50-50

The State Department, however, also has an inspector general. The nominees used to be appointed by the secretary. But 1980 legislation made them presidential appointees confirmed by the Senate - that is, far more independent. During Clinton's tenure at the State Department, a non-Senate-confirmed acting inspector general held the office. But in 2013, the Senate confirmed former federal prosecutor Steve Linick for the post.

Linick announced that the emails McCullough cited had in fact contained classified information at the time they were sent, though they may have not been marked as such. He also invited McCullough to share the investigation. At the end of July, a joint statement by the two inspectors general sought the intervention of the FBI, to which Clinton has now, finally, handed over her private email server.

Clinton's lawyer says the data on the server was erased by the time it was handed over. The consensus among forensics experts seems to be that much of the information can be recovered. Political people who have commented on the controversy point out that it is the result of the overclassification of government information. They say it also shows a failure by the intelligence community to admit that the dividing line between classified and unclassified information is murky and is breached all the time.

I sympathise. It has been many years since I worked for the State Department - as special assistant to Senator Daniel Patrick Moynihan, when he was U.S. ambassador to the United Nations - but the debate hasn't changed much. Even then, before Watergate made the federal investigative apparatus so much stronger, you bought yourself a world of trouble if you didn't show the proper respect toward the bureaucratic system and the people who administer it. The first time I ran up against the State Department's classification system, the problem involved a burn bag - literally, in those days, a bag in which the day's classified cables were deposited - and the fact that I hadn't properly disposed of it. Since this was my first offense, the penalty was that I had to write an explanation of exactly what had happened and how I was going to keep it from happening again - ever.

Clinton may survive. But it no longer seems prudent to put her chances at more than 50-50.

Reuters: ((Ms Garment, a lawyer, is the author of "Scandal: The Culture of Mistrust in American Politics.")

FRANCIS MEJA}

Traffic offences: A case for instant fines

[illegible]ng a recent surprise visit to the Milimani Law Courts, Chief Justice Willy Mutunga unearthed a massive corruption scam in the Traffic Court where unscrupulous officials mint millions of shillings from traffic offenders.

The impromptu investigation revealed that in cases involving minor traffic offences there were numerous instances of bribery, parallel receipting for fines, case backlogs and delays in the court process. This has resulted in the Government constantly losing out on revenue that rightfully belongs to it.

In order to put this into perspective, an analysis of the Traffic Act has to be done. The Act creates various traffic offences and applicable penalties. However, it does not provide for fixed or statutory fines. Needless to say, it provides a maximum amount and thus the applicable fine is left to the particular magistrate's discretion.

As a result of the discretion, the amount of fines or penalties payable vary from one incident to the next, leading to uncertainty and development of perceptions among the public of unfairness and "elasticity" of justice.

> A litany of inconveniences, is a major motivation for the quest for quick-fix solutions such as offering a bribe to avoid arrest

Further, due to the high frequency of minor traffic offences, courts expend a lot of time and resources prosecuting minor offences. Similarly, a lot of time is also wasted by offenders and the police who have to appear before court. It is not uncommon for an offender to spend an entire morning at the law courts only to be slapped with a fine of just Sh500 for a minor offence.

The end result is the wastage of valuable man hours for all parties involved which could be better deployed in more productive national development endeavours. The other major inconvenience to offenders is the public stigma and public embarrassment attached to a court appearance for a minor offence.

This and a litany of other inconveniences, is a major motivation for the quest for quick-fix solutions such as offering a bribe to avoid arrest and the subsequent court process.

The collection and administration of fines is another area which raises concerns. The process is entirely manual which leads to revenue leakage through the existence of parallel receipting among others.

The National Transport and Safety Authority (NTSA), has stridently and consistently advocated for amendments to the Traffic Act to provide for an instant fine system, a view that is shared by the Judiciary and National Police. However, we are cognizant that such amendments shall take a considerable amount of time as they have to go through a potentially long-drawn legislative process. This notwithstanding, the amendment of the Traffic Act to incorporate instant fines is a long term solution to the problem which the NTSA is actively pursuing.

As an interim measure which can be achieved in the short term, the NTSA is in the process of amending Section 117 of the Traffic Act, which empowers the Cabinet Secretary to prepare a schedule of minor traffic offences and prescribe a statutory penalty. Simply put, this means that the Cabinet Secretary shall list the common minor offences in a schedule and the corresponding fixed fine provided that such fine does not exceed what the Traffic Act prescribes as the maximum amount.

To operationalise the use of the schedule of minor offences, the NTSA is in the process of amending the police notification of traffic offence form to provide for the payment of fines for those who plead guilty through the current payment technologies such as mobile or electronic payment systems.

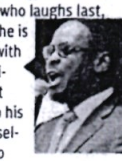
Further, the NTSA is in consultation with the Judiciary and the police to provide for a fixed amount for bail that corresponds to the statutory penalty in the schedule in order to provide for an instant bail payment system for those who deny the charges.

This process would be convenient, cost-efficient and transparent for all the parties involved which will materially dis-incentivise corruption. It is also easy to automate, which will spawn greater revenue assurance.

Mr Meja is Director-General, National Transport and Safety Authority (NTSA)

Palaver

The Kidero grass is turning out to be a real cash cow for the Nairobi County Government! The governor is exacting his revenge for all the nasty things Nairobians said when he was planting the grass. As the saying goes; he who laughs last, laughs loudest, he is beside himself with mirth as Nairobians stepping out of turn and onto his grass find themselves compelled to part with Sh500 fine. That might recoup the cost of planting the grass; very clever.



Money makes people do weird things; too much of it or lack of it. An old male teacher was photographed doing back flips with the agility of a 10-year-old after the Supreme Court upheld their salary increment. At any other time, he would have sworn it would break his back. Then there was this nurse doing press-ups in front of a policeman while striking for better pay. She is lucky the policeman was not in a foul mood; two lashes to the exposed back and, vrooom!

What really goes on in the minds of soccer hooligans when they take to the streets and stone motorists going about their business? Imagine someone investing millions in an expensive vehicle only for those criminals to smash the windscreen. Are the louts expressing bitterness with those who own vehicles in society? What is their beef with helpless motorists?

Government, be warned that the salary award to teachers is not an excuse for you taking Kenyans to the cleaners through increased taxation! Kenyans cannot take it because they are already the most highly taxed people on earth. Going by the amount of money individuals misappropriate and walk away scot free, there is enough to pay teachers and still have a surplus. What development is the Government willing to cut down on? Give us a break. Palaver wants all leakages sealed.



They wanted to thump their noses at the Constitution by changing laws to introduce those that massage their egos; our MPs. A few of the legislators with their conscience intact tactfully absented themselves to avoid taking a vote. In the end, the move by Ugenya MP David Ochieng came a cropper. Kudos to all the MPs who did not participate in the voting. Those that supported the motion know what citizens think of them; Palaver doesn't have to spell it out!

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OPINION

HUMANITY



Francis Meja

NTSA safety measures reducing road death toll

Born out of the disjointed manner in which Kenya's road sub-sector was previously being managed, the National Transport Safety Authority (NTSA) was faced from the very outset with an intractable challenge: that of turning around the country's depressing road safety statistics.

Some 3,000 Kenyans, most of them belonging to the most productive age group, lose their lives to road accidents every year. About Kenyans end up being par- r permanently paralysed annually as a result of road accidents, greatly diminishing their contribution to society.

Most importantly, and this is a fact often lost in the sterility of statistics, road accidents are a severe drain on the economy. Available statistics estimate the cost of accidents to the economy at a significant five per cent of the GDP (Gross Domestic Product), which translates into a staggering Sh14 billion.

This locus is way above the annual cost of road traffic accidents to Kenya's peerage, other Third World economies, in which the quantum oscillates between one and two per cent of the GDP. Kenya's road accident statistics is thus a grim national tragedy which cannot and should not be allowed to fester.

Of course, the previous manner in which road transport was previously handled hardly helped matters. With a multiplicity of departments and organisations within Government responsible for various roles, there was hardly any clarity.

The NTSA came into being with a clear role book that included vehicle registration, driver testing and licensing, vehicle licensing, vehicle inspection, road safety education and carrying out periodic road safety audits. Other functions of the authority include data collection and preparation of reports on road accidents, formulation and revision of curriculum for driver testing and coordination of organisations that are active in the road safety space.

A few months since its formation, the NTSA has already initiated a number of interventions to reverse the visage of death that had almost become an acceptable part of our roads. These include development of regulations for PSVs (Passenger Service Vehicles); and motorcycle operators (boda bodas and tuk tuks). It has also come up with clear rules for driving schools and instructors with the end-game being the professionalisation of their operations.

Also targeted with new regulations were tourist service vehicles and commercial vehicles. The re-introduction of the breathalyzer and its strict enforcement in major cities and towns by the NTSA has greatly raised awareness about the scourge of drunken driving in Kenya.

The highly visible Safety First campaign by the NTSA, rolled out in collaboration with the Police, Judiciary and Prisons Department has firmly put road safety on the radar of national discourse, where it ought to be.

The most immediate result of this heightened collaboration has been the introduction of mobile courts, which have spawned instant punishment for offenders and increased efficiency in the administration of justice. True, there have been concerns from certain leaders and businesspeople about the fines meted out on offenders, with some saying they are injurious to enterprise, but the NTSA is convinced that on matter of safety, touching on lives, there can be no compromise. Every motorist must obey the law. Those who do this need not worry.

A campaign to get Kenyans to use footbridges, where they have been provided, will hopefully reduce the unacceptably high number of pedestrian fatalities on Kenyan roads, which currently stands at 46 per cent of the total toll. Some 30 traffic marshals have been tasked to ensure compliance in Nairobi, where some 100 pedestrians lost their lives in the first six months of the year alone to road accidents. Equally significant, in this regard is the ongoing rehabilitation of 15 footbridges in Nairobi, out of the realization that even in certain instances where this critical infrastructure exists, it is not in a usable state.

The NTSA is also aggressively implementing speed limits, especially within major highways and urban areas. The authority has deployed its officers to all the country's major highways and equipped them with speed cameras to ensure compliance.

Already, the results of some of these measures are beginning to come through, vindicating the NTSA, and most importantly, saving lives. Latest road fatality statistics indicate a 12.7 per cent reduction in the number of deaths during the period January to August 2014, compared to a corresponding period last year. The national toll was at 1,883, against 2,158 for the same period in 2013.

Other achievements include increased awareness among the public about road safety. Evidence of behavior change is also starting to be felt.

Even then, a lot remains to be done if victory in this war against road carnage is to be realised.

The writer is the Director-General, NTSA

ETHICS

Scheme to harness youth potential must be above board



Edwin Sifuna

edwinsifuna@gmail.com

In the wake of the shooting of teenager Michael Brown in the US city of Ferguson Missouri, the spotlight was cast on the police response to the protests that followed. The police response was largely seen as excessive with many opining that this was a direct result of the militarisation of the local police.

Over the past few years the local police in Fergusson had become beneficiaries of a programme to distribute disused or excess military equipment, including tanks and other high tech weapons to police departments.

The result was local police, with hardly any threat on a level warranting the sophistication of the equipment in their possession, naturally became over emboldened and overzealous. It was a classic case of a big stick in a small boy's hands.

We have of late been treated to a barrage of media advertisements on the new, rebranded, re-kitted National Youth Service. Forgetting the entire hullabaloo about how "cool" re-energised and patriotic the service has now become, we must ask the pertinent questions. For starters, it is not obvious to an observer at a distance that the NYS needed a costly image reboot.

According to the Cabinet Secretary for Devolution Anne Waiguru under whose docket the Service falls, NYS is to employ about 20,000 youth each year ostensibly to curb radicalisation of jobless youth by vigilante groups. In the Kenyan political context, 'vigilante groups' is a polarised term. The notoriety of such groups is well documented. There have been well organised and coordinated groups in and around central and coastal Kenya that have even been described as pseudo governments complete with tax regimes. And they don't stop at that, there have been reports of such groups simulating organised armed forces by among other things administering oaths of allegiance to members, having uniforms, flags and carrying out drills akin to military forces.

One hopes it is not these types that the revamped NYS is now dressing up in military style uniforms and training in formal military drills. While we are familiar with the oath of allegiance to the country being administered to them as it has been relentlessly played on radio, it would be naive to ignore the potential of the deployment of such a force of young people for political purposes by a government in power. The pictures we saw from Uhuru Park on Saba Saba spoke for themselves. This especially so if the recruits come from one region.

There is also the real danger of the "Ferguson Effect" on the young minds being admitted into the NYS who are being led to believe that they are part of the security forces of the country whose purpose is to defend the state.

This is the reason why I would suggest a relook at the principles behind the NYS. If indeed the true objective of the service is to provide an avenue to shape our young people into servants of the nation and dissuade them from straying then the net must be cast across the breath of the nation. If indeed it is to provide opportunity for young people then the service is a national resource which like all resources is subject to constitutional principles that require equity in its utilisation, so as to benefit all members of our society.

Moving forward, these questions must therefore be asked: What are the numbers recruited to NYS in each county and are they proportionate to population? What provision has been made in terms of quotas for marginalised areas? Are we using a national resource for the benefit of all or just to resolve problems known to exist in just one or two regions? To what end?

Equality under Article 27 of the Constitution includes the right to equal opportunities in all economic cultural and social spheres. It may be difficult to achieve equality in institutions that have been around but going forward and especially in new ones like the new NYS we should demonstrably inculcate this principle.

The writer is an advocate of the High Court of Kenya



Machel Waikenda

Twitter @MachelWaikenda

Rebranded NYS should be used to step up job creation

American hip hop star Talib Kweli once said: "There's a lot of activism that doesn't deal with empowerment, and you have to empower yourself in order to be relevant to any type of struggle."

Kenya is facing one of the greatest struggles of all times, putting the security and future of the country at risk. You go around the country and realise that young people have resorted to negative vices like alcoholism, radicalism and petty crime because they lack sustainable employment. If this trend continues, there will be a lost generation steeped in vice.

Last week, President Uhuru Kenyatta launched a rebranded National Youth Service now operating under the mantra "True to self; True to Country" aimed at having more young people gain skills and knowledge that not only helps them grow personally, but the country also develop.

One of the goals of the new NYS is to treble the enrolment in the next two intakes as it transforms itself in to a 'social change army'. The plan is to ensure that NYS, which has been mismanaged over the years, accommodates more recruits and enhances their training.

Nothing is more laudable than the plan to increase the NYS recruitment from the current 2,500 youths per year to 21,780. And to add on to this, these 21,780 graduates will train a total of 227,670 youths in different skills across the 47 counties per year in a period of between four to six months. In short, if NYS can reach 227,670 people in one year, the intention is to create the one million youth march in four years. This is a social transformation force, armed with skills and charged with the responsibility of transforming the other youths.

The new NYS does not stop there are as once trained, the youths will be linked up to the Self Employment Programme Unit (SEPU) for start-up loans with Sh1 billion set aside for this. Life skills are also important and the trainees will have to make mandatory savings with additional tops up by SEPU.

The trained youths will be engaged in development projects across the country. There are plans to have the new recruits build 1,100 dams and water pans each year as well as get involved in mechanised and manual road construction at county level.

It is, therefore, discouraging to see some elected leaders oppose these programmes under the pretext that they have not been involved and consulted. While leaders have a role to play in their community, this must not stop the government from initiating programmes that directly benefit the youth.

Some of the NYS recruits will also be sent to the counties where they will be involved in revenue collection. Earlier this year in Uasin Gishu, NYS collected revenue for the county and increased the collection from Sh500,000 to Sh2.7 million in two weeks.

The plan to have the NYS take over traffic control in selected parts of the country and provide security for slum areas and in non-strategic government installations is a welcome development. This will leave other security agencies such as the police to concentrate on dealing with insecurity.

NYS will also have a security firm where Kenyans can hire NYS guards to protect them making them the alternative to militia groups and vigilantes. This is one of the many ways that we can deal with unemployment and have a community that is economically empowered.

And so just like we dedicate a lot of resources to handling other issues such as insecurity, Kenya must make a deliberate attempt to make NYS one of the ways to dealing with unemployment.

The last population census showed that 78 per cent of Kenya's population was younger than 35 years with over 70 per cent of this people currently unemployed. Research shows that there are about 800,000 young people getting into the job market each year with only a fraction getting jobs. The danger of having a large non-working population is that the country may experience rising crime. The new NYS initiative can be one of those deliberate measures that will boost job creation.

The writer is a political and communications consultant

Annexure II

Memoranda contesting the Nomination for Appointment

Departmental Committee on Labour Approval Hearing of Mr. Francis Meja, Nominee for Appointment as the Chairperson of the Public Service Commission (PSC)

Youth Education & Internship Society
www.internshipsociety.co.ke

YOUTH EDUCATION INTERNSHIP SOCIETY
P.O. Box 577
Nairobi, Kenya
Tel: 0716577844
Email: info@internshipsociety.co.ke
Date: 28 Jan 2026

① CNA Advise/deal SNA 3/2/25

REPUBLIC OF KENYA

PARLIAMENT OF KENYA

NATIONAL ASSEMBLY

② D/DCS For attention of the relevant Committee to consider during vetting of the nominee. & pls acknowledge receipt.

NATIONAL ASSEMBLY
RECEIVED
29 JAN 2026
SPEAKER'S OFFICE
P. O. Box 41842, NAIROBI.

CNA 9/2/26

TO
The Honorable Speaker
National Assembly of the Republic of Kenya
Parliament Buildings
Nairobi, Kenya

THROUGH:
The Clerk of the National Assembly

OFFICIAL PUBLIC PETITION

(Made under Article 119 of the Constitution of Kenya, 2010 and Standing Order 225)

A. PETITIONER DETAILS

(3) Adan Gindicha PCA I-HOD pls deal 10/1/26

Name of Petitioner:
Youth Education Internship Society

Nature of Petitioner:
The Youth Education Internship Society, a duly registered youth-led civic organization advocating for constitutionalism, equity, integrity, and fair access to public service opportunities, **DRAW THE ATTENTION OF PARLIAMENT** to the following:

B. RESPONDENT

(4) Ms. Hellen Ekadeli Please note CNA Comments. 10/02/2026

The Parliament of the Republic of Kenya
Through the National Assembly

C. CONSTITUTIONAL AND LEGAL BASIS

This Petition is brought pursuant to Articles 1, 2, 10, 22, 73, 119, 232, 233, 248, 258, and 260 of the Constitution of Kenya, 2010.

DIRECTORATE OF DEPARTMENTAL COMMITTEES
RECEIVED
10 FEB 2026

NATIONAL ASSEMBLY
RECEIVED
03 FEB 2026
CLERK'S OFFICE
P.O. Box 41842, NAIROBI

D. SUBJECT MATTER OF THE PETITION

The proposed appointment of Mr. Francis Meja as Chairperson of the Public Service Commission (PSC).

E. STATEMENT OF FACTS

1. The Constitution establishes the Public Service Commission as an independent constitutional commission under Article 233.

2. Article 233(3)(d) expressly provides that a person shall not be eligible for appointment as a member or chairperson of the Public Service Commission if that person is a State officer or has served as one within the preceding five (5) years.

3. Article 260 of the Constitution defines a State officer to include members of constitutional commissions, including the Public Service Commission.

4. Mr. Francis Meja is a serving member of the Public Service Commission, and therefore a State officer within the meaning of Article 260.

5. The proposed appointment of Mr. Francis Meja as Chairperson of the Public Service Commission therefore directly contravenes Article 233(3)(d) of the Constitution.

6. Article 248(2) reinforces the independence of constitutional commissions and requires appointments to strictly adhere to constitutional safeguards to preserve institutional integrity.

7. Article 232 mandates fair competition, merit, transparency, and equal opportunity in public service employment—principles overseen by the Public Service Commission.

F. CONSTITUTIONAL VIOLATIONS AND LEGAL ARGUMENTS

1. Violation of the Supremacy of the Constitution
Under Article 2(1), any appointment inconsistent with the Constitution is null and void.

2. Breach of Leadership and Integrity Principles
Article 73 requires leadership to be grounded in integrity, objectivity, accountability, and respect for the rule of law.

3. Relevant Case Law

a) Speaker of the Senate & Another v Attorney General & 4 Others [2013] eKLR
The Supreme Court held that all State organs are bound by the Constitution and must act strictly within its limits, regardless of convenience or political considerations.

b) Trusted Society of Human Rights Alliance v Attorney General & 2 Others [2012] eKLR

The High Court emphasized that constitutional and statutory qualifications for public office are mandatory and not discretionary, and any appointment made in violation thereof is invalid.

c) Okiya Omtatah Okoiti v Public Service Commission & Another [2018] eKLR
The Court reaffirmed that the PSC must operate strictly within constitutional confines, and that failure to comply with constitutional appointment criteria undermines public confidence and institutional legitimacy.

4. PSC and Public Appointments Precedent

Parliamentary practice and PSC advisory opinions have consistently emphasized that self-succession or elevation of serving commissioners into constitutionally restricted positions undermines transparency, competitiveness, and public trust.

G. PUBLIC INTEREST CONCERNS

- Allowing an unconstitutional appointment sets a dangerous precedent that weakens constitutional safeguards.
- It undermines public confidence in the independence and credibility of the Public Service Commission.
- It threatens the PSC's ability to fairly and impartially oversee equal employment opportunities, particularly for youth and marginalized groups.

H. PRAYERS

The Petitioner respectfully prays that the National Assembly:

1. Rejects the appointment of Mr. Francis Meja as Chairperson of the Public Service Commission for being unconstitutional;
2. Affirms and enforces Articles 233(3)(d), 248, and 260 in all PSC appointments;
3. Upholds the supremacy of the Constitution under Article 2; and
4. Communicates the decision and action taken to the Petitioner and the public.

I. DECLARATION

The Petitioner confirms that this matter is not pending before any court of law or constitutional tribunal.

Youth Education & Internship Society
www.internshipsociety.co.ke

DATED at Nairobi this 28 day of January 2026.

For and on behalf of
YOUTH EDUCATION INTERNSHIP SOCIETY

DANIEL NYABUTI
Executive Director
Youth Education and Internship Society (YEIS)
Telephone: 0722538998
Email: md@internshipsociety.co.ke
MARCELLINO LERIANO
Secretary General
Telephone: 0790497908
Email: mcleriano@gmail.com

;

Our partners

NATIONAL YOUTH COUNCIL KENYA
Amplifying the Youth Voice

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

Adan Gindicha
to prepare a legal opinion for the DC PDC on Labour and report by 10/2/26
10/2/26

The Clerk

The National Assembly of Kenya.

Parliament Building,

Parliament Road,

P.O. Box

Nairobi

9th February, 2026.

NATIONAL ASSEMBLY
RECEIVED
09 FEB 2026
CLERK'S OFFICE
P.O. Box 41842, NAIROBI

DIRECTORATE OF DEPARTMENTAL COMMITTEES
RECEIVED
10 FEB 2026

MEMORANDUM TO THE SPEAKER OF THE NATIONAL ASSEMBLY TO PETITION AGAINST THE UNCONSTITUIONAL NOMINATION OF MR. FRANCIS MEJA AS THE CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION OF KENYA (PSC).

NATIONAL ASSEMBLY RECEIVED 09 FEB 2026 P.O. Box 41842-00100, NAIROBI

Preamble

Supremacy of the Constitution per Articles 1 and 2 and Chapter Six of the Constitution of Kenya 2010 are some of the pillars of Kenya's Supreme Law.

Article 1 decrees that sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution while Article 2 decrees that no person may claim or exercise State authority except as authorised under this Constitution.

Chapter Six (6) establishes the ethical, moral and constitutional parameters of integrity under which leadership should be exercised. It says that leadership is exercised on behalf of the sovereign people of Kenya, only in accordance with the supreme law.

State organs, per the Constitution enjoy and hold delegated power, which must also be exercised in accordance with the Constitution.

Flowing from the above the Standing Orders of this National Assembly state that proceedings of this arm of government shall be based on the Constitution of Kenya, statute law and the usages, forms, precedents, customs, procedures, traditions and practices of the Parliament of Kenya and other jurisdictions to the extent that these are applicable to Kenya.

Before proceeding on or entertaining any motion before the legislature ought to ascertain that such a motion has passed the constitutional test. The Speaker of presiding officer ought to make this determination on his own

motion or upon being prompted. Per precedent of this House and Commonwealth practice, whenever a constitutional point of law is raised before the plenary or committee of Parliament the Speaker or presiding ought to dispense with that point of law as a preliminary objection, before descending into the substance of the matter before the legislature.

In making the decision whether a motion before it has met the constitutional standard or has breached the constitutional or has been brought before the assembly tainted with illegalities and constitutional breaches, the Speaker or presiding officer may canvass for members opinions but rule, solely, based on his understanding of the law and constitution, precedent and usages, without subjecting such a determination to a vote.

If, in his opinion, the motion fails the constitution standard and test, that motion collapses and is withdrawn unless returned amended or in accordance with Standing Orders and in conformity with the constitution.

Simply put, before determining the professional and academic qualifications of a nominee before it this Assembly ought to, first consider any objections raised by the citizens or members of parliament questioning the constitutional probity of the process leading to the said nomination.

Deciding on the constitutional validity of matters before this Assembly, the Speaker is under the law and oath required to make a determination of any constitutional questioning tied to the speaker's constitutional mandate, without shirking the responsibility to another arm of government or Courts.

Faced with a complex situation in the 10th Parliament, Speaker Kenneth Marende rejected the contention that only the Constitutional Court can determine whether the constitution or other law has been breached.

Marende, rightly, held that in the ordinary course of events every Kenyan interprets the Constitution and that Parliament also ought to ascertain that it conforms to the supreme law when enforcing its constitutional mandate.

Marende, rejected a motion that had been brought before it seeking to validate Executive appointments that had been transmitted to the chamber in violation of the Constitution, ab initio, with considering the merits of the nominees professional and academic achievements.

Cognizant of the foregoing this is my humble petition to the National Assembly to reject the nomination of Mr Francis Meja as the Chairperson of the Public Service Commission of Kenya on the basis that his selection and nomination violates the Constitution, expressly and implicitly and the express

terms of the advertisement that called for applications to fill the post as well as the Conflict of Interest Act 2025 and the Leadership and Integrity Act 2019.

If allowed to hold Mr Meja's nomination and appointment will be riddled with conflict of interest which will not inspire public confidence in that august office. Whether Mr Meja has the requisite academic and professional qualifications to merit appointment to chair the Public Service Commission is irrelevant until the weight constitutional questions underpinning his selection and nomination are addressed and determined.

Additionally, if there are weight constitutional questions in that regard, this Assembly must live by the dictate of the Constitution and refuse to be a rubberstamp of the Executive and Selection panel that appointed Mr Meja.

Background

In August 2025, Ambassador Anthony Mwaniki Muchiri vacated office as Chairperson of the Public Service Commission 2 years to the end of his 6 year term following his appointment by the President of the Republic to become Kenya's ambassador to Turkey.

Following Muchiri's departure to Turkey, a selection panel appointed by the President of the Republic advertised, in the mass media for applications to fill the position in the Public Service Commission then commenced the recruitment process to replace him.

Clear Constitutional Requirements

In the advertisement (which is hereby attached), the selection panel clearly outlined the qualifications and disqualifications in concurrence with the Constitution of Kenya 2010.

The advertisement, inter alia, required of an applicant to have "at least ten years experience in their respective profession and at least "six years experience in a managerial position" in the public or private sector.

Further the advertisement entailed grounds for disqualification to include any applicant who "holds any state office".

The advertisement also disqualified any applicant that had, recently vied for a political office to become a member of parliament, county assembly or had supported the election of a candidate to these offices.

The requirement barring state offices from applying flows or flowed from Article 233(3)(b) of the Constitution of Kenya 2010, which states that a person is disqualified for appointment to the Public Service Commission if they are holding any State office.

Per Article 260 of the Constitution of Kenya, a State officer includes "a member of a commission established under Article 248."

Article 248 of the Constitution of Kenya lists the Public Service Commission as one of the Independent Commissions established by the Constitution of Kenya 2010.

Following the end of his tenure at the National Transport and Safety Authority where Mr Meja served as the Director-General from 2014 until early 2020, he was appointed to be a Commissioner at the Public Service Commission. He holds this position to date.

Because there is no public and demonstrable record that Mr Meja has resigned or resigned from that office in order to be eligible for the post of chairperson of the Public Service Commission in line with the advertisement stated above and the said provisions of the Constitution of Kenya, his validation by the Selections Panel and nomination by the President of the Republic raises fundamental questions of law that must be dispensed with first.

It is my submission that if Mr Meja ascendancy in the stated manner and speed sets a dangerous precedent and if he has not resigned from the post of Commissioner at the PSC and continues to earn a salary in that position he has violated the laws of Kenya and this Assembly should not validate this violation. The violations include the fact that he did not provide material facts to the interviewing panel about his ineligibility for the said post.

It is a matter of public record that in announcing Mr Meja's nomination on January 21 2026, the Head of the Public Service Mr Felix Koskei stated that Mr Meja is "currently serving as a commissioner in the Public Service Commission."

This is a humble submission that a holistic interpretation of the Constitution leads to the logical conclusion that because he is an employee of the Public Service Commission of high post he was ineligible to apply for the post of chairperson.

By choosing to apply and sit the interviews without a full disclosure whilst still a state officer Mr Meja violated Article 75 of the Constitution of Kenya by prioritizing private gain over public good thus:

Article 75(1) of the Constitution of Kenya provides as follows:

"A State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids—

(a)any conflict between personal interests and public or official duties;

(b)compromising any public or official interest in favour of a personal interest; or(c)demeaning the office the officer holds."

It is instructive to add that the interviewing panel also violated the said statutes and Articles of the Constitution in admitting Mr Meja's application.

Supremacy of the Constitution

Because it is the Supreme Law of the Republic of Kenya, fidelity to it by all and, without exception and equivocation, the Constitution of Kenya prevails when it comes to appointment to public and state office. All other considerations including Mr Meja's sterling professional achievements elsewhere and prior are extraneous and inferior standard. This specific selection and nomination violates the Constitution of Kenya, the said statutes and public morality in the manner and style demonstrated above and below.

Since the Constitution of Kenya binds all and everyone, including the legislature, the President of the Republic and selection panel, this Assembly must not violate the supreme law under any guise or fashion by letting Mr Meja's unconstitutional and tainted nomination to pass.

Interpretation of the 2010 Constitution

The National Assembly does not have the luxury of interpreting Article 1, Article 2, Article 233(3)(b) and Article 260 of the Constitution of Kenya in an inelastic/restrictive manner to enable the violation of the same Constitution to benefit Mr Meja and validate the president's actions.

Article 259 of the Constitution of Kenya does not permit it mischievous interpretation and it reads:

(1) This Constitution shall be interpreted in a manner that--

(a) promotes its purposes, values and principles;

(b) advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights;

(c) permits the development of the law; and

(d) contributes to good governance.

Fidelity to Article 259 of the Constitution of Kenya, in its entirety, inter alia, leads to the inescapable conclusion that Mr Meja's selection and nomination neither promotes the rule of law, values and principles of this constitution nor contributes to good governance.

Further and in the spirit of Article 259 of the Constitution a purposive interpretation of Article 233(3)(b) of the Constitution of Kenya vis a vis Mr Meja's recent involvement in elective politics leads to the inescapable conclusion that he is ineligible for appointment to the post of Chairperson of the Public Service Commission, having joined a political party and sought its support for the Kajiado gubernatorial post.

The framers of the 2010 charter did not intend to have, someone at the top of the Public Service Commission or in its employ, who had demonstrated political inclination in a divisive and partisan and elective environment. Further the framers of the 2010 charter were alive to the mischief that it sought to cure as held by Justice Eric Ogola in ***Office of the Director of Public Prosecutions v Orengo; Manduku & 2 others (Interested Parties) (Constitutional Petition 204 of 2019) [2021] KEHC 456 (KLR*** thus:

"it is the duty of this court to interpret the Constitution wholesomely and in a manner to bring out the mischief intended to be cured by the Constitution."

" In interpreting the Constitution, a literal interpretation approach, which avoids all doubts and rhymes with the spirit of the Constitution takes priority."

In assessing the matter of Mr Meja's nomination, this Assembly ought to adopt this standard and interpret the Constitution , wholesomely, without cherry picking what would benefit this nominee. This Assembly should seek to cure the mischief of any ill intention and promote the virtues of public good embedded in the supreme law.

By Justice Ogola's standard it would be unconscionable for this Assembly to declare in broad day light and before the whole world that, merely, because a gubernatorial candidate is not, specifically, prohibited by Article 233(3)(b) of the Constitution of Kenya from becoming chairperson of the Public Service Commission then their political bias and inclination and recent participation in partisan politics does not matter and is permitted by the Constitution of Kenya 2010.

Neither does the Constitution of Kenya 2010 contemplate that a member of one of the independent commissions would transition to head the same commission in violation of the Constitution of Kenya and through a selection that does not inspire public confidence.

The reason for this is that the Commission is required to be independent of bias and extraneous influence including party politics, which Mr Meja engaged, publicly in 2022 and Executive fiat. Besides, although he lost the United Democratic Alliance primary, there is no public evidence that he rejected this loss. This means he supported the winner of the Kajiado County UDA gubernatorial primary.

In the famous BBI Case of 2021 the Supreme Court of Kenya interpreted Article 257 of the Constitution of Kenya by declaring that although the President of Kenya is not, expressly, prohibited from initiating a constitutional amendment through a popular initiative, a holistic interpretation of the 2010 charter yields the conclusion that this avenue is not available to him.

Sovereignty of the People

Under Article 1 of the Constitution of Kenya any violation of the Constitution in any form, currency and shape, as demonstrated above violates the sovereign will of the Kenyan people in whom all sovereign power is vested. This Assembly must reject the invitation to violate and subvert Kenyans' sovereign will.

Conflict of Interest and Public Concern

The selection process leading to Mr Meja's nomination ought to inspire public confidence per Article 232 of the Constitution of Kenya. Regrettably, the manner, by which he appears to, seek to, seamlessly transition from the membership of the Commission to head it does not inspire transparency.

Besides, the fact that a member still in the top employ of the Commission could apply for the position of Chairperson of the Commission raises credible questions of conflict of interest, fairness and transparency of the recruitment process.

Clearly, the playing field, regarding the recruitment was neither level nor transparent and must be reassessed.

On the face of it Mr Meja's participation in interviews leading to the said selection while still in employment at the Public Service Commission violates the express provision of Section 10(1)(2) of the Conflict of Interest Act 2025.

Further and on the face of it Mr Meja's participation in the said interviews reeks of conflict of interest as defined by Section 8(b) of the Conflict of Interest Act 2025. By submitting to the interviews Mr Meja and being a public officer violated Section 9 (a) of the Conflict of Interest Act 2025.

The Leadership and Integrity Act as read with the Conflict of Interest Act makes it clear that a State Officer must avoid situations where there is a possible appearance of conflict of interest.

These explicit and implied violations of these two statute would still obtain even if Mr Meja was, a recent member or employee of the Commission and had, recently, resigned to seek the chairperson's post.

The Constitutional Court in ***Office of the Director of Public Prosecutions v Orengo; Manduku & 2 others (Interested Parties) (Constitutional Petition 204 of 2019) [2021] KEHC 456 (KLR*** set the parameters and boundaries of what entails conflict of interest involving state or public officers.

Justice Eric Ogola held, inter alia, that conflict of interest is an issue of fact and perception or likelihood of conflict in future events. He also held that conflict of interest is a moral stand implied by the 2010 Constitution.

In barring Senator James Orengo, who is an Advocate of the High Court of Kenya from representing Dan Manduku, the then Managing Director of Kenya Ports Authority, a state corporation, Justice Ogola reasoned that there was a real and perceived future conflict of interest when a legislator who sits in a parliamentary committee represents another state officer because the legislator is bound to appear before the same committee in future.

The upshot of Justice Ogola's reasoning that the real and perceived possession of insider information creates a real and implied conflict of interest that cannot be ignored.

Said the judge:

" ***It is not in doubt in my mind that if the foregoing articles of the Constitution and Statute Law are applied to their natural end, it is inescapable to conclude that there exists conflict of interest in Senator Orengo representing the petitioner herein***."

The judge further held:

"This perception is highlighted by the fact that the petitioner may at one time be summoned to appear before a Committee of Senate to answer to some of the matters the petitioner is being investigated on. Should this happen Senator Orengo will be in attendance. Even if he recuses himself from the Committee, that alone will not alley the perception of conflict of interest, or put bluntly, the perception that the petitioner has friends in the Senate."

Applied to the matter in contention before this Assembly, Mr Meja's selection, interview and nomination to the post of Chairperson of the Public Service Commission whilst he is a serving member of the same Commission and a state officer to boot, creates the same kind of conflict of interest contemplated by Justice Ogola in the above stated suit.

The fact that a prominent and powerful state officer and member of a constitutional/independent commission could participate in the said interviews creates the impression that he was liable to receive insider information and access the very officials, including other government employees, interviewing him.

In the Case Law shown above Justice Ogola frowned upon a state officer representing another state officer, in court as constituting conflict of interest, additionally, because the two parties were bound to share information before the fact.

The interview of Mr Meja and the manner it was conducted under the circumstances created an unfair advantage in Mr Meja's favour.

<u>Additional Legal Conundrum</u>

According to the Constitution and the Public Service Act, Members of the PSC serve a single, non-renewable six-year term. Mr Meja has served a year already. If successful in his current pursuit he will secure an additional six year on top of the one year already served in violation of the applicable law.

Conclusion

Mr Meja's nomination, amidst weighty constitutional concerns and violation of statute and public morality is a matter of great public interest. Issues of concern include:

- Executive overreach. The President of the Republic overreached his constitutional powers by nominating an ineligible candidate and one selected in violation of the Constitution he swore to uphold.

- Weakening of independent institutions. The opaque manner in which the selection of candidates was conducted amounts to a travesty and a show trial to validate a fair accompli in the manner that Mr Meja is merely, transiting from one position to another in the same organization in violation of the law. This selection did not strictly adhere to the First Schedule and paragraphs 3, 4 and 5 of the Public Service Act that guides selection of nominees to the Public Service Commission.

- Political interference in constitutional commissions. The blatant violation of the Constitution and statutes amounts to political interference in constitutional commissions.

- Dangerous precedent of State officers shifting offices without proper constitutional and legal compliance.

Conclusion

To uphold the rule of law and values of the Constitution of Kenya 2010 and in order to inspire public confidence in this office I petition this august assembly to reject Mr Meja's nomination allow a fresh process that complies with the applicable law.

It would be unconscionable and an act of utter impunity if Mr Meja, deliberately, failed to resign from the Commission before this interview for PSC chairperson in the hope that if he failed the latter test, he could resume his employment in the Commission as a member of the Commission.

Filed by **DAUDI . O. OCHAMI (Advocate of the High Court of Kenya P.105/23645/23**) and holder of ID No 10919089 of P.O. Box 25081-00603 Nairobi.

Email address: daudikoch2@gmail.com

Signed 

CALL FOR APPLICATIONS FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

The Selection Panel for the Recruitment of Nominees for Appointment as Chairperson of the Public Service Commission invites applications from suitably qualified persons for consideration for nomination for the position of the **Chairperson** of the Public Service Commission.

A. QUALIFICATIONS FOR APPOINTMENT

A person shall be qualified for appointment as Chairperson of the Public Service Commission if that person-

(a) is a citizen of Kenya;
(b) holds a degree from a university recognized in Kenya;
(c) has at least ten years' experience in their respective profession;
(d) has at least six years' experience in a managerial position either in the public or private sector; and
(e) meets the requirements of leadership and integrity in Chapter Six of the Constitution.

B. GROUNDS FOR DISQUALIFICATION

A person is not eligible for appointment as a chairperson of the Public Service Commission if such person-

1. has, at any time within the preceding five years, held office, or stood for election* as -

   (a) a member of Parliament or County Assembly; or

   (b) a member of the governing body of a political party; or
2. holds any state office; or;
3. is, or has at any one time been, a candidate for election as a member of Parliament or of a County Assembly*; or
4. is or has at any time been, the holder of an office in any political organization that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a member of Parliament or of a County Assembly*; or
5. is an undischarged bankrupt; or
6. has been removed from office for contravening the provisions of the Constitution or any law.

Note*: Paragraphs (1), (3) and (4) cease to apply to a person after two general elections for Parliament have been held since the person ceased to be such a candidate or office holder.

C. TENURE OF APPOINTMENT

Single non-renewable term of six (6) years.

D. TERMS OF SERVICE

(i) Full time

(ii) Shall not hold any other office or employment for profit whether public or private.

(iii) Remuneration and benefits for the position are as set out by the Salaries and Remuneration Commission.

E. HOW TO APPLY

(i) All applications should be accompanied by detailed curriculum vitae, certified true copies of their academic and professional certificates, National Identity card or Passport, together with testimonials and other relevant supporting documents.

(ii) The applications should be clearly and appropriately marked as follows-

(a) **Application for the Position of the Chairperson, Public Service Commission.**

(iii) All Applications should be addressed to:

The Chairperson
Selection Panel for the Recruitment of Nominees for
Appointment as Chairperson of the Public Service Commission
P. O. Box 62345-00200
NAIROBI

(iv) All applications should be delivered in any of the following ways-

(a) **Hand delivery to:**

Third Floor, Room 306
Harambee House
Harambee Avenue
NAIROBI
(Monday - Friday between 8.00am -5.00pm)

(b) **Online through:**

Email to: **chairpsc.selection2025@cabinet.go.ke**
(Send scanned and certified true copies of the requisite documents together with the application)

(c) **The Post Office in ordinary or registered mail.**

Important Note:

(i) Names of all applicants and the interview schedule of the shortlisted candidates shall be published in the Kenya Gazette, the Public Service Commission website (www.publicservice.go.ke) and in two daily newspapers on lapse of the application time.

(ii) Shortlisted candidates shall be required to produce **originals** of their Identity Cards or Passports, academic and professional certificates, transcripts and testimonials during the interview.

(iii) Further to (ii) above, shortlisted candidates will be required to present **VALID** clearance certificates from the following institutions during the interview-

- Kenya Revenue Authority (Tax Compliance Certificate)
- Higher Education Loans Board (Clearance Certificate)
- Ethics and Anti-Corruption Commission (Self Declaration form)
- Credit Reference Bureau (Credit Report and certificate of clearance); and
- Police Clearance Certificate (DCI Clearance certificate)

(iv) Canvassing for the position will lead to automatic disqualification.

(v) It is a criminal offence to produce fake certificates during the interview or to impersonate.

(vi) The candidate nominated shall be required to go through the National Assembly for vetting and approval pursuant to Public Appointments (Parliamentary Approval Act, Cap 7F).

(vii) It is the responsibility of the applicant to ensure that the submitted application reaches the Chairperson of the Selection Panel by the appointed time.

Persons with disabilities, Women, the minorities and marginalized are encouraged to apply.

All applications should reach the Chairperson of the Selection Panel not later than **Friday 28th November, 2025 at 5.00 p.m. (East African Time).**

Mr. Arthur A. Osiya, CBS
Chairperson
Selection Panel for the Recruitment of Nominees for the Appointment as Chairperson of the Public Service Commission

THE CONSTITUTION OF KENYA
THE PUBLIC SERVICE COMMISSION ACT
(Chapter 185, Laws of Kenya)
SELECTION PANEL FOR THE RECRUITMENT OF NOMINEES FOR APPOINTMENT AS CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION (PSC)

APPLICANTS AND SHORTLISTED CANDIDATES FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

Pursuant to Article 233 of the Constitution as read with Section 11 of the Public Service Commission Act and Paragraph 3 of the First Schedule to the Act, the Selection Panel for the recruitment of nominees for appointment as the Chairperson of the Public Service Commission invited applications from suitably qualified persons for the position of Chairperson of the Public Service Commission (PSC). A total of **Fifty-Two (52)** applications were received at the close of the advertisement period on 28th November, 2025 as follows:

A. LIST OF APPLICANTS FOR THE POSITION OF CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

S.No	Name of Applicant	Qualifications
1	Nixon Ngari Gathimba	BA
2	Nelson Mosiborwa Omweyo	MA (IR), BA (Political Science & PA)
3	Ashford Gikunda Kimani	B.Ed
4	Yusuf Jillo Karayu	MA(M&A), BSc
5	Simeon Pkiyach (PwD)	MSc, BSc
6	Hezron Mugo Karanja	MA, BBA
7	Fred Odhiambo	B.Com
8	Jacqueline Makena Mutwiri	B.Com
9	Martin Njoroge Wairegi	B.Com
10	Tom Marvin Mulugugu Otiende	BBA
11	Dr. Vincent Okitoi Ibworo	PhD, MA, BSc
12	Tom Onyango Macaklage	MA, MBA, BSc, BSc
13	Julius Lenin	MA, BA
14	Maritim Collins Kipkoech	BSc
15	Dr. Irene Mugai	PhD, MBA, BBMIT
16	Korir Kiprotich Geoffrey	MBA, BBM
17	Aisha Wanjiku Karanja	MA, BA
18	Eng. Pius Kathukya	
19	Samuel Kasiluki Kiragu	
20	Saul Simiyu Wasilwa	LLB
21	Evans Toto Nyachieng'a	MBA, BA
22	Lydia Nyawira Mburia	BA
23	Prof. James K Tuitoek	PhD, MSc, BSc
24	Collins Fredrick Omondi	LLM, LLB
25	James K Njenga	BA
26	Prof. Kimani Chege Gabriel	PhD, M.Phil, B.Ed
27	Simon Omondi	MA, BA
28	Hellen Makokha Okochil	MSc, BSc
29	Maj (Rtd) Solomon Obange	MBA, EMBA, BSc
30	Kennedy Onsembe Chweya	LLB
31	Dr. Michael Plal Chemorei	PhD, M.Phil EMSc, BSc
32	Ruth Wangeci	BA
33	Dr. Reuben Kipkemoi Chirchir	PhD, MSc, LLB, BSc
34	Dr. Sally Ngeringwony Toroitich	PhD, MBA, BA
35	Dr. Halima Saado Abdillahi	PhD, MSc, BSc
36	Isaac Mugendi Gichovi	BSc
37	Dr. Francis Otieno Owino	PhD, MBA, BA
38	Amb. Peter O. Ole Nkuraiyia	EMBA, BA
39	Ongwae James Omariba Elvis	MA, BA
40	Vincent Oduori Akuka	MA, B.Ed
41	Mary Kimonye	MBA, B.Com
42	Peter Anjeyo Vuhyah	MBA, BBA
43	Dr. Jane Musangi Mutua	PhD, MA, BA
44	Boya Molu	MBA, BBA
45	Dr. Patrick Omutia	PhD (B&A), PhD (Theology), MA, MSc, BA, LLB, B. Com
46	Francis Mooka Meja	MBA, BA
47	Amb. Simon W. Nabukwesi	M.Ed, B.Ed
48	Dr. Simon Kibet A. Rotich	MA, BA
49	Dr. George Edward Mamati	PhD, MSc, BSc
50	Levi Mukweso	MBA, MA, BA
51	Amb. Daniel Waisiko Wambura	MBA, LLB
52	Beverly Khasoa Opwora	MA, BA

After considering the applications, the Selection Panel shortlisted the following candidates to appear for interviews on the dates and times indicated against their names:

B. Shortlisted Candidates for the Position of Chairperson, PSC

Monday 15th December, 2025

S/NO	NAME OF CANDIDATE	COUNTY	GENDER	TIME
1	Francis Meja	Kajiado	M	11:00 AM
2	Dr. Francis Otieno Owino	Migori	M	12:00 PM
3	Beverly Khasoa Opwora	Bungoma	F	2:00 PM

Tuesday 16th December, 2025

S/NO	NAME OF CANDIDATE	COUNTY	GENDER	TIME
1	Simeon Pkiyach (PwD)	West Pokot	M	9:00 AM
2	Amb. Daniel Waisiko Wambura	Migori	M	10:00 AM
3	Dr. Jane Musangi Mutua	Kitui	F	11:00 AM
4	Amb. Simon W. Nabukwesi	Bungoma	M	2:00 PM
5	Dr. Reuben Kipkemoi Chirchir	Kericho	M	3:00 PM

Wednesday 17th December, 2025

S/NO	NAME OF CANDIDATE	COUNTY	GENDER	TIME
1	Mary Kimonye	Kirinyaga	F	9:00 AM
2	Prof. James K. Tuitoek	Nakuru	M	10:00 AM
3	Dr. Patrick Omutia	Busia	M	11:00 AM
4	Molu Boya	Marsabit	M	12:00 PM

INTERVIEWS

The shortlisted candidates will be interviewed at **KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC)**, Fourth (4th) Floor, Boardroom, Nairobi on the dates and times indicated in the schedule. Candidates should report at the Venue at least (30) minutes before the scheduled interview time.

The candidates **MUST** bring **ORIGINALS** of the following documents:

(a) National Identity Card;
(b) Academic and Professional Certificates and Transcripts;
(c) VALID clearances from the following institutions:
  (i) Kenya Revenue Authority (KRA);
  (ii) Directorate of Criminal Investigation (Police Clearance);
  (iii) A Registered Credit Reference Bureau; and
  (iv) Higher Education Loans Board (HELB).
(d) Self-Declaration Form duly stamped by the Ethics and Anti-Corruption Commission (EACC);
(e) Letter of recognition of qualifications from the Commission for University Education (CUE) for candidates who possess degrees from foreign universities; and
(f) Any other supporting documents and testimonials.

A. PUBLIC PARTICIPATION

Members of the Public are invited to avail any information relating to any of the shortlisted candidates (through sworn Affidavits) to the Chairperson, Selection Panel, Harambee House, 3rd Floor, Room 306/309, Harambee Avenue, Nairobi or through email to chairpsc.selection2025@cabinet.go.ke so as to be received on or before **Thursday, 11th December, 2025 at 8:00 AM (E.A.T.)**

B. LIST OF APPLICANTS

Names and qualifications of **ALL** the applicants for the position of Chairperson of the Public Service Commission are also available on the Public Service Commission website: (https://publicservice.go.ke).

Mr. Arthur Oshye, CBS
Chairperson,
Selection Panel for the Recruitment of nominees
for appointment as Chairperson of the Public Service Commission.

D/DC

Please deal.

19/02/26

to obtain legal advisory and brief the DC on Labour.

19/2/26

REPUBLIC OF KENYA

NATIONAL ASSEMBLY OF KENYA

NAIROBI.

RECEIVED
19 FEB 2026

BY EMAIL TO:

THE CLERK OF THE NATIONAL ASSEMBLY

EMAIL ADDRESS cna@parliament.go.ke

Hellan Ekadeli

Pls deal-
A Wasike 19/2/26

STATEMENT CONTESTING APPROVAL OF FRANCIS MEJA FOR APPOINTMENT AS CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION.

1. I, **ELIUD KARANJA MATINDI,** hereby make a solemn oath and state **THAT:**

2. I am a Kenyan citizen currently resident in **POOLE, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**.

3. I swear this affidavit on my own behalf and, with his permission and consent, **DR. MAGARE GIKENYI B**.

4. I am writing to contest the approval, for appointment, of **FRANCIS MEJA** as **CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION** under **Article 233(2)** of the Constitution, as read together with **Sections 7** and **8** and **First Schedule, Public Service Commission Act.**

5. **FRANCIS MEJA** is already serving as members of the Public Service Commission, having been appointed as a member vide **Kenya Gazette Notice No. 386** dated **16.01.2025**. He assumed office upon taking the prescribed oath of office under **Article 74** of the Constitution, on **20.01.2025**.

6. Approval and appointment of **FRANCIS MEJA** as Chair of the **PUBLIC SERVICE COMMISSION** would therefore be a violation of **Article 250(6)(a)** of the Constitution and **Section 7(4), Public Service Commission Act**, which limit the term in office of a member of the Public Service Commission to a single term of six years.

NATIONAL ASSEMBLY
RECEIVED
19 FEB 2026

NATIONAL ASSEMBLY
RECEIVED
19 FEB 2026
CLERK'S OFFICE
P.O. Box 41842, NAIROBI

7. As a serving member of the Public Service Commission since **20.01.2025**, appointment of **FRANCIS MEJA** as chairperson of the Commission would result in him serving as a member of the Commission for more than the maximum six years, in violation of the Constitution and the law.

8. **FRANCIS MEJA** cannot, therefore, be lawfully approved and appointed, to the office of the chairperson, Public Service Commission.

9. In support of my statement, I attach:

   a. A copy of **Kenya Gazette Notice No. 386** dated **16.01.2025** notifying appointment of **FRANCIS MEJA** as a member of the **PUBLIC SERVICE COMMISSION**;

   b. Copy of a message published by the Judiciary using their Twitter/X account - **@Kenyajudiciary** – on **20.01.2025**, notifying taking of oath of office of, among others, **FRANCIS MEJA**, as a member of the **PUBLIC SERVICE COMMISSION.**

10. I make this statement in good faith, (save for what has been deponed to on information, sources of which have been disclosed), believing it to be true and to the best of my knowledge.

MADE UNDER OATH AND **SIGNED** BY **ELIUD KARANJA MATINDI**, ON OWN BEHALF AND, WITH HIS CONSENT, **DR. MAGARE GIKENYI B.**, ON THIS **18TH DAY OF FEBRUARY, 2026,** AT **27 BASCOTT ROAD, BOURNEMOUTH, BH11 8RJ IN THE PRESENCE OF PAUL WINTLE, NOTARY PUBLIC.**

Paul Wintle, Notary Public
27 Bascott Road Bournemouth
Dorset BH11 8RJ
0044 1202 267818

[redacted]

FROM: ELIUD KARANJA MATINDI - EMAIL ADDRESS - Bavance13@gmail.com

TO: CLERK OF THE NATIONAL ASSEMBLY – EMAIL ADDRESS - cna@parliament.go.ke

CORRIGENDA

IN Gazette Notice No. 67 of 2025, *amend* the land registrar's name printed as "J. O. MAROA", to *read* "F. O. MAURA".

IN Gazette Notice No. 9382 of 2015, Cause No. 725 of 2013, *amend* the petitioner's name printed as "Marin Humba Mato alias Martin Mato", to *read* "Samson Mutonyi".

IN Gazette Notice No. 3011 of 2024, Cause No. E132 of 2023, *amend* the deceased's name printed as "James Okeyo Okwama", to *read* "Meshach Onyango Okwama".

IN Gazette Notice No. 3305 of 2023, Cause No. E311 of 2022, *amend* the petitioner's name printed as "Geoffrey Gitau Muchiri Kariuki", to *read* "Geoffrey Gitau Muchiri".

IN Gazette Notice No. 16591 of 2023, Cause No. E4 of 2023, *amend* the petitioner's name printed as "Abdikadir Korio Duale", to *read* "(1) Abdikadir Korio Duale and (2) Abdi Mogow Maalim".

GAZETTE NOTICE NO. 385

THE CONSTITUTION OF KENYA

THE PUBLIC SERVICE COMMISSION ACT

(*No.* 10 *of* 2017)

APPOINTMENT

IN EXERCISE of the powers conferred by Article 250 (2) of the Constitution of Kenya and in accordance with the procedure set out under paragraph 6 of the First Schedule to Public Service Commission Act, 2017, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, appoint—

MARY WANJIRA KIMONYE

to be the Vice-Chairperson of the Public Service Commission, for a period of six (6) years.

Dated the 16th January, 2025.

WILLIAM SAMOEI RUTO,
President.

GAZETTE NOTICE NO. 386

THE CONSTITUTION OF KENYA

THE PUBLIC SERVICE COMMISSION ACT

(*No.* 10 *of* 2017)

APPOINTMENT

IN EXERCISE of the powers conferred by Article 250 (2) of the Constitution of Kenya and in accordance with the procedure set out under paragraph 6 of the First Schedule to Public Service Commission Act, 2017, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, appoint—

Harun Maalim Hassan,
Mwanamaka Amani Mabruki,
Francis Meja,
Irene Cherotich Asienga (Dr.),
Boya Molu,
Joan Andisi Machayo,
Francis Otieno Owino (Dr.),

to be members of the Public Service Commission, for a period of six (6) years.

Dated the 16th January, 2025.

WILLIAM SAMOEI RUTO,
President.

GAZETTE NOTICE NO. 387

THE UNIVERSITIES ACT

(*No.* 42 *of* 2012)

CO-OPERATIVE UNIVERSITY OF KENYA

APPOINTMENT

IN EXERCISE of the powers conferred by section 38 (1) (*a*) of the Universities Act, 2012, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, appoint—

BERNARD WILLIAM CHITUNGA (DR.)

to be the Chancellor of the Co-operative University of Kenya, for a period of five (5) years, with effect from the 10th January, 2025.

Dated the 10th January, 2025.

WILLIAM SAMOEI RUTO,
President.

GAZETTE NOTICE NO. 388

THE STATE CORPORATIONS ACT

(*Cap.* 446)

THE NATIONAL LIVESTOCK DEVELOPMENT AND PROMOTION SERVICE ORDER, 2016

NATIONAL LIVESTOCK DEVELOPMENT AND PROMOTION SERVICE

APPOINTMENT

IN EXERCISE of the powers conferred by section 6 (1) (*a*) of the National Livestock Development and Promotion Service Order, 2016, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, appoint—

MOHAMED IBRAHIM ELMI

to be the non-executive Chairperson of the National Livestock Development and Promotion Service, for a period of three (3) years, with effect from the 17th January, 2025.

Dated the 17th January, 2025.

WILLIAM SAMOEI RUTO,
President.

GAZETTE NOTICE NO. 389

THE STATISTICS ACT

(*No.* 4 *of* 2006)

KENYA NATIONAL BUREAU OF STATISTICS

APPOINTMENT

IN EXERCISE of the powers conferred by paragraph 5 (1) (*a*) of the Statistics Act, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, appoint—

DANIEL MWIRIGI M'AMANJA

to be the non-executive Chairperson of the Kenya National Bureau of Statistics, for period of three (3) years, with effect from the 10th January, 2025.

Dated the 10th January, 2025.

WILLIAM SAMOEI RUTO,
President.

Paul Wintle, Notary Public
27 Bascott Road Bournemouth
Dorset BH11 8RJ
0044 1202 267818



The Judiciary Kenya © Kenya judiciary · Jan 20, 2025

2. The oaths were administered by CRJ Winfridah Mokaya. SRC members who took the Office of Oath include Sammy Chepkwony (Chairperson), Jane Gatakaa Njage, Maj. Gen. (Rtd) Martin Kizito Ong'byi, Mohammed Aden Abdi, Dr Geoffrey Apollo Omondi, Dr. Gilda Odera & Leonid Ashindu.



Post



The Judiciary Kenya © Kenya judiciary · Jan 20, 2025

3. Those members who were sworn in for the PSC are; Mary Wanjira Kimonye (Vice Chairperson), Harun Maalimu Hassan, Mwanamaka Amani Mabruki, Boya Molu, Dr Irene Cherotich Asienga, Dr Francis Otieno Owino, Joan Andisi Machayo and Francis Meja.



The Judiciary Kenya © Kenya judiciary · Jan 20, 2025

4. The CJ said the two commissions are indispensable to Kenya's aspirations for a well-functioning, people-centred public service.



The Judiciary Kenya © Kenya judiciary · Jan 20, 2025

5. "The Constitution envisions a public service that is not only efficient & motivated but also one that operates with the highest levels of integrity, professionalism, and adherence to constitutional values and principles."



The Judiciary Kenya © Kenya judiciary

6. She added that the SRC must continue to balance the expectations of public officers for equitable remuneration with the constitutional imperative of fiscal responsibility whereas the PSC must lead in creating a public service that is competent, inclusive, and efficient.



10:10 AM · Jan 20, 2025 · **1,446** views

Paul Wintle, Notary Public
27 Bascott Road Bournemouth
Dorset BH11 8RJ
0044 1202 267818

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 4th December, 2014

The House met at 2.30 p.m.

[The Speaker (Hon. Muturi) in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

VACATION OF OFFICE BY MEMBER NOMINATED FOR CABINET SECRETARY POSITION

Hon. Speaker: Hon. Members, you will recall that yesterday, during the afternoon Sitting, the Member for Gem, hon. Jakoyo Midiwo, on a point of order, sought the guidance of the Speaker on the issue of whether the Member for Kajiado Central, hon. Joseph Nkaissery, ought to have resigned prior to the conveyance of the Message from His Excellency the President, nominating him for appointment as the Cabinet Secretary, Ministry of Interior and Coordination of National Government. Having perused through the Verbatim Report for the afternoon Sitting, I must thank the hon. Member for raising this matter, which has implications on the interpretation of the Constitution.

In summary, the hon. Member sought guidance on whether a person ceases to be a Member of the House upon being nominated for appointment as a Cabinet Secretary. To begin with, this is the first time this House is faced with a scenario where a sitting Member of Parliament has been nominated for appointment as a Cabinet Secretary, under the current Constitution. I note that the Constitution, in Article 103(1), provides as follows:-

"103(1) The office of a member of Parliament becomes vacant-

(a) if the member dies;

(b) if, during any session of Parliament, the member is absent from eight sittings of the relevant house without permission, in writing, from the Speaker and is unable to offer a satisfactory explanation for the absence to the relevant committee;

(c) if the member is otherwise removed from office under this Constitution or legislation enacted under Article 80;

(d) if the member resigns from Parliament in writing to the speaker;

(e) if, having been elected to parliament-

(i) as a member of a political party, the member resigns from that party or is deemed to have resigned from the party as determined in accordance with the legislation contemplated in Clause 2; or,

(ii) as an independent candidate, the member joins a political party;

(f) at the end of the term of the relevant house; or,

(g) if the member becomes disqualified for election to Parliament under Article 99(2), (d) to (h).

(3) Parliament shall enact legislation providing for the circumstances under which a member of a political party shall be deemed, for the purposes of Clause 1 (e), to have resigned from the party."

Hon. Members, a plain reading of the above provisions reveals that nomination for appointment as a Cabinet Secretary is not one of the matters contemplated under the Constitution as necessitating the vacation of the office of a Member of Parliament. As I noted yesterday, I am yet to receive a letter of resignation from the hon. Member for Kajiado Central. As per Article 152 of the Constitution, the position of the Member for Kajiado Central shall only become untenable if he elects to assume the office of a Cabinet Secretary in the event that this House approves his nomination. Article 152 (3) and (4) provide as follows:-

"152(3) A cabinet secretary shall not be a member of parliament;

(4) Each person appointed as a Cabinet Secretary-

(a) assumes office by swearing or affirming faithfulness to the people and the Republic of Kenya and obedience to this Constitution, before the President and in accordance with the Third Schedule; and,

(b) may resign by delivering a written statement of resignation to the president."

Hon. Members, you note that even after the vetting of a nominee for appointment as a Cabinet Secretary and, indeed, the appointment of a successful nominee as a Cabinet Secretary, the person must further assume the office of a Cabinet Secretary by taking the oath or affirming to the office as set out in the Third Schedule to the Constitution. Presently, the Member for Kajiado Central has only been nominated for appointment. He has not been approved for appointment or even subsequently appointed as a Cabinet Secretary. It is, therefore, clear that any debate as to his continued membership of this House is pre-emptive and premature.

Hon. Members, as you are aware, I committed the Message containing the notification of the nomination to the Committee on Appointments, which is to report back to the House on the approval or rejection of the nomination of the Member for Kajiado Central, as per our Standing Orders. Once the Report is tabled, Article 122 (3), of the Constitution shall operate to preclude the Member from participating in any voting on the issue of his own nomination. That is the same Article that bars the Speaker from voting, even if there is a tie.

I, therefore, rule that the Office of the Member of Parliament for Kajiado Central, or any Member, does not fall vacant on account of his nomination for appointment as a Cabinet Secretary. Such a Member will only be required to vacate office by tendering his resignation prior to assuming the office of a Cabinet Secretary, should the House approve his nomination and the President appoints him. The Member for Kajiado Central did not, therefore, cease to be a Member of this House upon being nominated for appointment as a Cabinet Secretary.

I urge hon. Members not to pre-empt the outcome of the vetting process but, instead, to await the Report to be submitted by the Committee on Appointments for debate by the House. Since this matter is already committed to the Committee, I will not allow any Member to comment or make reference to it until the Committee tables its Report in the House.

Thank you, hon. Members.

Annexure **12**

Omondi & another v Attorney General & 2 others; Ethekon & 7 others (Interested Parties) (Constitutional Petition E269 of 2025) [2025] KEHC 9956 (KLR) (Constitutional and Human Rights) (10 July 2025)

Departmental Committee on Labour Approval Hearing of Mr. Francis Meja, Nominee for Appointment as the Chairperson of the Public Service Commission (PSC)

Ann Nderitu

REPUBLIC OF KENYA

KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING

Omondi & another v Attorney General & 2 others; Ethekon & 7 others (Interested Parties) (Constitutional Petition E269 of 2025) [2025] KEHC 9956 (KLR) (Constitutional and Human Rights) (10 July 2025) (Judgment)

Neutral citation: [2025] KEHC 9956 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

CONSTITUTIONAL AND HUMAN RIGHTS

CONSTITUTIONAL PETITION E269 OF 2025

RE ABURILI, JM CHIGITI & AB MWAMUYE, JJ

JULY 10, 2025

IN THE MATTER OF THE SELECTION AND APPOINTMENT OF COMMISSIONERS OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

BETWEEN

KELVIN ROY OMONDI ..... 1ST PETITIONER

BONIFACE MWANGI. ..... 2ND PETITIONER

AND

ATTORNEY GENERAL ..... 1ST RESPONDENT

HEAD OF PUBLIC SERVICE ..... 2ND RESPONDENT

THE NATIONAL ASSEMBLY ..... 3RD RESPONDENT

AND

ERASTUS EDUNG ETHEKON ..... INTERESTED PARTY

ANNE NJERI NDERITU ..... INTERESTED PARTY

MOSES ALUTALALA MUKHWANA ..... INTERESTED PARTY

MARY KAREN SOROBIT ..... INTERESTED PARTY

HASSAN NOOR HASSAN ..... INTERESTED PARTY

FRANCIS ODHIAMBO ADUOL. ..... INTERESTED PARTY

FAHIMA ARAPHAT ABDALLAH ..... INTERESTED PARTY

JUSTUS MUTUNGA MUTUKU ..... INTERESTED PARTY

JUDGMENT

Introduction

" Those who cannot remember the past are condemned to repeat it."

George Santayana, 'Reason in Common Sense' [19 05]

1. The tragic events that followed the announcement of the presidential election results on 30th December 2007 left an indelible scar on the conscience of our nation. The violence that followed thereafter engulfed large swathes of the Republic, and the upheaval was marked by loss of life, displacement of thousands of people, and the breakdown of public order.

2. Those most unfortunate events were precipitated, largely, by the perception and allegations that the Electoral Commission of Kenya (ECK) and its Chairperson and Commissioners had failed in their solemn duty to conduct a free, fair and credible election. The social, economic and institutional trauma that followed laid bare the dangers of electoral mismanagement and the fragile nature of public trust in democratic institutions.

3. We begin this judgment by venturing back to one of the darkest chapters in Kenya's history because that historical viewpoint provides the context within which the former electoral body was dissolved and a new electoral management body reimagined under the *Constitution* of Kenya, 2010 as the Independent Electoral and Boundaries Commission (IEBC).

4. There is perhaps no more of a herculean task or an onerous role within Kenya's public life than serving as the Chairperson or a Commissioner of the IEBC. Serving in the IEBC is not just another mundane ceremonial or administrative role; it is a solemn and weighty constitutional trust that calls upon the Members of the IEBC to safeguard the most sacred expression of the people's sovereignty:

The Vote

5. Persons who serve within the IEBC must, therefore, at all times, be guided by the memory of that tragic period in our history and they must commit themselves to embodying the commitment made by the people of Kenya that we shall never as a nation return to those dark days.

6. The IEBC occupies a unique and constitutionally entrenched role in the sustenance of democratic governance in Kenya. Established under Article 88 (1) of the *Constitution*, the Commission is mandated to continuously register citizens as voters, regularly revise the voters' register, delimit constituencies and wards, regulate the process by which parties nominate candidates for elections, settle electoral disputes including those disputes arising from party primaries nominations, register candidates for election, carry out voter education, facilitate election observation and monitoring, regulate campaign financing, develop and enforce a code of conduct for parties and candidates in respect of any election, monitor compliance with legislation relating to elections, delimit electoral units, conduct and supervise referenda and elections to any elective body or office established by the *Constitution* and to ensure that such elections are free, fair, transparent and credible.

7. Article 88, upon establishing the Commission, proceeds to provide for the appointment of the Members of the IEBC, and commences with prohibitions of persons who are not eligible for appointment as Members of the Commission at sub-article two.

8. From the Commission's constitutional mandate reproduced above, which is not exhaustive, the IEBC is a constitutional commission whose existence and functionality go to the very heart of representative democracy.

9. In a constitutional order founded on the sovereignty of the people and the rule of law, the integrity of the electoral process is indispensable and non-negotiable. It is through elections that the sovereign will of the people of Kenya is periodically expressed and government authority legitimately renewed. The IEBC is the primary guarantor of this foundational process.

10 The *Constitution* envisages and demands an electoral body that is independent, neutral, efficient and accountable, as underscored in Articles 81 and 86 of the *Constitution*. These provisions are not aspirational. They are immediate and imperative. The IEBC is under a constitutional and legal obligation to operate, at all times, free from political or partisan control and to serve all Kenyans with impartiality and courage. Its independence is not meant to exist only on paper, it must be real and unimpeachable. The IEBC's independence is a safeguard for democracy, rule of law, electoral integrity, public confidence and political stability of this country.

11. The history of electoral disputes in Kenya, particularly the events surrounding the 2007 and 2017 general elections, underscore the far-reaching consequences of public mistrust in the electoral process. As highlighted in the Kriegler Report and later reinforced by the Supreme Court's annulment of the initial 2017 presidential election results, institutional failures or perceived partiality by the IEBC can precipitate a constitutional crisis, civil unrest, and the erosion of state legitimacy.

12. As the institutional embodiment of the people's democratic right to choose their leaders in a free and fair contest, the IEBC's competence, independence and preparedness directly influence electoral legitimacy, peaceful transitions of power and the realization of constitutional values such as equality, transparency, accountability and inclusivity.

13. It is now a well-settled principle of democratic governance that elections are not a one-day event, but a structured and continuous process governed by the *Constitution*, electoral laws and the values of accountability and legitimacy.

14. This understanding was strongly underscored in the Report of the Independent Review Commission on the General Elections held in Kenya on 27 December 2007 (the IREC/ Kriegler Report), which Report warned against treating elections as isolated occurrences. The Kriegler Report emphasized that elections are a process not an event and that the credibility of an election begins with the *Constitution* of a credible electoral management body.

15. The Petition before this Court squarely revolves around the question of the credibility of the IEBC that is proposed to be constituted. Drawing from the lessons of the past, it is beyond dispute that the timely establishment, adequate resourcing and operational autonomy of the IEBC are matters of urgent constitutional priority for this nation. As recommended by the Kriegler Commission and as echoed in the country's subsequent reform initiatives and proposals, a fully constituted and operational IEBC should be in place at least two years prior to any general election. This allows for proper delimitation of boundaries, voter registration, civic education, procurement of electoral materials, recruitment and training of staff and resolution of pre-election disputes, among other critical functions and milestones.

16. As we close this introductory part of this judgment, we would be remiss not to mention that it is deeply concerning that, for nearly two years since the expiry of the terms of the former Chairperson and Commissioners, the Commission has operated without a Chairperson and Commissioners. This gap has meant that the IEBC has been unable to conduct some of its critical activities, including the



holding of by-elections after the deaths or resignations of elected members of the national or county legislatures.

17. To neglect or delay the proper constitution of the IEBC is not a procedural lapse. It is a direct affront to the constitutional order and a potential catalyst for electoral illegitimacy and political uncertainty.

18. In light of the exceptional nature and urgency of the issues presented in this Petition and pursuant to the directions of the Honourable the Chief Justice and President of the Supreme Court of Kenya, this Court has, in recognition of the importance of this matter, set aside other judicial commitments, including the regular cause lists of and the delivery of judgments by the three judges that form this bench; so as to undertake and conclude the hearing and determination of this matter within an expedited timeline.

19. Accordingly, the Court has heard and determined this Petition within a period of seventeen (17) days from the date of hearing, being 23rd June 2025, in full fidelity to the constitutional imperative for prompt and efficient resolution of disputes touching on matters of high public importance.

20. This Petition invites the Court to reflect upon a foundational principle in the architecture of our democratic governance, which is, the right of the citizens of Kenya to participate in free, fair, transparent and credible elections administered by an independent, impartial and competent electoral body.

21. The social contractual relationship between the people and the State will be a dead letter, unless we have a credible IEBC. The issues raised before this Court are not only of legal concern, but of deep constitutional, historical and public significance; touching on the very legitimacy of the electoral process in the Republic of Kenya.

The Petition

22. The Petition dated 13th May 2025 is brought pursuant to Article 22 and Article 258 of the *Constitution*. It is supported by the affidavit of Kelvin Roy Omondi, the 1st Petitioner, sworn on 13th May 2025.

23. The Petitioners are adult citizens who describe themselves as public interest spirited individuals.

24. The 1st Respondent is the principal legal advisor to the National Government and is established under Article 156 under the *Constitution*.

25. The 2nd Respondent is the Head of Public Service, an Office established under Section 8(3) of the *National Government Co-ordination Act*, Cap 127 Laws of Kenya.

26. The 3rd Respondent is the National Assembly, a House of Parliament established under Article 93(1) of the *Constitution*.

27. The 1st to 7th Interested Parties are the persons nominated to serve as Chairperson (1st Interested Party) and Commissioners (2nd to 7th Interested Parties) of the Independent Electoral and Boundaries Commission (IEBC).

28. The 8th Interested Party is a Kenyan adult and who described himself as a public spirited individual.

29. The Petitioners are aggrieved by the manner in which the 1st to 7th Interested Parties were selected and nominated to serve as Chairman and Commissioners of the Independent Electoral and Boundaries Commission. They contend that the process of selection and nomination of the 1st to 7th Interested Parties was unconstitutional. Specifically, they allege that:

a. the nominations contravene the *Constitution* in that they were individually and collectively not representative of Kenya's diverse communities;

b. no Person with Disabilities was nominated;

c. the names were selected without any such prior consultation by the President with the Majority and Minority Leadership of the National Assembly contrary to the National Dialogue Committee Report;

d. Some of the nominees are constitutionally barred from selection, nomination, and appointment to the IEBC by virtue of having candidates for election within the constitutionally disallowed timeframe, by virtue of having held high office within a political party within the constitutionally disallowed timeframe, or by virtue of holding State or Public Office;

e. Some of the nominations were not merited as the particular nominees received low scores at the interviews;

f. Some of the nominations are tainted with bias or the perception of bias;

g. The selection and nomination processes lacked the requisite standards of public participation, transparency, and accountability; and

h. The selection and nomination processes were procedurally flawed, as typified by the issuance of a second and expanded shortlist of candidates.

30. The Petitioners contend that the selections made by the IEBC Selection Panel were not based on merit as some of the candidates did not achieve high scores in the interviews.

31. Secondly, the Petitioners allege that Mr. Hassan Noor Hassan, the 5th Interested Party, was never shortlisted for the interviews and was only snuck in through an addendum contrary to the selection and nomination process under the *Independent Electoral and Boundaries Commission Act*.

32. Further, the Petitioners state that the nomination of Ms. Mary Karen Sorobit, the 4th Interested Party, is unconstitutional and unlawful as she was, at the time of her nomination, a member and office bearer of a political party, specifically having served as a County Chairperson of the Jubilee Party within the preceding five years of Elections which were held in August 2022.

This, according to the Petitioners, contravenes the express provisions of Article 88(2)(a) of the *Constitution*, which prohibits the appointment of any person who has, within the preceding five years, held office in a political party.

33. The Petitioners aver that moreover, the nomination of Ms. Sorobit violates Article 10 of the *Constitution*, which imposes upon all State organs and public officers the duty to uphold the national values and principles of governance including integrity, transparency and accountability.

34. The said nomination allegedly offends Article 73(2)(a) of the *Constitution*, which provides that the guiding principles of leadership and integrity include selection based on personal integrity, competence and suitability.

35. The Petitioners argue that recent political affiliation of Ms Sorobit undermines public confidence in the independence, neutrality and impartiality required of members of the Independent Electoral and Boundaries Commission.

36. Lastly, that the process leading to the nomination of Ms Sorobit does not meet the threshold of a fair, open and merit-based process as contemplated under Article 232(1)(g) of the *Constitution*, which requires transparency and timely, accurate provision of information to the public in matters of public service appointments.

37. The Petitioners are further aggrieved by the nomination of a proposed Chairperson and a proposed Commissioner both said to hail from the 'Rift Valley'. The Petitioners say that this contravenes Articles 10, 232 and 250 (3) & (4) of the *Constitution*, as the *Constitution* did not anticipate what they term as a composition of the Independent Electoral and Boundaries Commission that would be dominated by a majority of persons from the same region while excluding other regions of the Republic of Kenya.

38. The Petitioners also lament that the nomination list is unconstitutional and illegal as it failed to include any person with disability, despite one such person having been selected by the IEBC Selection Panel and forwarded to the President of the Republic for consideration.

39. The Selection Panel is further accused of acting illegally and unconstitutionally contrary to Article 88 (2) of the *Constitution* in the following instances:

    i. Anne Njeri Nderitu, the 2nd Interested Party who currently serves as the Registrar of Political Parties, was and still is a State Officer and hence she was and/or is ineligible to apply for or be selected as a nominee to serve as a Commissioner of the Independent Electoral and Boundaries Commission;

    ii. Mary Karen Sorobit , the 4th Interested Party, was and/or is ineligible to apply for or be selected as a nominee to serve as a Commissioner of the Independent Electoral and Boundaries Commission as she was the Executive Director and member of the governing body of the Jubilee Political Party in the last 5 years preceding her selection and nomination;

    iii. Hassan Noor Hassan, the 5th Interested Party, was and/or is ineligible to apply or be selected as a nominee to serve as a Commissioner of the Independent Electoral and Boundaries Commission as he had contested and vied for public office in the 2017 and 2022 General Elections, in Mandera County as a Governor which automatically disqualified him from applying, being shortlisted and being selected as a commissioner of the Independent Electoral and Boundaries Commission; and

    iv. The nomination of Erastus Edung Ethekon, the 1st Interested Party , as the Chairperson of the Independent Electoral and Boundaries Commission is unconstitutional and illegal as his nomination is laced with perception of likelihood of being biased on account of his inclinations and affiliations with Josephat Nanok, the Statehouse Deputy Chief of Staff of the President, which allegedly arise from the 1st Interested Party having served the said Josephat Nanok as his County Attorney when Josephat Nanok was the Governor of Turkana County; and hence nomination is tainted with political partiality and lack of neutrality contrary to what is required of a Chairperson of IEBC.

40. Additionally, the Petitioners fault the selection and nomination of the 1st to 7th Interested Parties by the President stating that the same was illegal and contrary to Articles 10 and 27 (1) of the *Constitution* on the requirement for public engagement, participation and consultation as the President did not engage or consult the Majority and Minority Political Parties of the National Assembly prior to making the selection as recommended by the National Dialogue Committee.

41. According to the Petitioners, the failure of the President and the Selection Panel to publicize the information relating to the performance of the candidates and to publish the IEBC Selection Panel's Report on the interviews also offended Article 35 of the *Constitution*.

42. Furthermore, the Petitioners aver that the subsequent failure by the Selection Panel to avail the information pertaining to the interviews as requested by the Petitioners was a second violation of Article 35 of the *Constitution*.

43. The Petition seeks the following reliefs, verbatim:

a) A declaration does issue to the effect that the nomination and selection of Erastus Edung Ethekon; Anne Njeri Nderitu; Moses Alutalala Mukhwana; Mary Karen Sorobit; Hassan Noor Hassan; Francis Odhiambo Aduol; Fahima Araphat Abdallah, is illegal, null and void and contrary to Articles 10, 232 and 250 (3) & (4) of the *Constitution* of Kenya, 2010 as read with the provisions of the *Independent Electoral and Boundaries Commission Act*.

b) A declaration that the nomination of Mr. Hassan Noor to the office of Commissioner of the Independent Electoral and Boundaries Commission (IEBC) is unconstitutional, illegal, and invalid for being in contravention of Article 88(2) as read with Article 250(4) of the *Constitution* of Kenya, 2010, and Section 6(1)(a) of the *Independent Electoral and Boundaries Commission Act*, 2011, by virtue of the fact that he contested for the position of Governor of Mandera County in the 2022 General Elections, thereby rendering him ineligible for appointment to the Commission having held political office within the prescribed disqualifying period of five years;

c) A declaration that the recommendation of Ms. Mary Karen Sorobit for appointment as a member of the Independent Electoral and Boundaries Commission (IEBC) is unconstitutional, unlawful, and invalid for reason that she was, at the time of her nomination, a member and office bearer of the Jubilee Party, contrary to Article 88(2)(a) of the *Constitution* of Kenya, 2010, and is therefore conflicted and incapable of discharging her duties with the impartiality, independence, and integrity required of a commissioner under Articles 10, 73, and 232 of the *Constitution*.

d) A declaration that the recommendation of Ms. Anne Njeri Nderitu for appointment as a member of the Independent Electoral and Boundaries Commission (IEBC) is unconstitutional, unlawful, and invalid for reason that she was, at the time of her nomination, State Officer, contrary to Article 88(2)(b) of the *Constitution* of Kenya, 2010, and is therefore conflicted and incapable of discharging her duties with the impartiality, independence, and integrity required of a commissioner under Articles 10, 73, and 232 of the *Constitution*.

e) An Order Of Certiorari be and is hereby issued to quash the decision and/or recommendation of the Selection Panel for the Appointment of Commissioners to the IEBC to nominate Ms. Mary Karen Sorobit for appointment to the said Commission.

f) A declaration that the nomination of Erastus Edung Ethekon; Anne Njeri Nderitu; Moses Alutalala Mukhwana; Mary Karen Sorobit; Hassan Noor Hassan; Francis Odhiambo Aduol; Fahima Araphat Abdallah for appointment to the Independent Electoral and Boundaries Commission (IEBC) by the Selection Panel is unconstitutional, unlawful, null and void for having been undertaken in a process that failed to comply with the requirements of Articles 10, 73(2)(a), 88(2)(a), and 232(1)(g) and (h) and 250 (3) & (4) of the *Constitution* of Kenya, 2010.

g) Pursuant to Article 23 (3) of the *Constitution* of Kenya, 2010, an order of certiorari does issue quashing the decision dated 8TH MAY; 2025 issued by the Head Of Public Service To The Effect Of Nominating Erastus Edung Ethekon; Anne Njeri Nderitu; Moses Alutalala Mukhwana; Mary Karen Sorobit; Hassan Noor Hassan; Francis Odhiambo Aduol; Fahima Araphat Abdallah as members of the Independent Electoral and Boundaries Commission.

h) An order of permanent injunction restraining Erastus Edung Ethekon; Anne Njeri Nderitu; Moses Alutalala Mukhwana; Mary Karen Sorobit; Hassan Noor Hassan; Francis Odhiambo Aduol; Fahima Araphat Abdallah nominated and/or recommended by the Selection Panel for appointment as Commissioners of the Independent Electoral and Boundaries Commission from assuming, occupying, or performing the functions of the office of Commissioner of the Independent Electoral and Boundaries Commission, on grounds of violation of the *Constitution*, including but not limited to breach of the principles of political neutrality, integrity, and fair administrative action as enshrined under Articles 10, 73, 88(2)(a), 232 and 250 (3) & (4) of the *Constitution* of Kenya, 2010.

(i) A Declaration that the Attorney General failed in their constitutional mandate under Article 156(4) of the *Constitution* of Kenya, 2010 by neglecting to provide independent, impartial, and sound legal advice to the Executive regarding the nomination of Erastus Edung Ethekon; Anne Njeri Nderitu; Moses Alutalala Mukhwana; Mary Karen Sorobit; Hassan Noor Hassan; Francis Odhiambo Aduol; Fahima Araphat Abdallah Commissioners of the Independent Electoral and Boundaries Commission (IEBC), thereby failing to protect the rule of law and the public interest, as mandated by the *Constitution*.

j) Any other or further orders, writs and directions this court considers appropriate and just to grant for the purpose of the enforcement of the Petitioners' fundamental rights and freedoms.

Responses to the Petition

44. The 1st Respondent opposes the Petition dated 13th May, 2025 through a Preliminary Objection dated 16th May, 2025 raising the following grounds:

1. The Petition is non-justiciable on account of having been instituted contrary to the principle of ripeness.

2. The Petitioners has offended the doctrine of exhaustion as they have not exhausted the constitutionally provided remedy before invoking the jurisdiction of the Honourable court

3. That the exercise of jurisdiction by the Honourable court at the stage of the appointment process of Commissioner of an independent constitutional commission would be contrary to the doctrine of separation of powers and would constitute a usurpation of the primary role of the legislature in the approval process.

5. The petition merits dismissal under the constitutional avoidance doctrine

45. The 1st Respondent also filed Grounds of Opposition dated 9th June, 2025 to oppose the Petition on the following grounds, verbatim:

1. The Petitioners have failed to dislodge the legal presumption of regularity of all executive action in the entire petition; *Omnia praesumuntur rite esse acta*

2. The petition is supported by a defective supporting affidavit that offends the provisions of Order 19 Rule 3 (1) of the *Civil Procedure Rules* in that the deponent has not confined himself to such facts as he is able of his own knowledge to prove and are contains inadmissible averments.

3. The annexure marked 'KRO-2'to the supporting affidavit of Kelvin Roy Omondi constitutes illegally obtained evidence which ought to be struck out.

4. The Petitioners approbates and reprobates in their averments; on the one hand they aver that they haven't been furnished with information in respect to the recommendations and scores on the candidates and on the other hand they aver that the selection was not based on merit as some candidates did not achieve high scores in the interviews.

5. The Petitioners do not disclose the basis of his assertion that one Moses Alutalala Mukhwana got low marks.

6. The Petitioners fail to appreciate that 'public service' is expressly defined in Article 260 of the *Constitution* as '...the collectivity of all individuals, other than State officers, performing a function within a state organ.

7. The 1st to 7th Interested Parties meet the constitutional criteria provided in Article 250 (4) in that they are from diverse ethnic backgrounds and are from different counties as specified in the first schedule to the *Constitution* as provided in Article 6 (1) of the *Constitution* which are the constitutionally prescribed regions.

8. Article 250 (4) of the *Constitution* provides for a wholesome consideration of all appointments to all commissions and independent offices, there is no legal basis for the Petitioners' allegations that it was mandatory for the nomination and appointment of a person with disabilities into the Independent Electoral and Boundaries Commission.

9. Article 88 (2) of the *Constitution* provides for eligibility for appointment not for nomination.

10. Article 250 (2) of the *Constitution* contemplates identification and recommendation, approval by the National Assembly and appointment by the President as distinct steps in the appointment process, the allegations in respect to appointment of state officers is therefore premature.

11. The allegation that the provisions of Article 88 (2) (a) of the *Constitution* prohibit persons who have vied for the position of Governor is not provided for in the *Constitution*.

12. The personal view of an unelected private individual cannot supersede the views of a duly elected constitutional house of representatives as being representative of public perception.

13. The petition is oblivious to the constitutional prescription of equality before the law and to equal protection of the law as the Petitioners seek to subordinate the fundamental freedoms and rights of the 1st to 7th Interested Parties to those of the Petitioners.

14. The allegations of non-participation, non-consultation with minority and majority parties is fallacious as the entire process was specifically subjected to the approval of the very same parties in the August house under Article 250 (2) (b) of the *Constitution*.

15. The allegations in respect to infringement of Article 35 of the *Constitution* are contradicted by the documents published by the state and made available subsequent to such publication which have been presented before court by the Petitioners.

16. The Petitioners have not availed of the statutory mechanism for access to information set out in the *Access To Information Act* contrary to the doctrine of constitutional avoidance.

17. This Honourable court lacks an appellate jurisdiction over the decision of the President and the National Assembly.

18. This Honourable court lacks the capacity to determine the polycentric considerations on the merits of appointments of commissioners of independent constitutional commissions.

19. This Honourable court should exercise deference to the constitutional repository of the functions and decline the Petitioners invitation to undermine the comity that is necessary for the proper function of the *Constitution*'s institutional arrangement.

46. The 2nd Respondent opposes the Petition through a Preliminary Objection dated 17th May, 2025 raising the following grounds, verbatim:

1. The jurisdiction of this Honourable Court has been wrongly invoked as the issues raised herein shall be subject to vetting and approval by the National Assembly pursuant to Article 250 (2) of the *Constitution* as read with Section 3 (5) of the First Schedule of the *IEBC Act*;

2. The Petition is an attempt to circumvent and usurp the Constitutional and statutory mandate and authority of the National Assembly in the approval of the Chairperson and members of the IEBC;

3. The Petition offends the findings in *Bishop Donald Kisaka Mwawasi v Attorney General & 2 others* [2014] KECA 561 (KLR) which confirms that the eligibility of a candidate for a public office is at the time of taking said office and not at nomination.

47. The 2nd Respondent also filed Grounds of Opposition dated 9th June, 2025 to oppose the Petition on the following grounds, verbatim:

1 The Selection Panel of the IEBC complied with the requisite provisions of the *Constitution* as read with the First Schedule of the *IEBC Act* in nominating the 1st to 7th Interested Parties as Chairperson and Commissioners of the IEBC.

2. The allegation that the nominations do not represent Kenya's diverse communities as it excludes ethnic communities is misconceived noting that the 1st to 7th Interested Parties, originate from 7 different ethnic communities and 7 different counties.

3. The allegation that the some of the nominees of the position of Chairperson and Members of the IEBC did not "achieve high scores in the interviews" is nothing short of conjecture as no material evidence has been placed before this Honourable Court to substantiate such allegation.

4. There exists no Constitutional or Statutory obligation on the Selection Panel to "engage or consult" the Minority/Majority Political Parties at the National Assembly prior to nominating candidates for Chairperson and Members of the IEBC as urged by the Petitioners. The candidates were vetted at the National Assembly according the members of the political parties the opportunity to be "engaged and consulted".

5. The 5th Interested Party was, part of the 111 persons on the shortlist.

6. The claim by the Petitioners of want of regional balance in the list of nominees is unmerited as provinces that the Petitioners rely on are unknown in law and not envisaged under the 2010 Constitutional dispensation.

7. There exists no mandatory Constitutional or statutory provision for the nomination of Persons with Disabilities to serve as a chairperson or commissioner of the IEBC.

8. All candidates that were nominated and subsequently approved by the National Assembly are duly qualified i.e.:

   a) Erastus Edung Etheknon-The allegation of bias on account of his supposed inclination and affiliation to Josephat Nanok is unsubstantiated and amounts to conjecture;

   b) Anne Njeri Nderitu- The disqualification of a State Officer provided for under Article 88 (2) (b) of the *Constitution* of Kenya takes effect on appointment and not at nomination;

   c) Moses Atulala Mukhwana- No material has been placed before this Honourable Court not to warrant his appointment.

   d) Mary Karen Sorobit-No material has been placed before this Honourable Court to exhibit that she was a member of the governing body of the Jubilee Party five years prior to her nomination as stipulated by Article 88 (1) (a) (ii) of the *Constitution*;

   e) Hassan Noor Hassan-No material has been placed before this Honourable Court to suggest that he held office or stood for election as a Member of Parliament of County Assembly in the last 5 years of his nomination as explicitly provided for under Article 88 (2) (a) (i) of the *Constitution*.

   f) Francis Odhiambo Oduol-No material has been placed before this Honourable Court not to warrant his appointment.

   g) Fahima Araphat Abdallah-No material has been placed before this Honourable Court not to warrant her appointment.

48. The 3rd Respondent opposes the Petition through a Notice of Preliminary Objection dated 15th May, 2025 raising the following grounds, verbatim:

   1. The Petitioners' Notice of Motion and Petition are not justiciable for violating the doctrine of ripeness.

   2. To the extent that Petition and the Notice of Motion challenges an ongoing constitutional process in respect of which no decision or action has been taken by the National Assembly, the Petitioners' Notice of Motion and Petition are speculative and deals with prospective anticipatory circumstances rather than current or probable events.

   3. The Petitioners, having failed to exhaust all avenues available to them under the *Constitution* and the Standing Orders, the Petition and Application violate the doctrine of exhaustion and are therefore premature.

49. The 3rd Respondent also filed two Replying Affidavits, one sworn by Jeremiah Ndombi, the Deputy Clerk of the National Assembly of Kenya sworn on 15th May, 2025, and the other sworn by Samuel Njoroge, the Clerk, National Assembly of Kenya sworn on 10th June, 2025.

50. It is the 3rd Respondent's overall contention is that the Petition is premature and it offends the doctrine of ripeness; and it is therefore not justiciable and ought to be dismissed in limine.

51. According to the 3rd Respondent, this Court lacks jurisdiction to entertain the Petition.

52. It is deposed by the 3rd Respondent that by a letter dated 9th May, 2025, the Head of the Public Service (the 2nd Respondent), on behalf of the President, forwarded to the Speaker of the National Assembly the names of the 1st to 7th Interested Parties as the persons nominated for the positions Chairperson and Commissioners of the IEBC.

53. The 3rd Respondent further contends that as at the time of filing the Petition, the National Assembly (the 3rd Respondent) had not yet conducted the parliamentary vetting and approval process of the nominees.

54. In response to the alleged failure to include persons with disabilities, the 3rd Respondent argued that Article 54(2) provides for the progressive implementation of the principle that at least 5% of members of the public in elective and appointive bodies are Persons with Disabilities.

55. With respect to access to the Report of the Selection Panel, it is contended by the 3rd Respondent that the Petition is caught up by the doctrine of exhaustion of remedies as the Petitioners invoked processes that they did not allow to run their course but instead prematurely moved to Court.

56. On the alleged perception of bias of Mr. Erastus Edung Ekethon, the 3rd Respondent contends that the Petitioners' allegations are baseless since the 1st Interested Party served as the County Attorney for Turkana County and not as former Governor Josphat Nanok's personal legal advisor.

57. On the allegations that Ms. Anne Njeri Nderitu was and still is a serving State Officer, and therefore was disqualified from being appointed as a Commissioner of the IEBC, the 3rd Respondent noted that at the time of the filing of the Petition the 2nd Interested Party was yet to be appointed to the Commission and that her appointment was subject to the prior approval by the National Assembly and resignation before assuming office in accordance with Article 88(2) of the *Constitution*.

58. Regarding the alleged disqualification of Mary Karen Sorobit pursuant to Article 88(2) (a) (ii) of the *Constitution*, the 3rd Respondent's position was that the 4th interested party was not a member of the governing body of the Jubilee Political Party at the time of her nomination and that in any case, that disqualification would only apply at the appointment stage, which is yet to be reached.

59. With respect to Mr. Hassan Noor Hassan, the 3rd Respondent contended that while Article 88(2) (a)(i) disqualifies a person who stood for election as a Member of Parliament or Member of County Assembly from appointment as a member of the IEBC, that disqualification does not apply to the 5th Interested Party since he did not vie for either of those positions within the proscribed period, if at all.

60. On the allegation that the 5th Interested Party was improperly included in the shortlist through a republished shortlist, the 3rd Respondent underscored that the said nominee was amongst the applicants in the longlist and that the shortlist as republished by the Selection Panel on 25th March 2025 was in accordance with Paragraph 2 of the First Schedule to the *IEBC Act*.

61. Concerning Fahima Araphat Abdalla, the 3rd Respondent noted that the 7th Interested Party was nominated in furtherance of the constitutional imperatives on affirmative action for youth, women, and persons from minority marginalized communities, in compliance with Articles 27(8), 55 and 56 of the *Constitution*. The 3rd Respondent underscored the status of the 7th interested party as a youth,



a woman, and a member of the Bajuni tribe which is a distinct minority, in addition to her general qualifications and suitability.

62. As regards the suitability of the nominees, the 3rd Respondent deponed that all the seven nominees demonstrated a comprehensive understanding of the mandate and operations of the IEBC and their respective roles as Chairperson and Commissioner. The 3rd Respondent also stated that the nominees possessed the requisite academic qualifications and relevant professional experience as required by law.

63. The 3rd Respondent urges this Court to find that the Petition is devoid of merit and it should be dismissed with costs to the 3rd Respondent.

64. The 1st Interested Party filed a Replying Affidavit sworn on 10th June 2025 by Erastus Edung Ethekon opposing the Petition.

65. He depones that the allegations that he is likely to be biased due to his previous professional relationship with Josephat Nanok are baseless, speculative, and made in bad faith. It is his case that he was appointed the County Attorney for Turkana County on 25th September 2018 and served until 30th September 2024; and that during that period he served under two Governors, Governor Josephat Nanok between 2018-2022 and Governor Jeremiah Lomorukai between 2022-2024.

66. He also argues that he had no personal familial or undue political relationship with Mr. Nanok, who was merely his supervisor in the official capacity of County Governor, and that their interaction was strictly professional.

67. The 1st Interested Party depones that as indicated in his detailed curriculum vitae, he is suitable to be appointed as Chairperson of the Commission and that the allegations of bias, misconduct or ethical impropriety against him are misplaced and unsubstantiated.

68. According to the 1st Interested Party, the selection of nominees from seven distinct counties (Turkana, Nyandarua, Kakamega, Uasin Gishu, Mandera, Kisumu, Lamu) reflects and upholds Kenya's regional diversity, as contemplated by Article 232(1)(g) of the *Constitution*.

69. The 1st Interested Party further states that the assertion that his nomination fails to reflect diversity is incorrect as he is a person from Turkana, and that he represents a historically marginalized tribe and area. It is his case that his nomination accords with Articles 10, 27 and 81 of the *Constitution* on inclusivity and diversity.

70. It is his case that the allegations in the Petition that the selection process lacked transparency are unfounded as the Selection Panel complied with the *IEBC Act*, and specifically the First Schedule, by conducting an open and transparent process featuring the publication of vacancy notices and shortlists as required by law.

71. The 1st Interested Party also states that his professional history demonstrates independence from political influence and a commitment to upholding the mandate of an impartial IEBC under Article 88.

72. He further states that subsequent to the filing of this Petition, the National Assembly (the 3rd Respondent) vetted the 1st – 7th Interested Parties under the Public Appointments (Parliamentary Approval) Act; and in that process, the 3rd Respondent received and considered public concerns and objections on the suitability, integrity and competence of the 1st – 7th Interested Parties, pursuant to Paragraph 6(9) of the First Schedule to the Act.

73. The 1st Interested Party argues that the Petitioners, just like all other persons, had the opportunity to raise objections during the vetting process in the National Assembly. As such, the Petition invites the

Court to encroach upon the constitutional functions of the National Assembly, thereby offending the principle of separation of powers.

74. According to the 1st Interested Party, the Petitioners have not demonstrated any violation of the *Constitution* or statute nor provided evidence of procedural irregularities warranting the grant of the reliefs sought.

75. Opposing the Petition, the 2nd Interested Party filed a Replying Affidavit sworn on 15th May 2025, a Further Affidavit dated 18th June 2025 and a Notice of Intention to raise a Preliminary Objection dated 19 th June, 2025.

76. In the Notice of Preliminary Objection, the 2nd Interested Party objects to the Petition on grounds of violation of the doctrine of exhaustion. She concurs with the 1st Interested Party's position that the proper forum for the Petitioners to have raised their grievances was before the National Assembly during vetting.

77. The 2nd Interested Party's further case is that the Petition lacks merit as it fails to specify the constitutional violations, if any, that have been committed.

78. According to the 2nd Interested Party, there exists no bar against State Officers applying for the position of Member of the IEBC, provided that upon appointment the State Officer tenders their resignation from the prior office held. The 2nd Interested Party also states that the disqualification under Article 88(2)(b) only crystallizes at the point of appointment and not at the stage of application or nomination. She argues that the rationale behind Article 88(2)(b) of the *Constitution* is to prevent the concurrent holding of multiple state or public offices by a single individual.

79. According to the 2nd Interested Party, expecting a State Officer to resign from any other state office held prior to being formally confirmed or appointed to a new public office would be illogical and premature. She further argues that in that regard Article 88(2)(b) must be read together with Article 250(6)(b) of the *Constitution*.

80. On the failure to include a person with disability among the list of nominees, the 2nd Interested Party argued that the same cannot be characterized as unconstitutional as the Chairperson of the IEBC Selection Panel publicly encouraged applications from youths and persons with disabilities; and that indeed, some such candidates applied and were subsequently shortlisted and interviewed.

81. In her Further Affidavit sworn on 18th June 2025, the 2nd Interested Party depones that the Petition is fatally defective and incompetent for failure to enjoin the IEBC Selection Panel, against whom adverse allegations have been made and adverse orders sought.

82. The 2nd Interested Party argues that there exists no legal obligation compelling the IEBC Selection Panel to publish or publicize the interview report or results. It is her case that the legislative intent underlying the relevant legal framework must be interpreted in conformity with applicable data protection principles, including the right to privacy as enshrined under Article 31 of the *Constitution* and the *Data Protection Act*.

83. She further argues that public dissemination of such results, particularly in respect of candidates who may have performed poorly, poses a real risk of reputational harm and may prejudice their future employment prospects. According to her, such publication may result in more harm than good.

84. The 2nd Interested Party also states that the Petitioners seek to introduce new matters that were not pleaded in the Petition through the Petitioners' Supplementary Affidavit (2) dated 15th June, 2025

which she characterizes as irregular for having been filed after close of pleadings and without leave of the Court.

85. It is her case that the Petitioners have not discharged the burden of proof with respect to their allegations; which remain speculative, unsubstantiated and purely sensational.

86. In response to the Petition, the 3rd Interested Party filed a replying affidavit sworn on 10th June 2025.

In the said affidavit, Moses Alutalala Mukhwana contends that the Petition is devoid of merit and does not establish substantive defects, fundamental omissions, or a consideration of extraneous factors so as to render the cumulative nomination process unconstitutional.

87. He further states that the Petition lacks reasonable degree of precision of the Petitioners' complaints regarding the alleged violations. He claims that the Petition does not disclose with a reasonable degree of certainty and clarity what claim the 3rd Interested Party is required to defend himself against.

88. It is also his case that the allegations levelled against him lack correlation between the facts pleaded in the Petition, the prayers sought, and the averments made in the Supporting Affidavit.

89. The 3rd Interested Party also states that the claim that he scored low marks was not supported by any evidence.

90. On the allegation that the Selection Panel failed to consider persons with disabilities, the 3rd Interested Party states all persons were allowed to apply and one of the names sent to the President for consideration for nomination for position of chairperson was a person living with disability.

91. On the alleged lack of consultation with the opposition political parties as required by the NADCO Report, the 3rd Interested Party's case is that a report such as the one cited by the Petitioners has no force of law to override and/or warrant the invalidation of a constitutionally mandated and statutorily prescribed process.

92. The 3rd Interested Party concludes that the legal threshold for the grant of the reliefs in a constitutional petition has not been met in the present case.

93. The 4th Interested Party filed a Replying Affidavit sworn on 9th June 2025 and a Notice of Preliminary Objection dated 19 th June 2025 in opposition to the Petition.

94. In her Replying Affidavit, Mary Karen Sorobit depones that the Petition offends the doctrines of exhaustion, ripeness, separation of power, and justiciability.

95. She denies that she has ever served as an Executive Director or was even a Member of Jubilee Party's governing body within the last five years, a fact she says was confirmed by the Registrar of Political Parties in the letter dated 15th May 2025 Ref: RPP/FRP/027 VOL.VI (39) annexed to her Replying Affidavit.

96. The 4th Interested Party also states that contrary to the Petitioners' allegations, she does not have any political affiliation with any political party, political formation, or political coalition that is likely to undermine public confidence in her independence, neutrality, or impartiality if successfully approved and subsequently appointed as a Member of IEBC.

97. It is also her case that the Petitioners have not provided any evidence to show that she served as an Executive Director or a member of the Jubilee Party's governing body. She avers that this is demonstrated in the letter at page 859 of the Petition where the Petitioners sought information about the 4th Interested Party's political status from the Office of the Registrar of Political Parties.

98. The Petitioners, she argues in conclusion, have failed to provide any evidence of how the selection and nomination process violated and/or breached Article 10 and 73 (2) of the *Constitution*, in particular, on issues touching on the 4th Interested Party's integrity, competence and suitability.

99. The 5th Interested Party opposes the Petition through two Replying Affidavits sworn by Hassan Noor Hassan on 19 th May, 2025 and 10th June, 2025 respectively.

100. Hassan Noor Hassan posits that he was duly nominated, vetted, and approved for the position of Member of the Independent Electoral and Boundaries Commission. It is his case that he applied and was shortlisted for the interview for the position of commissioner of IEBC which was held on 24th April 2025 at 12.30 pm; and his nomination followed a rigorous, competitive and very fair selection process, any allegation to the contrary is denied.

101. The 5th Interested Party argues that the nomination and selection process was undertaken in strict adherence to the provisions of the *Constitution*, the *Independent Electoral and Boundaries Commission Act* and the *Public (Appointments (Parliamentary Approval) Act.*

102. He further argues that the Petitioners have not adduced any evidence in support of their allegations that he was not selected on merit or that he scored low scores during the interview.

103. On the Petitioners' allegation that the 5th Interested Party was snuck into the shortlist through the publication of an expanded shortlist, it his case that on 25th March 2025 , the Selection Panel clarified that after reviewing the longlist of the applicants it deemed it necessary to update the list of shortlisted candidates in order to further enhance compliance with the constitutional principles of regional balance, representation of the youth, and overall inclusivity.

104. The 5th Interested Party avers that the Petitioners' argument that he is disqualified under Article 88 (2) (a) (i) of the *Constitution* due to having run for election as the Governor for Mandera County at the last General Elections is founded on a misreading of the provision of the *Constitution*; which plainly only disqualifies persons who ran for Member of Parliament or Member of a County Assembly but not candidates in a gubernatorial election conducted within the last five years.

105. The 5th Interested Party contends that the Petitioners deliberately elected not to join the Selection Panel as a party to these proceedings despite them being a necessary party. To his mind, that omission of what he views as a mandatory party rendered the Petition unjusticiable.

106. In sum, it is the 5th Interested Party's case that the Petitioners are not entitled to the reliefs sought and that the Petition is without merit and ought to be dismissed with costs.

107. The 6th Interested Party opposes the Petition through Grounds of Opposition dated 15th May, 2025 and the Replying Affidavit sworn on 10th June, 2025.

The Grounds of Opposition are that, verbatim:

1. The Petition is an abuse of the Court process, fatally defective and hence ought to be struck off and/ or dismissed with costs.

2. The 6th Interested Party was vetted by IEBC selection panel but the Selection Panel is not a party to this petition.

3. The said List of Nominees complied with the requirements of Section 5 of the *Independent Electoral Boundaries Commission Act*.

4. Section 5 of the *Independent Electoral Boundaries Commission Act* provides a membership limited to seven (7) members hence it is impractical to represent all ethnic groups or achieve complete regional or ethnic balance in Kenya on the Independent Electoral Boundaries Commission.

5. Section 5 of the *Independent Electoral Boundaries Commission Act* does not set out a strict formula for achieving ethnic and regional balance in a body limited to seven (7) members hence that discretion is let to the selection panel.

6. The principle of inclusiveness under Article 10 of the *Constitution* was complied with in context of selecting nominees to the Independent Electoral Boundaries Commission as provided for under the *Independent Electoral Boundaries Commission (Amendment) Act, 2024*, which contemplates a broad diversity particularly regarding gender and integrity as opposed to the selection of specific nominees based on their regional locality, although the discretion is entirely bestowed on the respective bodies.

7. Article 54(2) of the *Constitution* of Kenya is framed in a language envisaging progressive realization, to ensure that no less than 5% of public bodies comprise of persons with disabilities. This requirement means that an appointing authority must take active steps to search for and include qualified candidates with disabilities, subject to the size and nature of the body.

8. Section 107 and 108 of the *Evidence Act* require the Applicant to prove that qualified persons living with disability applied or were interviewed but were overlooked that the selection panel acted in bad faith or in deliberate disregard of known disabled candidates who met the qualifications listed under Section 6 of the *Independent Electoral Boundaries Commission Act.*

9. The Applicant has failed to satisfy and/ or provide the provisions of the law the 6th Interested Party has violated.

10. The Applicant's Application is premised to deny the 6th Interested Party enjoyment of the fruits of the Selection Panel's outcome and to serve the nation as a qualified commissioner contrary to Section 4 of the *Independent Electoral Boundaries Commission Act.*

11. There is no prejudice that will be occasioned upon the Applicants.

12. The Application ought to be struck out or dismissed with costs to the 6th Interested Party.

108. The 6th Interested Party in response to the petition also filed a Replying Affidavit by Francis Odhiambo Oduol sworn on 10th June, 2025.

109. It is his case that the process through which he was shortlisted, interviewed, and recommended for nomination was conducted legally and was procedurally sound.

110. Francis Odhiambo Oduol avers that the Petitioners have not adduced any material showing any impropriety, lack of qualification, or violation of the *Constitution* in his selection and nomination.

111. It is his overall position that the Petition is unmerited, incompetent, misconceived, and an abuse of court process that ought to be dismissed with costs.

112. The 7th Interested Party, filed a statement setting out the grounds relied upon to oppose the Petition, stating, verbatim that:

    1. The Affidavit sworn on 13.05.2025 and the Further Affidavit sworn on 15.05.2025 are argumentative and disclose no issues of facts capable of being responded to by the 7th

Interested Party. As such, there is neither a legal nor viable cause of action by the Petitioners as against the 7th Interested Party. The 7th Interested Party should be struck out from these proceedings in accordance with Section 5(d)(i) of the *Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules*.

2. The Petition is drafted in an omnibus manner. The process of shortlisting and nomination was conducted on the basis of individual qualification and merit. The omnibus manner in which the Petitioners gravamen is espoused is prejudicial and unfair to the candidature 7th Interested Party whose process of shortlisting and nomination the Petitioners find no issue with.

3. The petition violates the doctrine of judicial restraint as it invites this Court to interfere with the constitutional and statutory mandate of Constitutional institutions and mechanism.

4. The petition violates the doctrine of separation of powers as it invites this court to determine the outcome of a process within the exclusive legal mandate of Parliament.

   a. Article 250(2) that requires chairpersons and each member of a commission, and the holder of an independent office, to be identified and recommended for appointment in a manner prescribed by national legislation, approved by the National Assembly and appointed by the President.

   b. Section 7 and 10 of the *Public Appointments (Parliamentary Approval) Act* that requires Parliament to consider the procedure used to arrive at a nomination, any constitutional or statutory requirements relating to the office in question, the suitability of the nominee and being clothed with the powers to reject any such nominees after such consideration.

   c. This is a direct mandate and process entrusted to Parliament and it has already called for public participation vide submission of memoranda including supporting affidavits on oath contesting the suitability of any the Nominees as provided for under Section 6 of the *Public Appointments (Parliamentary Approval) Act.*

   d. The petition is premature and if at all the same was to be in issue, it would have sufficed as a memorandum submitted before the Departmental Committee on Justice and Constitutional Affairs in Parliament for consideration rather than a matter before this court

   e. Interference with the Parliament's internal arrangements and procedures

   f. That the 7th Interested party is a woman from the Bajuni Community, a minority group and was also professionally and academically qualified to be a member of the Commission and her presence amongst the nominees reflect the regional and ethnic diversity in this Country within the provisions of Paragraph 6 in the 1st schedule of the *Independent Electoral and Boundaries Commission Act*.

   g. Further, there are no sufficient grounds or evidence on the face of the Notice of Motion and the Petition to support the allegation that the shortlisting and nomination of the 7th Interested Party violated the guiding principles of leadership and integrity under Article 73(2) (a) or that she failed to meet the eligibility criteria set out under Article 88(2) (a).

   h. That petition and the Further Affidavit sworn on 15.05.2025 are consequently incompetent, incurably defective and an abuse of the court processes and should be dismissed with costs.

113. The 7th Interested Party, Fahima Araphat Abdallah, also relied on her sworn Replying Affidavit filed on 5th June 2025 in which she situated herself as a Kenyan female youth from the Bajuni tribe, and a resident of Shella Village situated in Lamu County. She added that she is professionally and academically qualified to be a Member of the Commission; and that her presence in the list of nominees promotes the regional and ethnic diversity in this Country.

114. In response to the Petitioners' affidavit in support of the Petition, the 7th Interested Party largely covered the same grounds as the 1st to 6th Interested Parties.

115. The Fahima Araphat Abdallah depones that although she was Member of the Lamu County Public Service Board at the time of her selection and nomination, holders of that office are not state officers as defined under Article 260 nor are they designated as such by end statute. To that end, she avers that the Petitioners' argument that she is disqualified under Article 88(2)(b) are without legal basis.

116. The 7th Interested Party prayed that the Petition be found to be without merit and consequently dismissed.

117. The 8th Interested Party Justus Mutunga Mutuku was enjoined in the petition on 9th June, 2025 with the consent of all the Parties to the Petition. He filed a Replying Affidavit sworn by himself on 10th June, 2025 opposing the Petition, in his eyes, the Petition is baseless and is contrary to public interest and constitutional fidelity.

118. He asserts that he participated in the public vetting process of the 1st to 7th Interested Parties by submitting a memorandum to both the Selection Panel and the National Assembly.

119. According to the 8th Interested Party, the process of nominating the 1st to the 7th Interested Parties for appointment as Members of the IEBC was in accordance with the Constitutional and statutory dictates.

120. He argues that the continued delay in operationalizing the IEBC just two years to the general election may fatally hinder the boundary delimitation process and compromise electoral fairness and representation.

121. It is his case that the Petition fails to demonstrate any breach of the law in the appointments, which he avers complied with Articles 250(2)(b),248 of the *Constitution* and the *Public Appointments (Parliamentary Approval Act)* with adequate public participation and due process.

122. It is his further case that judicial interference in this process, without demonstration of any illegality, would offend the doctrine of separation of powers and institutional independence as guaranteed under Article 249(2)(b) of the *Constitution*.

123. The 8th Interested Party urged the Court to dismiss the Petition and affirm the legality of the appointments to enable the IEBC to carry out its constitutional mandate including boundary review and referendum facilitation.

The Petitioners' Rebuttal: Further Affidavit and Supplementary Affidavit (2)

124. In rebuttal to the Respondents' and Interested Parties' responses to the Petition, the Petitioners filed a Further affidavit sworn on 15th May, 2025 and a Supplementary Affidavit (2) sworn on 15th June, 2025 by Kelvin Roy Omondi. The two depositions reiterate the Petitioners' earlier averments in addition to responding to the contentions of the Respondents and the Interested Parties.

125. In the said affidavits, the Petitioners argue that the issue of jurisdiction is res judicata in light of the Ruling of this Court rendered on 29th May, 2025 and that as such, this Court cannot be invited to sit on appeal over its own decision concerning the issue of jurisdiction.

126. The Petitioners maintain that this Court has jurisdiction to hear and determine the Petition by virtue of Articles 22, 165(3), and Article 258 of the *Constitution*.

127. In response to the 3rd Interested Party's assertion that the "Supporting Affidavit contains inadmissible averments since statements of information and belief showing the sources and grounds thereof are only permitted in interlocutory proceedings to such facts as he is able of his own knowledge to prove contrary to the provisions of Order 19 Rule 3 (1) of the *Civil Procedure Rules*", the Petitioners assert that Constitutional Petitions are guided by the *Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013* (Mutunga Rules), and that under Rules 10 and 11 a Petition need not be supported by any such affidavit.

128. In response to the assertions by the 1st Respondent and the 5th Interested Party that "the Annexure marked "KRO-2" constitutes illegally obtained evidence", the Petitioners state that the annexure is a document that is in the public arena.

129. The 1st Petitioner added that annexure 'KRO-2' was presented to his advocate by an anonymous whistleblower and that neither the Respondents nor the Interested Parties have questioned its authenticity.

130. Further, the Petitioners counter that the doctrines of justiciability and ripeness do not apply and that the Court should decline the invitation to exercise deference, as the selection, nomination, and appointment processes are already tainted.

131. The Petitioners further challenge the actions and conduct by the Selection Panel on one hand, and on the other hand the legality and constitutionality of the actions by the President in selecting the nominees and their gazettement on 10th June 2025; an action that came notwithstanding the ruling and express orders of this Court issued on the 29th May, 2025.

132. In rebuttal, the Petitioners accuse the Speaker of the 3rd Respondent and the Members of the National Assembly of making public utterances to the effect that they would approve the list of nominees to the Commission no matter what; and that they proceeded to do so. The Petitioners argue that this was evidence of a predetermined decision that made the vetting and approval processes, including public participation, a mere facade.

133. They further claim that the National Assembly glossed over the concerns raised during their vetting of the nominees and that this was a continuation of the alleged impunity of the Selection Panel which illegally expanded the shortlist.

134. The Petitioners depone that subsequent to the filing of the Petition they received further information that the 7th Interested Party had confirmed during her vetting by the National Assembly that she is a current Member of the Lamu County Assembly Service Board. The Petitioners contend this makes the 7th Interested Party a State Officer who is consequently ineligible for shortlisting, nomination, and appointment.

135. The Petitioners further state that the 4th Interested Party stated before the National Assembly that she served as the Deputy Executive Director of the Jubilee Party until 2021.

The Petitioners annexed the Jubilee Party Constitution to their Supplementary Affidavit (2) in support of their contention that the Deputy Executive Director position is a member of the National Executive Committee whose membership forms part of the National Governing Council of the Jubilee Party.

136. They reiterated their contention that the 5th Interested Party, having admitted to contesting for the position of Governor in the 2022 General Elections, is disqualified under a purposive reading of Article 88(2)(a)(i) of the *Constitution*.

137. The Petitioners further argue that the 5th Interested Party's admission that he is the brother-in-law of the Leader of Minority in the National Assembly shows a close family tie to a senior political figure and casts doubt on whether the Selection Panel truly acting independently and in good faith in adding his name to the expanded shortlist. The Petitioners also added that this relationship with a senior political figure casts doubts on the 5th Interested Party's ability to exercise impartiality and be free from bias were he to be appointed to the IEBC.

138. On the issue raised by the Respondents and Interested Parties that the regions referred to by the Petitioners are unknown in law, it is their case that the said regions are known in law by dint of Article 262 as read together with Section 17 of the Sixth Schedule of the *Constitution* and Section 14 of the *National Coordination Act* Cap 127.

139. It is the Petitioners' case that there is a perception from the general public that the 1st to the 7th Interested Parties have secured their selection and nominations through the influence of their "godfathers" Raila Amollo Odinga and Junet Mohammed who are members of Orange Democratic Movement on one hand, and the President, Josephat Nanok and Musalia Mudavadi, who are members of the United Democratic Party on the other hand; all of whom are working together pursuant to the political memorandum of cooperation that is popularly referred to as the 'broad-based government'.

140. According to the Petitioners on 10th June, 2025, and in blatant defiance of the conservatory orders issued by this Court, the Respondents, vide the Office of the President and the Government Printer, caused the appointment of the 1st -7th Interested Parties as Chairperson and Commissioners of the IEBC.

141. The Gazette Notices 7724 and 7725, according to the Petitioners, are therefore void ab initio for violating a court order. Further, that having been tainted by an appointment which the President rushed through in defiance of court orders, the Petitioners argue that the members of the public have certainly lost confidence in the 1st -7th Interested Parties' political neutrality and their ability to run the IEBC independently.

142. The Petitioners state that they are apprehensive that if the orders sought in the Petition are not granted the appointments shall be finalized through swearing-in, but the process and the IEBC as a whole will lack the legitimacy expected of the institution mandated to conduct elections in Kenya.

143. The Petitioners also state that contrary to the averments by the 6th Interested Party to the contrary, Rule 5 (b) of the *Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013* is clear that a Petition shall not be defeated by reason of the misjoinder or non-joinder of parties. Consequently, they do not see their failure to include the Selection Panel in the Petition as fatal, and they further argue that in any case the Selection Panel is now functus officio and was dissolved hence it cannot sue or be sued.

144. Overall, the Petitioners state that the Petition meets the threshold for the grant of reliefs sought.

Written Submissions

145. The Petition was canvassed by way of written submissions, with oral highlighting on 23rd June, 2025.

The Petitioners' Written Submissions

146. The Petitioners filed written submissions dated 15th June 2025 in support of their contentions. The Petitioners' written submissions addressed the following thematic areas.

a. Lack of representation of Kenya's diverse communities

147. The Petitioners submit that Articles 10, 27, and 232 of the *Constitution* espouse inclusivity and equitable representation of all communities in public appointments.

148. They argue that where the nominees are predominantly from a few ethnic groups, and this contravenes the constitutional principle of regional and ethnic balance required for bodies like the IEBC, as well as the express provisions of the *National Cohesion and Integration Act* which discourages overrepresentation of any single community in public institutions.

149. They also submit that the nomination of the Chairperson and Commissioner from the former Rift Valley region while excluding other regions of the Republic also violates Articles 10, 232, and 250 (3) & (4) of the *Constitution*.

150. The Petitioners rely on the case of *Community Advocacy & Awareness Trust & 8 Others v Attorney General; Interested Party National Gender & Equality Commission & 5 Others,* Petition 243 of 2011, [2012] eKLR where Majanja J (as he then was) observed that public appointments must uphold constitutional values like transparency, equality and national diversity; and that while ethnicity and regional balance are important considerations, there are no clear legal guidelines on how to determine them.

b. On the exclusion of marginalized groups

151. The Petitioners submit that Article 54(2) of the *Constitution* mandates that at least 5% of public appointments should be Persons with Disabilities. Further, they submit that Article 81 (c) of the *Constitution* demands that a fair representation of persons with disabilities must guide in the totality of the electoral system, including appointment of the IEBC Commissioners.

152. According to the Petitioners, the list containing the proposed IEBC Chairperson and Commissioners is unconstitutional and illegal as it is discriminatory and failed to include any person with disability. The Petitioners relied on the cases of */Okoiti & Another v Public Service Commission & 73 Others; Law Society of Kenya & Another (Interested Parties)* (Petition 33 & 42 of 2018 (Consolidated)) [2021] KEHC 464 (KLR) (Constitutional and Human Rights) (20 April 2021) (Judgment) and *Marilyn Muthoni Kamuru v & 2 others v Attorney General & Another,* Petition 566 OF 2012, [2016] KEHC 8370 (KLR). In the latter case, the Court is said to have reiterated that ultimately, all public appointments must strictly comply with the *Constitution* and the law.

c. On no prior consultation with opposition political parties

153. The Petitioners submit that (Article 88(2)(e)) of the *Constitution* and the *IEBC Act*(2011) require a transparent and consultative process in the appointment of Members of the IEBC as this promotes fairness, inclusivity, and public confidence in the electoral body.



154. The Petitioners argue that the selection and nomination of the 1st to 7th Interested Parties by the President is illegal and contrary to Articles 10 and 27 (1) of the *Constitution* on the requirement of public engagement, participation and consultation as the President did not engage or consult the Majority and Minority Political Parties at the National Assembly prior to making the selection, contrary to the recommendations of the National Dialogue Committee.

155. They further submit that the Kriegler Report , which followed the disputed 2007 presidential election and the subsequent post-election violence, underscored the dangers of a partisan electoral commission and emphasized the need for impartiality in its composition.

156. The Petitioners also submitted that the Inter-Parliamentary Parties Group (IPPG) reforms of the late 1990s further reinforced the idea that broad political consensus in appointing key electoral officials helps mitigate distrust and enhances the legitimacy of electoral outcomes. They submit that over time, this bipartisan engagement has become an unwritten norm and a constitutional convention that, while explicitly outlined in the *Constitution*, is nevertheless widely accepted as a necessary requirement to prevent political bias and ensure electoral integrity.

157. Thus, the Petitioners submit that the IPPG process and the Kriegler Report have contributed to a constitutional tradition where inclusivity and political consensus in appointing commissioners of the elections body are regarded as essential for credible elections and democratic stability in Kenya. They also submit that this historical fact cannot be sacrificed at the altar of rigid formalism. To buttress this argument, the Petitioners rely on the Supreme Court case of *In the Matter of the Interim Independent Electoral Commission (Applicant)* (Constitutional Application 2 of 2011) [2011] KESC 1 (KLR) (20 December 2011) where the Apex Court observed that the *Constitution* of Kenya requires a purposive approach to interpretation that avoids rigid formalism and that courts must consider non-legal factors such as historical, social, economic and political contexts.

158. It is the Petitioners' further submission that the IEBC Selection Panel violated constitutional principles of transparency, accountability and fair administrative action during the selection process. Specifically, that they argued that the Selection Panel failed to publicize names, disclose scores, or explain its decision-making criteria; thereby breaching Articles 10, 35, 47, 232, and 250 of the *Constitution*.

d. Breach of procedure, legitimate expectation , fair administrative action, and perception of bias

159. Another major concern for the Petitioners is that Hassan Noor Hassan , who while longlisted was not in the initial shortlist, was included in a republished and expanded shortlist in a manner that was unprocedural, illegal and discriminatory against all other candidates. To the Petitioners, this inclusion violated the rule of law, legitimate expectation, and fair administrative action.

160. It was their submission that the Selection Panel's action and decision in this regard erodes public trust in institutions but also creates a dangerous precedent where rules can be bent to favour individuals; undermining the very essence of a lawful and just administrative system. The Petitioners also submit that this highlights a legitimacy concern with respect to the 5th Interested Party, whom the people of Kenya will reasonable conclude was snuck into the Commission to serve as a political acolyte rather than as an independent and non-partisan State Officer who administers his duties free of political influence.

161. The Petitioners relied on the Indian cases of *Ram Pravesh Singh & Others v State of Bihar & Others* 2006 AIR SCW 5312, 2007 (1) AIR JHAR R 373 2006 LAB. I. C. 4241, 2006 LAB. I. C. 4241; *M.P. Oil Extraction and Anr. Etc. v State of Madhya Pradesh and Others* AIR 19 98 SUPREME COURT 145, 1997 (7) SCC 592, 1997 AIR SCW 4104, (1997) 6 JT 97 (SC) and *Madras City Wine Merchants'*

Asson. and ... v State of Tamil Nadu and Anr 19 94 AIR SCW 3915, 1994 (5) SCC 509, (1995) 2 MAD LJ 2, (1995) 1 MAD LW 21, (19 94) 4 JT 6 55 (SC) in support of their submissions under this thematic area.

On nomination of a person affiliated to a political party

162. The Petitioners submit that the selection and nomination of Mary Karen Sorobit is unconstitutional and unlawful due to her recent affiliation with a political party. It is submitted that she served as a County Chairperson of the Jubilee Party within five years of the General Elections that were held in August 2022.

According to the Petitioners, this contravenes the express provisions of Article 88(2)(a) of the *Constitution*, which bars recent political party office bearers from being appointed to the IEBC.

163. They submit that her nomination violates Article 10, by failing to uphold transparency, integrity, and accountability, and Article 73(2)(a) , which demands that public appointments be based on the guiding principles of leadership and integrity and also selection based on personal integrity, competence, and suitability. The Petitioners further submit that her recent political affiliation undermines public confidence in the independence, neutrality, and impartiality required of members of the Commission.

164. According to the Petitioners, the process leading to her nomination fails to meet the threshold of a fair, open, and merit-based process as contemplated under Article 232(1)(g) of the *Constitution*.

165. The Petitioners linked that alleged failure with the Selection Panel's alleged failure to publicize the names submitted to the President. It was submitted these compound failures breached the constitutional obligations of openness under Article 10, casting doubt on the integrity and transparency of the process.

166. The Petitioners rely on the case of *Trusted Society of Human Rights Alliance v Attorney General and Others* Nairobi Petition 229 of 2012 where the Court is said to have held that courts are constitutionally empowered to review the appointment of persons to State or public office for both procedural fairness and legality. This, it is submitted, involves examining whether the appointing authority properly investigated whether the nominee met constitutional requirements and determine whether the appointment itself is rational and reasonable .

167. The Petitioners further submit that the IEBC's composition must inspire public trust; and if nominees are perceived as biased, exclusionary or politically imposed, it could undermine electoral credibility, fuel disputes and protests, and violate constitutional safeguards meant to ensure an independent and representative Commission.

e. On nomination of State Officers and persons disqualified under the *Constitution*

168. The Petitioners submit that the Selection Panel and the President acted unconstitutionally by shortlisting, interviewing, and nominating unqualified persons to the IEBC.

169. Concerning Anne Njeri Nderitu , they argue that the Selection Panel and the President acted unconstitutionally under Article 88(2) as, the nominee was and still is a State Officer as the Registrar of Political Parties and hence she was and/or is ineligible to apply for or be selected as a nominee or approved to serve as a Commissioner of the Commission.

170. It is further submitted that Mary Karen Sorobit , was ineligible to apply or be selected as a nominee to serve as a Commissioner of the Commission as she was the Executive Director and member of the governing body of the Jubilee Political Party in the last 5 years preceding her selection and nomination.

171. Additionally, they submit that Hassan Noor Hassan, on the other hand was ineligible to apply or be selected as a nominee to serve as a commissioner as he had contested and vied for public office in the 2017 and 2022 General Elections, in Mandera County as a gubernatorial candidate, which automatically disqualified him from applying, being shortlisted and being selected as a commissioner.

172. The Petitioners argue that the qualifications of members of County Assemblies is similar to that of Governors hence a harmonious reading of the *Constitution* implies that the contestation by Hassan Noor Hassan for position of Governor disqualifies him under Article 88 of the *Constitution*.

173. Finally, they contend that Fahima Araphat Abdallah was ineligible to apply or be interviewed and nominated to serve as a commissioner as she is a State Officer and a current member of the County Assembly Service Board for Lamu County.

174. They also submit that the *Constitution* does not anticipate that any State Officer would hold any other office or be eligible for interviews and nomination for such other offices such as in Constitutional Commissions and Independent Offices. In their submissions, the Petitioners argued that it would be an absurdity for instance to see a Judge, while holding the position of a Judge, to apply and attend interviews for a position in the IEBC. They submitted that the same standard should apply for all other State Officers.

175. The Petitioners urge the Court to take note that for State and Public Officers to contest in elective offices, they must first resign from office before they can be cleared.

176. Reliance is placed by the Petitioners on the case of */Benson Riitho Mureithi v J. W. Wakhungu & 26 Others*, Petition NO. 19 of 2024, [2014] eKLR where the Court is said to have held that the High Court has jurisdiction to review the appointment of individuals to public office where integrity concerns under Chapter Six of the *Constitution* arise, and that although statutes like the *Leadership and Integrity Act* regulate the conduct of public officers already in office, they do not provide mechanisms for assessing the suitability of proposed appointees.

On the nomination of Erastus Edung Ethekon

177. The Petitioners submitted that the nomination of Erastus Edung Ethekon as Chairperson of the IEBC is unconstitutional and illegal as his nomination is laced with perception of likelihood of being biased on account of his inclinations and affiliations with Josephat Nanok, the Statehouse Deputy Chief of Staff of the President. In reiterating the contents of the Petition and their affidavits on this issue, the Petitioners added in submissions that the nomination is tainted with impartiality and does not uphold the neutrality required of a Chairperson of IEBC.

f. On publication of the outcome and report of the interviews by the Selection Panel

178. The Petitioners also contend that the Report and outcome of the interviews constitute important information to be shared with the public pursuant to Article 35 of the *Constitution*; and that it is unconstitutional for the President and the Selection Panel to fail to publicize the information relating to the performance of the candidates and the Report on the interviews.

179. They further submit that the *Constitution* demands that all such appointments be conducted in a transparent and competitive way hence by dint of Article 35 (3) the State and the Selection Panel was under an obligation to publish and share with the public the report and general performance of all the selected candidates and to justify how the requirement of merit appointment was reached by the Selection Panel and the President.

180. The Petitioners assert that both the *Constitution* at Article 47 and the *Fair Administrative Action Act* impose a legal obligation on the Selection Panel to disclose relevant information. Further, it was submitted that under the constitutional principles of transparency, accountability and public participation, state organs, including the Selection Panel, are required to conduct their affairs in an open manner.

181. The Petitioner argue that the *Fair Administrative Action Act* codifies this duty to disclose relevant information and mandates that administrative bodies provide reasons for their decisions and allow affected parties access to pertinent information. They assert that the Selection Panel must adhere to these disclosure requirements in the interest of justice and compliance with statutory and constitutional mandates.

182. The Petitioners further submit that the score sheet and reasons for the Selection Panel's decision do not fall within the category of exemptions under section 6 of the *Access to Information Act*. Further, that there is no prohibition on disclosure of scores, reasons for the decisions and that the failure to disclose the information is constitutionally indefensible. The Petitioners rely on the South Africa Supreme Court of Appeal (Schultz J) in /*Transnet Limited v Goodman Brothers (Pty) Ltd* [2000] ZASCA 151; 2001 (1) SA 853 (SCA) where the Court is said to have observed inter alia , that a duty to give reasons entails a duty to rationalize the decision.

183. According to the Petitioners, the failure of the Selection Panel to disclose individual candidate scores and the rationale behind its decisions undermines fundamental principles of transparency and accountability. It is submitted that without access to this critical information, the evaluation process remains opaque, leaving candidates and the public unable to assess whether selections were made fairly, objectively, and in accordance with established criteria.

184. The Petitioners further rely on the case of *Adrian Kamotho Njenga v Selection Panel for the Appointment of Commissioners of the Independent Electoral and Boundaries Commission (2021) & 2 Others; Independent Electoral and Boundaries Commission* [2021] eKLR where the Court declined to grant interlocutory relief on the basis that the decision of the Selection Panel could be reversed if the petition therein succeeded on merit.

185. The Petitioners also rely on the case of *Kenya Youth Parliament & 2 Others v Attorney General & 2 Others* [2012] KEHC 5436 (KLR) where the Court is said to have pointed out that courts are vested with jurisdiction to annul and declare as unconstitutional any such appointments to public office where a step in the process of appointment was side stepped.

186. In conclusion, the Petitioners submit, relying on the decision by the South African Constitutional Court in *Democratic Alliance v President of the Republic of South Africa* [2012] ZACC 24, 2013 (1) SA 248 (CC), 2012 (12) BCLR 1297 (CC) ('Democratic Alliance CC' or 'Simelane') where it was stated that the requirement of rationality obliges courts to engage in an evaluation of the relationship between the means employed to reach a decision on the one hand and the purpose for which the power to make the decision was conferred, on the other; that each and every step in the process of reaching the decision must be rationally related to the outcome; and that a failure to take into account relevant material that colours the entire process with irrationality will render the decision irrational.

187. The Petitioners also filed submissions on the Preliminary Objections raised by the Respondents and the Interested Parties to the effect that the petition was not ripe for determination and that therefore the dispute is not justiciable.

188. The Petitioners maintain that the Petition is competently before this Court and that the issues raised are justiciable under Articles 22 , 165(3) (b), and 258 of the *Constitution*. They argue that Article 22 grants



every person the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed, or is threatened. They also submitted that Article 258 grants every person the right to institute court proceedings claiming that the *Constitution* has been contravened or is threatened with contravention.

189. It is also their submission that Article 165 (3) (b) vests in the High Court the original jurisdiction to determine whether a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed, or threatened.

190. They rely on the *Senate v Attorney-General & Another & 3 Others* [2013] eKLR where Mutunga CJ (as he then was) is said to have observed that

> " When there is even a scintilla of a threat...the court must ward off the threat".

191. The Petitioners further rely on /*Coalition for Reform and Democracy (CORD) & 2 others v Republic of Kenya &10 others* [2015] KEHC 7074 (KLR) where the Court stated that a person can seek court intervention even before a constitutional right is violated, if there is a credible threat of violation; and that Article 165(3)(b) and (d)(i) allows courts to act on threatened breaches, recognizing that anticipated harm justifies preventive relief.

192. The Petitioners also rely on the case of *Katiba Institute v Inspector General of Police & another; Law Society of Kenya (Interested Party)* [2025] KEHC 5240 (KLR) where the Court observed that one does not need to wait for an actual violation of rights to file a constitutional petition, and that a credible threat is sufficient to justify legal action.

193. They state that the selection and nomination of the 1st -7th Interested Parties threatens multiple violations of the *Constitution* and the right to a free and fair election conducted by an independent body. In that regard, the Petitioners submitted the constitutional validity of the selection and nomination processes are questions ripe for determination by this Court.

194. In reaction to the second ground of the 3rd Respondent's Notice of Preliminary Objection, the Petitioners submit that the National Assembly, the Attorney-General, and the nominees alleging non-exhaustion bear the burden of demonstrating the existence of such remedies, their adequacy, and that the remedies have not been exhausted. The Petitioners invoke

In Re the Matter of the Interim Independent Electoral Commission [2011] eKLR, where the Supreme Court observed that:

> " The effect of the *Constitution*'s detailed provision for the rule of law in the processes of governance, is that the legality of executive or administrative actions is to be determined by the courts, which are independent of the Executive branch. The essence of separation of powers, in this context, is that the totality of governance-powers is shared out among different organs of government, and that these organs play mutually-countervailing roles. In this set-up, it is to be recognized that none of the several governmental organs functions in splendid isolation."

195. Further reliance is placed on /*Mark Ndumia Ndung'u v Nairobi Bottlers Ltd & another* [2018] eKLR, where the Court is said to have observed that

> " a remedy is available if the Petitioner can pursue it without impediment, it is effective if it offers a prospect of success, and it is sufficient if it is capable of redressing the complaint".

196. According to the Petitioners, the claims in this case are not amenable to the claimed alternative remedies, if at all they exist.

197. They further submit that the 2nd Interested Party's Preliminary Objection that only Parliament can consider the issues in the Petition is equally unmerited. Reliance in that regard was placed on the Supreme Court case of *Likowa v Aluochier & 2 others* [2025] KESC25 (KLR) in which the Supreme Court is said to have stated that where a petition raises a significant constitutional question it should be determined on its merits.

198. The Petitioners also submitted that the Attorney-General's call for constitutional avoidance, in a grave matter concerning the country's democratic core, is pointless.

199. The Petitioners rely on the case of *Jovet (Kenya) Limited v Bavaria N V* (SC Petition E039 of 2024 Petition) (unreported) where the Supreme Court is said to have faulted the High Court for avoiding a constitutional dispute about 'property' in goodwill.

200. Further, that the Supreme Court is said to have held that that under Article 20(3) of the *Constitution* courts are obligated not merely permitted to develop the law to align with the values of the Bill of Rights. It is further submitted that unlike the doctrine of constitutional avoidance, which discourages reliance on constitutional values and norms in disputes, the primacy of rights approach requires courts to actively apply constitutional norms in resolving disputes where existing laws fall short.

201. On whether the Petition is arguable, the Court observes that these were arguments in favour of the prayers for conservatory orders, which matter is spent and therefore we need not rehash them here.

The 1ST Respondent's Submissions

202. According to the 1st Respondent, the case of *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others* [2013] eKLR sets out the applicable principles and the contours of jurisdiction of the Court in matters concerning review of appointments made into public office.

203. It was submitted that in the above case, the Court of Appeal stated that whereas a Court may conduct review of appointments to State or Public Office on grounds of procedural soundness and as to the legality of such appointments, that may only be to the extent of applying a rationality test respecting the discretion conferred by law to the repository of the function.

204. It was submitted that there exists a legal presumption of regularity of all executive and legislative action in law which clothes the actions of both the Selection Panel and subsequently. the National Assembly with legality; and that a court must presume that official duties have been properly discharged and all procedures duly followed until the challenger presents clear evidence to the contrary.

205. The 1st Respondent relied on /*Chief Land Registrar & 4 others v Nathan Tirop Koech & 4 others* [2018] eKLR in arguing that the Petitioners have failed to dislodge that presumption.

206. The 1st Respondent submits the Petitioners' various affidavits offend Order 19 Rule 3 (1) of the *Civil Procedure Rules* as they contain averments that are not confined to such facts as the deponent is able of his knowledge to prove and therefore inadmissible and ought to be struck out.

207. The 1st Respondent also submits that the Petition is not supported by evidence that can sustain the assertions that it makes.

208. The 1st Respondent also submitted that the provisions of the *Constitution* that prescribe the manner of appointment of members of the IEBC are Articles 250 and 88 of the *Constitution* and not Article 232 as alleged by the Petitioners, since the IEBC is not part of the public service.



209. On the allegations of non-observance of the constitutional requirements for regional and ethnic diversity, the 1st Respondent argues that the Petition is premised on a misappreciation of the law. To their mind, the regional and ethnic diversity in the composition of constitutional commissions is to be considered wholesome, that is, assessing the totality of all commissions and independent offices as one. In support of this position, the cases of *Consortium for the Empowerment & Development of Marginalized Communities & 2 others v Chairman the Selection Panel for Appointment of Chairperson & Commissioners to Kenya National Human Rights Commission & 4 others* [2013] eKLR and *John Waweru Wanjohi & Others v Attorney General* (*supra*) as consolidated with Kipngetich Maiyo & 0thers v Kenya Land Commission Selection Panel & Others were cited.

210. Flowing therefrom, the 1st Respondent submitted that the Petitioners have not provided any evidence of the composition of the other Commissions and Independent Offices; and without such evidence, the 1st Respondent submits that this Court cannot proceed to carry out an inquiry to interrogate compliance with Article 250(4).

211. The 1st Respondent also submits that the 1st -7th Interested Parties are from different regions and ethnic backgrounds as demonstrated in their respective replying affidavits, and that the Petitioners have failed to support their allegations to the contrary.

212. Turning to the allegations that some of the Interested Parties were not eligible for nomination and appointment on account of alleged contravention of the provisions of Article 88 (2) of the *Constitution*, it is the 1st Respondent's submission that the Petitioners have not proved the said allegations.

213. Additionally, and with regard to Hassan Noor Hassan, it was the 1st Respondent's submission that Article 88 of the *Constitution* does not apply to gubernatorial aspirants and the invitation by the Petitioners for this Court to make a finding that it does would be this Court adding words to the *Constitution*; a role that is outside the Court's jurisdiction.

214. On the issue of the National Dialogue Committee (NADCO) Report and the Petitioners' contention that there should have been consultation with the Majority and Minority Leadership of the National Assembly, the 1st Respondent submits that Article 250 of the *Constitution* provides that the approval process for nominees shall be undertaken by the National Assembly, which is composed of both minority and majority parties. Consequently, the Petitioners' point on this aspect is already well catered for in law, and the 1st Respondent urges the Court to exercise deference to the repository of the function.

215. It is the 1st Respondent's submission that the allegations in respect to infringement of Article 35 are contradicted by the very documents adduced by the Petitioners in this case.

216. It is submitted that the Petitioners failed to avail themselves of the statutory mechanism for access to information set out in the *Access to Information Act* and that their claim in the circumstances is contrary to the doctrine of constitutional avoidance and exhaustion of available remedies.

217. The 1st Respondent urged the Court to dismiss the petition with costs to the 1st Respondent.

The 2nd Respondent's Submissions

218. The 2nd Respondent submitted relying on written submissions dated 18th June, 2025 augmented by oral highlights. The 2nd Respondent adopted the submissions by the 1st Respondent before proceeding to frame two main issues for determination, namely:

i. Whether the selection and nomination process as undertaken by the Selection Panel of the IEBC was constitutional; and

ii. Whether the 1st to 7th Interested Parties were suitable for selection and nomination.

219. On the Petitioners' claim that the nominations were not representative of Kenya's diverse communities, the 2nd Respondent submits that Kenya is divided into 47 counties and not the eight former provinces/ regions; and thus, the Petitioners' use of the concept of "Rift- Valley" as a basis to challenge the nomination of the 1st and 4th Interested Parties is unfounded. Reliance was placed on *Consortium for the Empowerment & Development of Marginalized Communities & 2 others v Chairman the Selection Panel for Appointment of Chairperson & Commissioners to Kenya National Human Rights Commission & 4 others* [2013] KEHC 2527 (KLR) where Mumbi Ngugi J (as she then was) stated:

> " As correctly argued by the Respondents, the *Constitution* has now divided the country into 47 Counties, so that the administrative units known as provinces or regions on which this petition is based are no longer in existence."

220. On the allegation that the nominations were conducted without prior consultation with the Majority and Minority Political Parties in the National Assembly, the 2nd Respondent submitted that the allegation has no legal basis because the IEBC Selection Panel was composed of 9 members, 4 of whom are nominated by the Minority and Majority Parties in the National Assembly hence, if there was need for political consultation, this was done prior to the selection process. Additionally, the 2nd Respondent submits that in any event Parliament amended the *IEBC Act*to expand the composition of the IEBC Selection Panel in line with the NADCO Report, hence the NADCO was implemented before the process of selection.

221. On alleged failure to include Persons with Disabilities, the 2nd Respondent submitted that there is no express requirement that each constitutional commission must have a person with disability, a position set out by the Court in the case of *Njogu v Attorney General* [2025] KEHC 301(KLR].

222. On whether the 1st to 7th Interested Parties were suitable for selection and nomination, the 2nd Respondent submits that each of the nominees is duly qualified to hold the respective positions of Chairperson and Commissioners. It is submitted that the alleged constitutional violations levelled against their selection and nomination are baseless and unsupported by evidence.

223. On the alleged disqualification and bias levelled against Erastus Edung Ethekon , the 2nd Respondent submits that the allegation is unsubstantiated. The case of /*Independent Electoral and Boundaries Commission (IEBC) v National Super Alliance (NASA) Kenya & 6 others* [2017] eKLR was relied on, to distinguish between actual and apprehended bias.

224. On the allegations levelled against Anne Njeri Nderitu being a State Officer and therefore ineligible to apply and be nominated to serve as a Commissioner of the IEBC, it is the 2nd Respondent's submission that Article 88 (2) of the *Constitution* of Kenya solely bars the appointment of State Office holders and is silent on their nomination. That the disqualification, the 2nd Respondent submitted, must therefore takes effect only at appointment.

225. On the Petitioners' claim that Moses Alutalala Mukhwana was ineligible for nomination to the IEBC because he scored low marks, the 2nd Respondent submits that no material was placed before the Court by the Petitioners to substantiate that allegation.

226. The 2nd Respondent submits that as against the 6th Interested Party, the Petitioners have not provided any particulars of his ineligibility, and thus Francis Odhiambo Aduol's selection and nomination should be allowed to stand.

227. Regarding the challenge to the eligibility of Mary Karen Sorobit , the 2nd Respondent submitted that the Petitioners had similarly not placed material before this Court to prove their claim that she was an Executive Director and member of the governing body of the Jubilee Political Party within the last 5 years prior to her nomination and thus contrary to Article 88 (2) (a) of the *Constitution*. They thus submit that the claim as urged by the Petitioners against the 4th Interested Party is without merited and ought to be dismissed.

228. On the Petitioners' allegations that Hassan Noor Hassan was snuck into the shortlist of nominees, is a relative of Junet Mohammed, MP and Minority Leader of the National Assembly, and that the nominee stood for Governor of Mandera County within the last five years contrary to Article 88 (2) (a) (i) of the *Constitution*; the 2nd Respondent submits that the allegations are unfounded.

229. On the allegations of ineligibility of Fahima Araphat Abdallah on account of her being a member of the Lamu County Assembly Service Board, the 2nd Respondent submits that even if the 7th Interested Party served as a Member of the Lamu County Assembly Public Service Board, she would still be eligible for nomination and appointment because members of County Public Service Board are not State Officers as contemplated by Article 260 of the *Constitution*. Reliance was placed on */County Public Service Boards National Consultative Forum & 47 others v Salaries and Remuneration Commission* [2024] KEELRC 1279 (KLR) .

230. For the foregoing reasons, the 2nd Respondent urged the court to dismiss the Petition with costs.

The 3rd Respondent's Submissions

231. The 3rd Respondent filed written submissions dated 18th June 2025 and its Counsel made oral highlights on 23rd June, 2025.

The 3rd Respondent adopted the submissions of the 1st and 2nd Respondents opposing the Petition. The issues identified by the 3rd Respondent for determination are:

a) Whether the correct procedure was followed in nominating the 1st to 7th Interested Parties as IEBC Chairperson and Commissioners nominees;

b) Whether the National Assembly complied with the *Constitution* and the Public Appointments (Parliamentary Approval) Act, 2011, in particular Section 7 thereof, in approving the nominees; and

c) Whether this Honourable Court has jurisdiction to carry out "a merit review" of the approval process or to "sit on appeal" over the decision of the National Assembly.

232. On the first issue, the 3rd Respondent submitted that the procedure for selection, nomination, and appointment of IEBC Commissioners as stipulated in Articles 88 and 250 of the *Constitution*, the *IEBC Act*and the *Public Appointments (Parliamentary Approval) Act* was fully complied with.

233. According to the 3rd Respondent, the Selection Panel lawfully conducted interviews, shortlisted candidates, submitted names to the President; and the latter lawfully nominated seven individuals and forwarded their names to Parliament for vetting.

234. The 3rd Respondent, the National Assembly, submitted that the House published the names of the nominees for public participation pursuant to Article 118 of the *Constitution* and conducted approval hearings on 31st May 2025.

At those hearings, the National Assembly is said to have vetted the nominees on their qualifications, integrity, impartiality and competence through the National Assembly's Justice and Legal Affairs Committee (JLAC). Upon JLAC vetting the nominees, a positive report with respect to each of the nominees was submitted to the whole House which approved all seven nominees.

235. On the Petitioners' contention that the nomination of the Chairperson and one Commissioner from the Rift Valley region violates Articles 10, 27(1), 232, and 250(3) and (4) of the *Constitution* and undermines the constitutional imperative of regional balance and inclusivity, the 3rd Respondent adopted the positions taken by the 1st and 2nd Respondents before adding that the Petitioners misapprehended the scope and application of the cited constitutional provisions.

236. The 3rd Respondent submitted that the proper interpretation of Article 250(4) was given in the *Legal Advice Centre (Kituo Cha Sheria) v Attorney General & 3 Others* [2015] eKLR , where the Court held that Article 232 of the *Constitution* must be interpreted holistically, taking into account the full spectrum of national values and principles of public service, citing with approval the decision in *Mohamed Osman Warfa & Others v Office of the President & Others,* H.C. Petition No. 77 of 2013 where the High Court stated inter alia, that while ethnic and regional diversity is an important factor, it must be balanced with other constitutional imperatives such as equal opportunity for men and women, fair competition, merit and the inclusion of persons with disabilities; and that no one principle operates in isolation.

237. The 3rd Respondent further relied on *Consortium for the Empowerment & Development of Marginalized Communities & 2 others v Chairman the Selection Panel for Appointment of Chairperson & Commissioners to Kenya National Human Rights Commission & 4 others* [2013] eKLR which case was also relied upon by the 1st and 2nd Respondents, in which the Court rejected the argument that "regional diversity" required representation of every administrative region (formerly provinces) or all 47 counties in every commission. The 3rd Respondent also cited the case of *Godfrey Musaina & another v Cabinet Secretary for Tourism & 7 others* [2017] eKLR where the Court stated, inter alia , that concerns about skewed regional composition must be substantiated by evidence and that there being few positions in appointments such as the ones under consideration in this petition, it was not possible for all communities to be represented in every single appointment.

238. The 3rd Respondent also relied on *Njogu v Attorney General & Another* [2025] KEHC 301 (KLR), where the Court is said to have clarified that the principle of inclusiveness does not require representation of every ethnic group in every public body; and that instead, the expectation is for general diversity and inclusivity across the constitutional order, not strict regional quotas within each institution.

239. According to the 3rd Respondent, the Petitioners' argument that the appointment of two individuals from the Rift Valley region invalidates the entire nomination process is legally untenable and that such a demand is guided by narrow and mechanistic interpretations of regional diversity, particularly where no statistical or comparative data is provided to show systemic exclusion or dominance across multiple commissions.

240. On the Petitioners' claims that the selection and nomination process failed the constitutional requirement under Article 54(2) for inclusion of persons with disabilities (PWDs), the 3rd Respondent submits that Article 54(2) does not impose an immediate or absolute obligation, rather, it mandates

progressive realization of this representation threshold. The 3rd Respondent further argued that this interpretation accords with broader constitutional principles of affirmative action that allow for gradual implementation depending on institutional capacity, availability of qualified candidates and other practical considerations.

241. It was further submitted that in recognition of this principle, the Selection Panel and the Justice and Legal Affairs Committee of the National Assembly duly considered the issue of representation of persons with disabilities during the nomination and approval processes and that deliberations on this issue were recorded at various stages of the Committee's proceedings. Reliance was once more placed on the case of *Njogu v Attorney General & Another* [2025] KEHC 301 (KLR) where the Court emphasized that the duty imposed by Article 54(2) is one of progressive realization, and that the failure to meet the 5% threshold does not in itself establish a constitutional breach, in the absence of evidence that qualified persons with disabilities applied or were deliberately overlooked, or that the appointing authorities acted in bad faith or ignored known qualified candidates.

242. It was submitted that in this case, the Petitioners had not demonstrated deliberate exclusion, discriminatory intent or a failure to take proactive steps to include qualified candidates with disabilities who met the criteria under the First Schedule to the *IEBC Act*.

243. On the Petitioners' alleged ineligibility of certain nominees, the 3rd Respondent submits that the Committee considered the eligibility of each nominee and made specific findings based on the evidence presented.

244. Regarding Hassan Noor Hassan , the 3rd Respondent submits that the JLAC found that the nominee had not stood for election as Member of the County Assembly or Member of Parliament in the five years preceding the nomination and was therefore not disqualified under Article 88(2)(a)(i) of the *Constitution*.

245. On the Petitioners' claims that Mary Karen Sorobit was a member of the governing body of a political party, namely the Jubilee Party, and therefore disqualified under Article 88(2)(a)(ii), it was submitted that following vetting, the Committee concluded that Ms. Sorobit was not disqualified from appointment under Article 88(2) of the *Constitution* for the reasons that: a. Section 2 of the *Political Parties Act* defines 'governing body' as the Committee responsible for administering the affairs of a political party. Further, that paragraph 7 of the First Schedule to the *Political Parties Act* provides for the eligibility criteria for election to the governing body; b. The nominee demonstrated by affidavit and extracts of records from the Office of Registrar of Political Parties that her name does not appear in the governing body of the Jubilee Party; c. Membership to a political party is not a bar to nomination or appointment to public office; and d. The Gazette Notices did not mention the name of the nominee as a member of the governing body of the Jubilee Party.

246. Regarding Anne Njeri Nderitu , the 3rd Respondent submits that the Committee noted that she was, at the time of vetting, serving in a State Office as the Registrar of Political Parties, but had not yet been appointed as a Member of the Commission. The 3rd Respondent submitted that the same was no bar at this stage provided that the nominee complied with requirement that she must resign from her current office before assuming office in the IEBC.

247. According to the 3rd Respondent, the phrase "holds any state office" under Article 88(2)(b) connotes that ineligibility is determined as at the time of appointment, not at the time of nomination or vetting.

248. The 3rd Respondent relies on the case of *Kibeh v Waibara & another* (Civil Appeal E468 of 2020) [2022] KECA 388 (KLR), where the Court of Appeal is said to have distinguished different stages in the public appointment process and held that nomination and appointment (or election) are two

distinct and sequential stages, and that disqualification thresholds must be evaluated at the relevant stage. The Court of Appeal is also said to have found that nomination to vie for parliamentary office did not amount to being elected, and hence could not trigger the disqualifying provisions under Article 99 of the *Constitution*.

249. The 3rd Respondent argues that by analogy, nomination to serve in the IEBC does not in itself amount to appointment and therefore the disqualification under Article 88(2)(b) can only be assessed at the point of appointment. Accordingly, it was submitted that the nomination was not unconstitutional and that any requirement to resign would take effect prior to assuming office.

250. On the claims by the Petitioners that the failure to publish the report of the Selection Panel undermines the legality and transparency of the recruitment process, the 3rd Respondent submits that there is no provision of the *Constitution*, the IEBC Act, or any other statute that mandates the publication of the Selection Panel's report as a prerequisite to the forwarding of nominees to the National Assembly for vetting.

251. The 3rd Respondent further submits that the Petitioners' letter seeking access to the Selection Panel's report was dated 9th May 2025, while the Petition was filed a mere four days later on 13th May 2025; thereby offending Section 9(1) of the *Access to Information Act* which gives a public entity twenty-one (21) days within which to respond to a request for information. According to the 3rd Respondent, the Petitioners acted prematurely in approaching this Court before the statutory period had lapsed.

252. The 3rd Respondent further faults the Petitioners for failing to exhaust the remedies provided under the *Access to Information Act*, which include a right of review by the Commission on Administrative Justice under Section 14 of the *Act*, which is a mandatory statutory mechanism for redress before invoking jurisdiction of this Court.

253. In support of the above position, reliance was placed on *Commission for Human Rights & Justice (CHRJ) & another v Chief Officer, Medical Services, County Government of Mombasa & 3 others* (Constitutional Petition E003 of 2022) [2022] KEHC 12994 (KLR), where the Court is said to have affirmed the doctrine of exhaustion and held that Petitioners must comply with statutory remedies, including timelines for requesting and appealing the refusal of information.

254. On the Petitioners' allegation that the President acted unlawfully in nominating persons for appointment to the IEBC without first consulting the majority and minority political parties in the National Assembly, the 3rd Respondent mirrored the submissions of the 1st and 2nd Respondents on the issue.

255. On the Petitioners' concerns regarding alleged perception of bias on the part of Erastus Edung Ekethon , the nominee for Chairman, on account of his prior service as County Attorney for Turkana County and his past association with Josphat Nanok, it was submitted that the Justice and Legal Affairs Committee considered this issue and found no factual or legal basis to support a claim of bias.

256. It was submitted that it was established by the Justice and Legal Affairs Committee of the National Assembly that 1st Interested Party continued to serve as County Attorney for Turkana after the conclusion of Governor Nanok's term and that no evidence was presented to show that he engaged in partisan political activity or conducted himself in a manner inconsistent with the impartiality required of an IEBC Commissioner.

257. On the Petitioners' allegation of an illegal and irregular shortlisting of Hassan Noor Hassan , the 3rd Respondent submits that it reviewed the Report on the Recruitment of Nominees for Appointment of Chairperson and Members of the (IEBC) and established that Mr. Hassan's name was duly included

in the longlist of applicants and subsequently in the expanded shortlist republished by the Selection Panel on 25th March 2025.

The 3rd Respondent submitted that the expanded shortlist was published by the Selection Panel pursuant to Paragraph 2 of the First Schedule to the *IEBC Act,* which the 3rd Respondent submitted grants the Selection Panel the discretion to determine and vary the number of shortlisted candidates as necessary.

258. Further submission was that the decision to expand the shortlist was made to ensure compliance with constitutional imperatives, including the principles of regional balance, gender equity, inclusion of marginalized groups and merit-based selection. The 3rd Respondent submits that the Petitioners have not demonstrated that this decision by the Selection Panel was made in bad faith, arbitrarily, or in contravention of the *IEBC Act,* the *Constitution* or any other law.

259. The 3rd Respondent also submitted Petitioners have not provided any evidence to show that Hassan Noor Hassan was either ineligible to apply or that his inclusion in the shortlist prejudiced any qualified candidate or undermined the fairness, competitiveness or transparency of the process. As such, it was submitted that there is no basis for this Court to interfere with the discretion and mandate of the Selection Panel in that regard.

260. It was submitted that the mere fact of expansion or revision of a shortlist, where lawfully undertaken and transparently published, does not render the recruitment process unlawful, particularly in the absence of any legal requirement limiting the number of shortlisted candidates or prohibiting revision of the shortlist.

261. On the second issue of whether the National Assembly complied with the *Constitution* and the *Public Appointments (Parliamentary Approval) Act*, 2011, in particular Section 7 thereof, in approving the nominees, the 3rd Respondent submits that the JLAC undertook a merit-based and reasoned evaluation of the nominees and thereafter discharged its statutory responsibility with diligence and objectivity, satisfying itself that each of the nominees met the criteria for nomination before clearing them. Reliance was placed on the case of */Marilyn Muthoni Kamuru & 2 Others v Attorney General & another* [2016] eKLR in support of the 3rd Respondent's contention that where Parliament has properly scrutinized a nominee the courts ought not to interfere.

262. The 3rd Respondent submits that this Court's jurisdiction is limited to evaluating whether the approval process complied with constitutional and statutory standards, not to conduct a fresh merit evaluation of the nominees or substituting its own assessment for that of the Committee. Reliance was further placed on */Katiba Institute v Attorney General & 6 others* [2018] eKLR to support this position.

263. In its submissions, the 3rd Respondent contended that this Court would violate the doctrine of separation of powers if it were to direct another organ on how to exercise its mandate; a position underscored by the Supreme Court in the case of */Justus Kariuki Mate & another v Martin Nyaga Wambora & another* [2017] eKLR and *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others* [2013] eKLR .

264. Based on the above decisions, the 3rd Respondent submits that this Court has no jurisdiction to substitute its findings for that of the National Assembly's approval process and the August House's consequent decisions in the absence of evidence that the National Assembly disregarded the *Constitution* and the law.

265. The 3rd Respondent urged this Court to find that the Petition is devoid of merit and dismiss it with costs to the National Assembly.

The 1st Interested Party's Submissions

266. The 1st Interested Party filed written submissions dated 19 th June 2025 as highlighted on 23rd June, 2025.

He adopted the Respondents' submissions and supported their respective positions.

267. With regard to the allegations leveled against him specifically, the 1st Interested Party submitted that the Petitioners' allegation that he is likely to be biased due to his previous professional association with former Governor of Turkana County, Josephat Nanok is speculative, unsubstantiated and fails to meet the constitutional or jurisprudential threshold required to impugn a nominee's suitability for public office.

268. He further submits that he was appointed as the County Attorney for Turkana County on 25th September 2018 and served until 30th September 2024.

During that period, he submits, he served under two different governors, Governor Nanok (2018–2022) and Governor Jeremiah Lomorukai (2022–2024).

269. The 1st Interested Party further submits that his appointment to the Office of County Attorney was through a transparent, merit-based process under the County Attorneys Act, 2020.

He submits that his role was technical, non-political, and primarily advisory in nature; and that no evidence been tendered to suggest that his service was marred by political bias, impropriety, or partisanship.

270. The 1st interested party submits that the Petitioners' attempt to discredit him without factual support is inconsistent with the principle laid down in *Trusted Society of Human Rights Alliance v Attorney General & 2 Others; Matemu (Interested Party)* [2012] eKLR where the Court stated that the test for disqualifying a person from public office is the existence of substantial, unresolved, and credible allegations raising real concerns about their suitability and integrity.

271. A further submission was that he has consistently demonstrated integrity, competence, and impartiality throughout his career; and thus, that there is no rational or constitutional basis to disqualify him or to question the legality of his nomination.

272. On the Petitioners' claim that the composition of the IEBC violates Articles 10, 232, and 250 of the *Constitution* by failing to reflect regional balance, citing the nomination of two individuals from the "former Rift Valley region", the 1st Interested Party adopted the same positions and authorities as the Respondents, save to add that that in the present case, the composition of the Commission reflects appointees from at least seven distinct counties Turkana, Nyandarua, Kakamega, Uasin Gishu, Mandera, Kisumu, and Lamu and as such these counties represent different regions and communities across Kenya, satisfying the objective test for diversity.

273. The 1st Interested Party's submission is that Turkana County represents a historically marginalized and pastoralist community and as such his nomination promotes inclusivity and equity, as envisaged by Article 27(6), (7), (8), Article 21(3) and Article 56 .

274. The 1st Interested Party submits that the Petitioners' emphasis on "former provincial boundaries" as a basis for asserting imbalance is flawed and legally misplaced. That the Sixth Schedule to the *Constitution*, at Paragraph 7 and Article 262 clearly abolish the legal effect of the former provinces

as administrative units and consequently, there exists no constitutional requirement to balance appointments by reference to the defunct provincial structure.

275. The 1st Interested Party prayed that the Petition be dismissed with costs.

The 2nd Interested Party's Submissions

276. The 2nd Interested Party filed written submissions dated 19th June 2025 which were highlighted orally. She also associated herself with the submissions by the Respondents and the 1st interested party.

277. The 2nd Interested Party submitted that this Petition is fatally defective and incompetent for failure to enjoin the IEBC Selection Panel Committee, a crucial party whom adverse allegations have been made. It was submitted that that the IEBC Selection Panel ought to have been enjoined so as to be given a fair hearing, as guaranteed under Article 50 of the *Constitution*.

278. The 2nd Interested Party relies on the case of *Okoiti v Attorney General & 5 others* [2021] KEHC 439 (KLR) where the Court is said to have observed that as the Members of the Selection Panel had not been enjoined in the proceedings, the Court could not issue any orders to the detriment of any of them as the same is an infringement on the said Members' right to a fair trial.

279. On the doctrine of Separation of Powers, the 2nd Interested Party submits that the Petitioners are demanding this Court to undertake a merit review of the nominations but without the Petitioners having substantiated that a procedural illegality was committed by the Selection Panel or the National Assembly contrary to the dicta of the Court of Appeal in the case *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others* [2013] KECA 445 (KLR).

280. Reliance is also placed on the case of *Speaker of the Senate & another v Attorney-General & another; Law Society of Kenya & 2 others (Amicus Curiae)* [2013] KESC 7 (KLR) where the Supreme Court is said to have observed as follows:

> "This Court will not question each and every procedural infraction that may occur in either of the Houses of Parliament. the court cannot supervise the workings of Parliament. The institutional comity between the three arms of government must not be endangered by the unwarranted intrusions into the workings of one arm by another."

281. The 2nd Interested Party also submits that the petition does not meet the requisite legal threshold for the grant of orders sought as pronounced in the case of *Anarita Karimi Njeru v The Republic* (1976-19 80) KLR 1272.

282. The 2nd Interested Party submits that the Petition has been overtaken by events in view of the fact that the National Assembly has approved the nominees to be appointed as Members of the Commission by the President, and the Petition is now moot. In support of the above position, the 2nd Interested Party relies on the case of /*Daniel Kaminja & 3 others (suing as Westland Environment Caretaker Group) v County Government of Nairobi* [2019] eKLR where Mativo J (as he then was) held that a matter is moot if further legal proceedings with regard to it can have no effect, or events have placed it beyond the reach of the law.

283. On the Petitioners' contention that the 2nd Interested Party was ineligible to apply and/or be selected as a nominee to serve as a Commissioner of the IEBC on account that she is a State Officer, the 2nd interested party submits that Articles 88(2) and 77(1) of the *Constitution*, when holistically interpreted, would dictate that indeed a state officer cannot hold two state offices, but can progress from one office to another.

284. Further, the 2nd Interested Party submitted that the bar at Article 88(2)(b) only takes effect upon the assumption of office of such a person and that in the instant case, the Interested Parties including the 2nd Interested Party have not assumed office under Section 9 of the *IEBC Act*.

285. The 2nd Interested Party relies on Article 259 and the Supreme Court cases of *Law Society of Kenya v Attorney General & 4 others* [2023] KESC 19 (KLR) and *Katiba Institute v Attorney General & 9 others* [2023] KESC 47 (KLR) on constitutional interpretation.

286. The 2nd Interested Party equally relies on *Kibeh v Waibara & another* [2022] KECA 388 (KLR) in support of her submission that a party need not resign from a State Office until the day of oath-taking and assumption of the new office.

287. The 2nd Interested Party submits that the Petition is lacking in merit and should be dismissed.

The 3rd Interested Party's Submissions

288. The 3rd Interested Party filed written submissions dated 19 th June 2025.

At the highlighting of written submissions, the 3rd Interested Party adopted the submissions and positions of the Respondents and the 1st and 2nd Interested Parties.

289. With regard to the specific allegations against him, the 3rd Interested Party submitted that no evidence had been adduced by the Petitioners that he had scored poorly in the interviews or that his selection and nomination were not based on competence and merit.

290. The 3rd Interested Party relied on the case of *Ouma v Orengo & another* (Constitutional Petition E001 of 2023) [2023] KEHC 3722 (KLR) (26 April 2023) (Judgment) where the Court held that Sections 107(1), (2) and 109 of the *Evidence Act* on the burden of proof provide that whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.

291. The 3rd Interested Party submits that the burden of proof on a petitioner in a Constitutional Petition was also considered by the Supreme Court in Communications Commission of Kenya & 5 Others v Royal Media Services Limited & 5 Others [2014] eKLR where it was observed that although Article 22(1) of the *Constitution* gives every person the right to initiate proceedings claiming that a fundamental right or freedom has been denied, violated or infringed or threatened, a party invoking this Article has to show the rights said to be infringed, as well as the basis of his or her grievance.

292. On whether the Petition as drafted and filed has met the threshold in drafting constitutional petitions, the 3rd Interested Party urges that it is trite law that in a petition claiming constitutional violations the Petitioner has the burden of demonstrating the specific provisions said to be infringed and the manner in which they are alleged to be infringed. The decision in *Anarita Karimi Njeru v Republic* [1979] KLR 1 as was emphasized by the Court of Appeal in *Mumo Matemu v Trusted Society of Human Rights Alliance* [2014] eKLR was relied on.

293. According to him the petition has not established a clear connection between the alleged constitutional violations and the 3rd Interested party. Further, it is the 3rd Interested Party's submission that the Petition is laced with ambiguity and confusion, with no clarity in the presentation of factual situations relevant to the 3rd interested party. He relies on the case of *Gesicho v Kenyatta & 3 others* (Constitutional Petition 321 of 2018) [2022] KEHC 10935 (KLR) (Constitutional and Human Rights) (23 June 2022) where the Court held that it was difficult to have a fair trial premised on a



pleading where there was no nexus between the body of the Petition and the reliefs that the Petitioner seeks.

294. The 3rd Interested Party urged this Court to dismiss the Petition with costs.

The 4th Interested Party's Submissions

295. The 4th Interested Party filed submissions dated 19 th June 2025 and made oral highlights in which her Counsel adopted the earlier submissions by the Respondents and the 1st, 2nd and 3rd Interested Parties.

296. The 4th Interested Party zeroed in on the Petitioners' claim that her nomination, approval, and appointment violated Article 88 (2) (a) for reasons that she was a member of the governing body of a political party having served as County Chairperson and Executive Director of the Jubilee Party within the preceding five years and submitted that the same were unsubstantiated, unmerited, unfounded, spurious, frivolous, vexations and has been brought with ill-intention to derail a constitutional and statutory process which was conducted in an open, transparent and fair manner as contemplated by the law.

297. The 4th Interested Party submits that for one to be deemed to have served or held office as a "member of the governing body of a political party" for the purposes of Article 88 (2) (a) (ii), the particulars of such a member would have to be within the records maintained by the Registrar of Political Parties and submitted to that Office by the concerned political party pursuant to the provisions of the *Political Parties Act* and the Registration Regulations.

298. The 4th Interested Party submits that she has never served as a member of the governing body of Jubilee Party within the preceding five (5) years, or at all, and that no such evidence has been adduced by the Petitioners to establish their claim. The 4th Interested Party further submitted that the letter dated 15th May, 2025 from Registrar of Political Parties clearly show that the 4th Interested Party has never served as a member of the Jubilee Party's governing body or as an executive director or county chairperson not just not within the preceding five (5) years but at all.

299. The 4th Interested Party submits that for avoidance of doubt, during approval hearing, she clarified that she was a member of the Jubilee party's secretariat staff as the director in charge of legal affairs and that in fact, under article 10.2 (1) and (2) of the Jubilee Party's constitution, the directors are full time party employees responsible for rendering technical support to the Secretary General.

300. It is also submitted that having been a member of the secretariat staff, the 4th Interested Party could not have served as a county chairperson or county director of the Jubilee Party at the same time as alleged by the Petitioners.

301. The 4th Interested Party further submits that the proposed composition of the IEBC, in particular the nomination for appointment of the 1st and 4th Interested Parties, is compliant with the ethnic and regional diversity principle as required under Articles 10, 232 and 250 (4) of the *Constitution*.

302. In conclusion, the 4th Interested Party submits that she is eligible to be appointed as one of the Members of the IEBC Commission having met all the statutory qualification and constitutional eligibility criteria.

The 5th Interested Party's Submissions

303. The 5th Interested Party filed submissions dated 19 th June, 2025 and made oral highlights that adopted the submissions made by the Respondents and the preceding Interested Parties.

304. It is his submission that the Petitioners deliberately avoided enjoining of the Selection Panel as a party to these proceedings despite them being a mandatory party. He relies on *Zuma & another v Independent Electoral and Boundaries Commission & 2 others* [2023] KEHC 353 (KLR) where the High Court while dealing with an election petition, held that it was fatal not to join a mandatory party to a suit. He further relies on *Tang Gas Distributors Limited v Said and Others* [2014] 3 EA 448.

305. He submits that this court cannot make adverse orders against the Selection Panel which is not a party to these proceedings.

306. According to the 5th Interested Party, the allegations that his name was snuck into the shortlist via an addendum list are not only unfounded but also false and misleading. He argues that his name clearly appears at page 230 of the Petition as entry No 985 which shows that he applied and was longlisted.

307. It is the 5th Interested Party's submission that that the failure to publish his name in the first shortlist of 14th March 2025 does not in any way invalidate his nomination.

308. The 5th Interested Party submits that despite there being no law requiring the publication of the shortlisted candidates, the Selection Panel in advancing openness and transparency in the recruitment process, published two sets of lists of names of the shortlisted candidates-one dated 14th March 2025 and the other dated 25th March 2025.

309. The 5th Interested Party submits that his name was published in the list dated 25th March 2025 and his interview scheduled for 24th April 2025 at 12.30PM and that in the publication of the list of 25th March 2025, the Selection Panel clarified that after reviewing the longlist of the applicants, it deemed it necessary to update the list of shortlisted candidates in order to further enhance compliance with the constitutional principles of regional balance, representation of the youth and overall inclusivity. He argues that this was within the mandate of the Selection Panel to regulate its own procedure and that therefore, the process cannot be said to be shrouded with opaqueness.

310. On the claim by the Petitioners that the 5th Interested Party was not eligible for selection and nomination as a Member of the Commission on the ground that he had previously contested as a Governor Mandera County in 2017 and 2022 General Elections, he submits that his candidature is not a bar to his nomination as a Member of the Commission, since Article 88(2)(a)(i) of the *Constitution* clearly excludes the President and Governors in the disqualifications. He relies on *Mboya & another v Judicial Service Commission & another; Rawal & 5 others (Interested Parties)* in that regard.

311. It is also his submission that Petitioners' challenging his nomination on the allegation that he is a brother-in-law of Hon. Junet Mohamed who is the current Minority Leader in the National Assembly is not a criterion contemplated nor provided for in the *Constitution*.

312. He further submits that his relationship with Hon. Junet Mohamed cannot be used as a basis for the court to annul and /or revoke the selection, nomination and his appointment.

313. The 5th Interested Party urged the Court to find that the petition is bereft of merit and should be dismissed with costs to him.

The 6th Interested Party's Submissions

314. The 6th Interested Party filed written submissions dated17th June, 2025.

He also made oral highlights and associated himself with the submissions by the Respondents and 1st to 5th Interested Parties.

315. It is his submission that the Petitioners have not demonstrated that his selection, nomination and possible appointment is inconsistent with the object and purpose of the *Constitution*. He relies on the case of /*Transafric Timber Limited v Kenya Forest Service & 2 others* (Constitutional Petition E003 of2024) [2024] KEHC 9 177 (KLR) which advances the legal principle espoused in Section 107 of the *Evidence Act* that whoever desires any court to give judgment as to any legal right or liability, dependent on the existence of a fact that he asserts, must prove that those facts exist.

316. Reliance was also placed by the 6th Interested Party on the case of *Pastoli v Kabale District Local Government Canal & Others* (2008) 2EA 300 at pages 300-304 cited with authority in *Republic v National Land Commission & another Ex Parte; Farmers Choice Limited* [2020] eKLR which sets out the grounds upon which one may seek Judicial Review reliefs. It was the 6th Interested Party's submission that none of the grounds for the grant of judicial review reliefs have been met in the present Petition.

317. The 6th Interested Party submitted that the Petition does not in any way challenge his suitability, eligibility, capacity, competence, observance of the *Constitution* or even concerns of conflict of interest with any particulars.

318. Consequently, the 6th Interested Party prays that the Petition be dismissed with costs to him.

The 7th Interested Party's Submissions

319. The 7th Interested Party filed submissions dated 18th June 2025 and made oral highlights on 23rd June 2025.

She also relied on and adopted the submissions of the Respondents and 1st to 6th Interested Parties in opposition of the Petition.

320. Concurring with the Respondents and the 1st to the 6th Interested Parties, the 7th Interested Parties submitted that the Petition does not meet the threshold of a constitutional petition.

321. The 7th Interested Party further submitted that the Petitioners had sought to amend their petition through the backdoor by introducing new issues through their Supplementary Affidavit (2); which was filed after close of pleadings, without leave of Court, contrary to the rule that parties are bound by their pleadings. It was further submitted that this Court lacks jurisdiction to deal with any issues raised that were not contained in the Petition. The 7th Interested Party submitted that this position was cemented in the case of *Macharia & another v Kenya Commercial Bank Limited & 2 others.*

322. Reliance was also placed by the 7th Interested Party on the case of *Munya v The Independent Electoral and Boundaries Commission & 2 others* [2014] KESC 38 (KLR) where the Supreme Court held that parties must be bound by their pleadings. The 7th interested party further relied on the case of *Eastland Hotel Limited v Wafula Simiyu & Co. Advocates Eastland Hotel Limited v Wafula Simiyu & Co. Advocates* [2014] KECA 296 (KLR) on what a pleading is, in submitting that an affidavit is evidence not a pleading and thus it cannot be a basis for introduction of new issues for determination by a court.

323. On the assertion that she is disqualified by virtue of being a State Officer, the 7th Interested Party concurred with the Respondents and the preceding Interested Parties that the positions she holds is not a State Office and she is not State Officer. It is her submission that Article 260 defines a state officer to mean a person holding state office. She submits that none of the County Government Act, the *County Assembly Services Act*, 2017, the *Public Officer Ethics Act* nor any other Act of Parliament defines members of the County Service Boards as state officers.



324. In general, the 7th Interested Party submitted that as a youth, a woman, and a member of a minority community that has historically been marginalized, her selection and nomination upholds the constitutional edicts on diversity and inclusivity. Additionally, the 7th Interested Party submitted that she also has all the requisite qualifications, competence, integrity, and abilities required for the role of Commissioner of the IEBC.

325. For those reasons, the 7th Interested Party urged the Court to find that the Petition lacks merit and is an abuse of the court process; and that it should therefore be dismissed with costs.

The 8th Interested Party's Submissions

326. The 8th Interested Party filed written submissions dated 21st June 2025 and made oral highlights on 23rd June, 2025.

The 8th Interested Party submits that the Petition is legally baseless, constitutionally misdirected, and a grave affront to the sovereign will of the people as enshrined in Articles 1, 10, 38 and 88 of the *Constitution*. He argues that the petition seeks to halt a lawful, participatory and procedurally sound reconstitution of the Independent Electoral and Boundaries Commission (IEBC), thereby disrupting national electoral processes and readiness.

327. The 8th Interested Party further submitted that the National Assembly retains exclusive vetting powers and that Courts cannot substitute their views for Parliament's unless there is demonstrable illegality. He relies on the case of *Trusted Society of Human Rights Alliance v AG & 2 Others* [2012] eKLR) to support his proposition.

328. The 8th Interested Party submits that the Petition, if it were to succeed, would cause constitutional paralysis and jeopardize Kenya's compliance with international norms as Kenya is a signatory to the African Charter on Democracy, Elections and Governance and the International Covenant on Civil and Political Rights (ICCPR), both of which obligate the country to maintain a competent, independent electoral agency to ensure periodic elections and political representation.

329. It is his case that Petition is speculative, lacks legal merit, undermines Parliament's constitutional mandate, threatens electoral continuity, and suppresses citizen driven constitutional engagement.

330. It was his submission that in order for this Court to uphold constitutionalism by protecting due process, institutional integrity, and democratic continuity the Petition herein should be dismissed in its entirety.

The Petitioners' Oral Rebuttal of the Respondents and Interested Parties Submissions

331. In the rejoinder to the Respondents' and Interested Parties' submissions, the Petitioners reiterated their earlier submissions and took issue with the entirety of the defenses and positions taken by the Respondents and the Interested Parties.

332. The Petitioners submitted that this Court has jurisdiction to interrogate the decisions and processes of the Selection Panel, the President, and/or National Assembly. In support of this submission, they relied on the case of /*Marilyn Muthoni Kamuru & 2 Others v Attorney General & Another*, Petition 566 OF 2012, [2016] KEHC 8370 (KLR).

333. In advancing their argument on the criteria for selection of candidates and the proposition that this Court can review the same where there is an illegality, the Petitioners referred to Paragraph 77 of the judgment in the case of *Trusted Society of Human Rights Alliance v Attorney General & 2 others; Matemu (Interested Party); With Kenya Human Rights Commission & another*

(Amicus Curiae) (Petition 229of2012) [2012]KEHC2480(KLR) (Constitutional and Human Rights) (20September2012) (Judgment).

334. On the issue of eligibility of the candidate who vied as Governor,the Petitioners submitted that Article 88 is meant to disqualify politicians and that elections have to be supervised by an independent body.He also relied on Article 81.

335. Citing the case of *Buoga v Attorney General & another* [2022]KEHC13214(KLR) where Mrima J held that pursuant to Article 180(2) as read with Article 19 3 of the*Constitution*, the qualification for the election of a County Governor is similar to the eligibility for election as a Member of County Assembly, the Petitioners' submitted that the reasoning in that case should be extended to and applied in Article 88; with the intention is to eliminate political interference and discrimination.

336. On the 4thInterested Party, the Petitioners' reiterated their earlier submission that she held a position of member of the governing body of a political party and that she conceded to be the Deputy Executive Director & Head of Legal of the Jubilee political party during her vetting.

337. It was submitted that the Jubilee Party Constitution annexed to the Supplementary Affidavit (2) filed by the Petitioners was clear on membership of a governing body of the political party and it had not been rebutted by evidence.

338. A further submission was that it is not true that in ascertaining whether selections and nominations in the present case are constitutionally compliant in terms of inclusivity and diversity the standard should be the examination of all the Constitutional Commissions and the Independent Offices. On the contrary, it was submitted that the proper standard is an examination of the Commission and the Secretariat.

339. In rebuttal of the Respondents' and Interested Parties' contentions that the expanded shortlist was procedurally proper, the Petitioners submitted that none of the parties who backed the same were able to cite any express legal provision or authority in support of their contention that the Selection Panel acted legally and procedurally in issuing an expanded shortlist.

340. The Petitioners reiterated that consultations with the Majority and Minority leaders of the National Assembly was mandatory under our constitutional dispensation by way of a constitutional convention that developed in the late 19 90s.

341. On the submission by some of the Interested Parties that the Petition was moot in light of the presidential gazette notices, the Petitioners submitted in rebuttal that the Gazette Notices were of no legal consequence as the same had been issued in contravention of a conservatory order issued by this Court.

342. It was also submitted that joinder or misjoinder does not defeat a Constitutional Petition and that a weighty Petition such as this one, which was certified for hearing and determination by a three-judge bench, should not be defeated on account of a mere technicality.

343. On the penultimate issue, the Petitioners submitted in rebuttal that a Person with Disability was clearly discriminated against for the reason that while he was recommended for consideration alongside the 1st Interested Party for the position of Chairperson, the appointing authority did not nominate him nor did the National Assembly find that he should have been presented to the House instead of the 1st Petitioner. This, to their minds, was a clear act of discrimination.

344. The Petitioners rested their case by reiterating that the Petition is merited and should be allowed as prayed.

Analysis and Determination

345. We have considered the petition, the opposition thereto and the respective parties' counsel's submissions. The issues identified for determination, are as follows:

A. Whether the Petition is properly founded on Article 22 of the *Constitution*;

B. Whether the Petition is justiciable and ripe, or whether it offends the doctrines of exhaustion, separation of powers and parliamentary approval processes under Article 250(2) of the *Constitution*;

C. Whether the IEBC Selection Panel acted illegally by issuing a subsequent expanded shortlist;

D. Whether the Attorney General failed in exercise of her constitutional mandate to provide independent, impartial and sound legal advice to the executive regarding nomination of commissioners thereby failing to protect the rule pf law and public interest.

E. misadvised or refused to give proper advise to the Executive with regard to the process of selection and nomination of the nominees to IEBC

F. Familial relationship between the 5th Interested Party and the Leader of Minority in the National Assembly;

G. Alleged Constitutional Disqualifications under Article 88 (2) of the *Constitution*;

H. Other Allegations Against the Nominees, including non-inclusion of persons with disabilities

I. Whether the processes of selection, nomination, and appointment of the IEBC nominees violated the constitutional principles of public participation, consultation with political parties, and access to information as enshrined in Articles 10, 35, and 38 of the *Constitution* and/or the Recommendations contained in the Report of the National Dialogue Committee (NADCO);

J. What is the validity of Gazette Notices No. 7724 and 7725 both dated 10th June, 2025;

K. Whether the reliefs sought by the Petitioners are available;

L. What orders should the Court make; and

M. Costs of the Petition

A. Whether the petition is properly founded under Article 22 of the *Constitution*

346. The Respondents and Interested Parties are in agreement that the Petition presently before this Court does not properly invoke the jurisdiction of the High Court under Article 22 of the *Constitution*, which is principally concerned with the enforcement of the Bill of Rights. It is their collective submission that, notwithstanding the Petitioner's reliance on various constitutional provisions, including those situated within the Bill of Rights, the Petition does not raise justiciable issues capable of demonstrating a denial, violation, infringement, or threat to any right or fundamental freedom guaranteed under the *Constitution*. In their view, the mere citation of constitutional provisions, absent a cogent and particularized demonstration of how specific rights have been violated or are under threat of violation, is insufficient to trigger the Court's jurisdiction under Article 22.

347. The Respondents and Interested Parties further submit that, even where the Petition purports to invoke provisions of the Bill of Rights, specifically Article 35, in alleging a denial of the right of access

to information and Article 47, in alleging a violation of the right to fair administrative action, the alleged infractions have not been pleaded with the level of specificity and particularity required in constitutional litigation. They contend that the Petition fails to set out, with clarity, the precise acts or omissions complained of, the manner in which they allegedly contravene the stated rights and the resultant prejudice, if any, suffered by the Petitioners.

348. In any event, they argue, the claims are rendered untenable by the application of the Doctrine of Exhaustion, on account of the Petitioners' failure to first pursue available statutory or administrative mechanisms for redress. Alternatively, they invoke the principle of Constitutional Avoidance, submitting that the matters raised are capable of resolution without recourse to constitutional interpretation or application and therefore fall outside the proper remit of a constitutional petition under Article 22.

349. The Petitioners, for their part, maintain that the Petition is properly and competently before this Court, and that the issues raised therein are justiciable within the meaning and scope of Articles 22, 165(3)(b), and 258 of the *Constitution*. They assert that Article 22(1) vests in every person the right to institute court proceedings alleging that a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed, or is threatened with infringement. Additionally, the Petitioners rely on Article 258, which confers upon every person the right to institute proceedings where it is alleged that the *Constitution* has been contravened or is threatened with contravention, irrespective of whether a specific right in the Bill of Rights is implicated.

350. On that basis, the Petitioners submit that the constitutional foundation for the Petition is firmly grounded and that the Court's jurisdiction has been properly invoked.

351. This Court's analysis of this issue must, of necessity, commence with the express language of the *Constitution*. Article 23(1) provides as follows: /"The High Court has jurisdiction, in accordance with Article 165, to hear and determine applications for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the Bill of Rights."

352. Article 23(1) of the *Constitution* unequivocally vests the High Court with the primary jurisdiction for the enforcement of the Bill of Rights, and affirms its authority to grant appropriate reliefs where a party alleges, or demonstrates a real and imminent threat of, a violation of a constitutional right or fundamental freedom. It is within this constitutional framework that the justiciability of this Petition must be examined. The Court is thus duty-bound to assess whether the pleadings disclose a competent claim grounded in the alleged infringement or threatened violation of the Bill of Rights, so as to properly invoke its jurisdiction under Articles 22 and 23.

353. Article 23(3) of the *Constitution* sets out the range of remedies available to a court seized of a matter under Article 22.

It provides as follows:

> " In any proceedings brought under Article 22, a court may grant appropriate relief, including —
>
> (a) a declaration of rights;
>
> (b) an injunction;
>
> (c) a conservatory order;

(d) a declaration of invalidity of any law that denies, violates, infringes, or threatens a right or fundamental freedom in the Bill of Rights and is not justified under Article 24;

(e) an order for compensation; and

(f) an order of judicial review."

354. Article 23(3) affirms the Court's broad and flexible remedial discretion in the adjudication of alleged violations of constitutional rights. The remedies enumerated therein, ranging from declarations to conservatory and injunctive relief and judicial review orders, are not exhaustive, but illustrative of the Court's authority to craft effective and contextually appropriate reliefs. This expansive remedial jurisdiction reflects the transformative character of Kenya's constitutional framework, which envisages a judiciary empowered not merely to pronounce rights in the abstract, but to enforce them in a manner that renders them practical, effective and meaningful. Of particular significance is the fusion of constitutional and administrative law remedies, which enables the Court to address violations arising from both public and quasi-public actions within a unified constitutional context.

355. The jurisdictional issues arising from the application of the Doctrine of Exhaustion and the principle of Constitutional Avoidance are addressed in a separate part of this judgment.

356. The specific question presently falling for determination is whether, on the face of the pleadings, the Petition raises constitutional issues anchored in the Bill of Rights so as to properly invoke the jurisdiction of this Court under Articles 22, 23, and 165(3)(b) of the *Constitution*. In this regard, the Court must undertake a preliminary examination of the Petition to ascertain whether it discloses an arguable case that a right or fundamental freedom guaranteed under the *Constitution* has been denied, violated, infringed, or is threatened. Only where such a threshold is met does the Court's constitutional mandate to intervene under its human rights jurisdiction properly arise.

357. In the circumstances, this Court bears the duty to interrogate the true nature of the dispute and to discern the substantive character of the Petitioners' case, with a view to determining the most appropriate relief, if any. In undertaking that task, the Court must first be satisfied that it is properly seized of jurisdiction, not only to entertain the Petition, but also to grant the specific reliefs sought. Jurisdiction is not assumed; it must be affirmatively established and it is trite that a court must down its tools the moment it determines that it lacks the jurisdiction to proceed.

358. This jurisdictional principle finds anchorage in *Samuel Kamau Macharia & Another v Kenya Commercial Bank Limited & 2 others* [2012] eKLR, where the Supreme Court made it clear that:

> " A court's jurisdiction flows from either the *Constitution* or legislation or both. Thus, a court of law can only exercise jurisdiction as conferred by the *Constitution* or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred by law. We agree with counsel for the first and second Respondents in his submission that the issue as to whether a court of law has jurisdiction to entertain a matter before it is not one of mere procedural technicality; it goes to the very heart of the matter, for without jurisdiction, the court cannot entertain any proceedings...Where the *Constitution* exhaustively provides for the jurisdiction of a court of law, the court must operate within the constitutional limits. It cannot expand its jurisdiction through judicial craft or innovation. Nor can Parliament confer jurisdiction upon a court of law beyond the scope defined by the *Constitution*. Where the *Constitution* confers power on Parliament to set the jurisdiction of a court of law or

tribunal, the legislature would be within its authority to prescribe the jurisdiction of such a court or tribunal by statute law."

359. Upon careful examination of the reliefs sought in the Petition as reproduced in this judgment, this Court notes that none of the prayers enumerated from (a) to (j) expressly invoke or anchor themselves upon a specific right or fundamental freedom guaranteed under the Bill of Rights, which the Petitioners allege has been denied, violated, infringed or threatened with infringement. The absence of such express linkage raises legitimate questions as to whether the Petition, in its formulation, meets the threshold for enforcement of rights under Articles 22 and 23 of the *Constitution*.

360. This Court further observes that, while the Petitioners allege a breach of Article 27 at their paragraphs 39 and 47 of the Petition and refer to a breach of Article 35 at paragraph 50, with a suggestion, though not an express citation of Article 54 at paragraph 41 in connection with the alleged failure to include persons with disabilities in the nominations list, these constitutional claims are not properly anchored to or reflected in the reliefs sought. There exists a discernible disconnect between the alleged infringements and the prayers framed, thereby diminishing the coherence and specificity required in constitutional pleadings.

361. It is not sufficient to merely allege a breach of constitutional provisions; the reliefs sought must be logically and legally traceable to those alleged violations.

362. Similarly, while the Petition makes reference to Article 28, which guarantees the right to dignity and Article 47, which secures the right to fair administrative action, under the section titled 'Legal Foundations of the Petition', these provisions are neither invoked nor particularized under the substantive section of the Petition in the title: 'Contravention of the *Constitution* and the Various Statute Laws', which spans from paragraphs 31 to 51 of the Petition. This omission reflects a lack of precision and coherence in the formulation of the alleged violation of the Bill of Rights, thereby undermining the clarity of the claims and the ability of the Court to ascertain whether a justiciable issue properly invoking its jurisdiction has been established.

363. In the considered view of this Court, the apparent disconnect between the alleged violations of constitutional fundamental rights and freedoms and the reliefs sought is, in large part, attributable to the Petitioners' failure to enjoin critical parties in these proceedings, most notably, the IEBC Selection Panel, the Parliamentary Service Commission which acted as the Secretariat to the IEBC Selection Panel and the appointing authority.

364. It is manifest that the actions or omissions giving rise to the alleged breaches of the Bill of Rights, if any, would lie at the feet of the IEBC Selection Panel and/or the appointing authority. The non-joinder of these necessary parties therefore undermines the effectiveness of the Petition and renders it procedurally deficient in so far as constitutional accountability is sought against entities that are not before the Court.

365. In the absence of a clear and demonstrable nexus between the alleged breaches of the Bill of Rights and the reliefs sought, this Court is unable to properly characterize this Petition as one that has been rightly and competently brought under the provisions of Articles 22 and 23 of the *Constitution*.

366. It is now well established that a constitutional petition must not only cite the relevant constitutional provisions, but must also plead with specificity the manner in which such provisions have been violated, infringed or threatened, and must further link those alleged violations to the remedies being pursued. The failure to do so deprives the Petition of the constitutional coherence necessary to invoke the High Court's jurisdiction under the said Articles.

367. This position was articulated in the seminal decision of the High Court in *Anarita Karimi Njeru v Republic* (1979) eKLR, where the Court (Trevelyan & Hancox JJ) held:

> " We would, however, again stress that if a person is seeking redress from the High Court on a matter which involves a reference to the *Constitution*, it is important that he should set out with a reasonable degree of precision that of which he complains, the provisions said to be infringed and the manner in which they are alleged to be infringed."

368. This principle was later reaffirmed by the Court of Appeal in *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 Others* [2013] eKLR , where the Court stated:

> " 43. The petition before the High Court referred to Articles 1, 2, 3, 4, 10, 19 , 20 and 73 of the *Constitution* in its title. However, the petition provided little or no particulars as to the allegations and the manner of the alleged infringements. For example, in paragraph 2 of the petition, the 1st respondent averred that the appointing organs ignored concerns touching on the integrity of the appellant. No particulars were enumerated. Further, paragraph 4 of the petition alleged that the Government of Kenya had overthrown the *Constitution*, again, without any particulars. At paragraph 5 of the amended petition, it was alleged that the respondents have no respect for the spirit of the *Constitution* and the rule of law, without any particulars.
>
> (44) We wish to reaffirm the principle holding on this question in Anarita Karimi Njeru (supra). In view of this, we find that the petition before the High Court did not meet the threshold established in that case. At the very least, the 1st respondent should have seen the need to amend the petition so as to provide sufficient particulars to which the respondents could reply. "We reiterate that in constitutional litigation, a party must plead with precision the constitutional provisions violated, the nature of the violation, the manner in which the violation occurred and the relief sought for each alleged violation. This is not a technical requirement; it is necessary to define the scope of the controversy and to allow the respondent to respond adequately."

369. Similarly, in *Trusted Society of Human Rights Alliance v AG & Others* [2012] eKLR, the Court in answering the question of what the courts were to consider when determining the admissibility of constitutional petitions while using the reasonable precision test set out in *Anarita Karimi Njeru v The Republic* (19 76- 19 80) 1 KLR 1272.

The three Judge Bench-JM. Ngugi, M. Ngugi & Odunga JJ (as they then were) held:

> " *Anarita Karimi Njeru v The Republic* was decided under the repealed Constitution. The decision in that case had to be reconciled and brought into consonance with the *Constitution* of Kenya, 2010.

The instant position with regard to the admissibility of petitions that sought to enforce the *Constitution* had to begin with the provisions of article 159 of the *Constitution* (2010) on the exercise of judicial authority that provided that justice was to be administered without undue regard to procedural technicalities.

The Supreme Court did not purport to overrule Anarita Karimi Njeru as it lay down an important rule of constitutional adjudication: a person claiming constitutional infringement had to give sufficient



notice of the violation to allow her adversary to adequately prepare her case and to save the court from embarrassment of adjudicating on issues that were not appropriately phrased as justiciable controversies. However, the proper test under the *Constitution* of Kenya, 2010 was whether a petition raised issues which were so insubstantial and so attenuated that a court of law properly directing itself to the issue could not fashion an appropriate remedy due to the inability to concretely fathom the constitutional violation alleged.

The test did not demand mathematical precision in drawing constitutional petitions. Neither did it demand talismanic formalism in identifying the specific constitutional provisions which were alleged to have been violated. The test was a substantive one and inquires whether the complaints against respondents in a constitutional petition were fashioned in a way that gave proper notice to the respondents about the nature of the claims being made so that they could adequately prepare their case.

While the instant petition was not the epitome of precise, comprehensive, or elegant drafting, the complaints raised by the petitioner were concrete enough to warrant substantive consideration by the court. The instant case being a constitutional issue of immense public importance and interest, the court declined a formalistic approach. The controversy at issue had been defined with reasonable precision to warrant a proper judicial determination on merits."

370. In view of the foregoing authorities, we find that the failure by the Petitioners to articulate how the cited provisions of the Bill of Rights have been violated or threatened with violation in relation to the reliefs sought, the Petition, in so far as it claims to be brought under Articles 22 and 23 of the *Constitution* falls short of the threshold required to invoke the Court's jurisdiction under the said Articles 22 and 23.

371. We are further fortified on this finding by the Court of Appeal decision in the case of *David Sironga Ole Tukai v Francis Arap Muge & 2 others* [2014]KECA 155(KLR) where the Court considered the issue of unpleaded matters and the issue of lack of an express relief being sought. The appellate court stated:

> " It is well established in our jurisdiction that the court will not grant a remedy, which has not been applied for, and that it will not determine issues, which the parties have not pleaded. In an adversarial system such as ours, parties to litigation are the ones who set the agenda, and subject to rules of pleadings, each party is left to formulate its own case in its own way. And it is for the purpose of certainty and finality that each party is bound by its own pleadings. For this reason, a party cannot be allowed to raise a different case from that which it has pleaded without due amendment being made. That way, none of the parties is taken by surprise at the trial as each knows the other's case is as pleaded. The purpose of the rules of pleading is also to ensure that parties define succinctly the issues so as to guide the testimony required on either side with a view to expedite the litigation through diminution of delay and expense.

The court, on its part, is itself bound by the pleadings of the parties. The duty of the court is to adjudicate upon the specific matters in dispute, which the parties themselves have raised by their pleadings. The court would be out of character were it to pronounce any claim or defence not made by the parties as that would be plunging into the realm of speculation and might aggrieve the parties or, at any rate, one of them. A decision given on a claim or defence not pleaded amounts to a determination made without hearing the parties and leads to denial of justice.

The proposition was expressed as follows by the former Court of Appeal for Eastern Africa in*Gandy V Caspar Air Charters Ltd*[1956] 23 EACA, 139:

> " [T]he object of pleadings is, of course, to secure that both parties shall know what are the points in issue between them; so that each may have full information of the case he has to

meet and prepare his evidence to support his own case or to meet that of his opponent. As a rule, relief not founded on the pleadings will not be given"

Later in *Galaxy Paints Co Ltd V Falcon Guards Ltd* [2000] 2 EA 385, this Court reiterated that the issues for determination in a suit generally flowed from the pleadings and that a trial court could only pronounce judgment on the issues arising from the pleadings or such issues as the parties framed for the courts determination. The Court added that unless pleadings were amended, parties were confined to their pleadings.

The exception to the rule arises where the parties, in the course of the hearing, raise an issue that was not pleaded and leave the same to the court to decide. Hence in *Odd Jobs Vmubia* [1970] EA 476, Law, JA; speaking for the predecessor of this Court stated that:

> "[A] court may allow evidence to be called, and may base its decision, on an unpleaded issue if it appears from the course followed at the trial that the unpleaded issue has in fact been left to the court for decision." (See also *Vyas Industries Ltd V Diocess Of Meru* [1982] KLR 114)."

372. Notwithstanding the foregoing finding that the Petition does not meet the threshold for enforcement of the Bill of Rights under Articles 22 and 23 of the *Constitution*, this Court is not persuaded that it would be just to dismiss the Petition in limine. This decision is informed by two principal reasons.

373. First, the Respondents and Interested Parties have extensively addressed the alleged violations of the Bill of Rights, and in doing so, intertwined their arguments with other constitutional provisions. Second, and of equal importance, the Petition also raises allegations of constitutional and statutory violations beyond the confines of the Bill of Rights under Articles 10, 88(2), 232 and 250.

These Articles touch on the structure, process and conduct of public appointments under various Articles of the *Constitution*.

374. While relying on the provisions of Article 258 on the enforcement of the *Constitution*, the Petitioners have further invoked the jurisdiction of this Court under Article 165(3). This buttresses our position as above that the Petition in its entirety should be heard and determined on its relative merits.

375. In these circumstances, and guided by the imperative to do substantive justice, this Court is satisfied that it ought to consider and analyze the rival positions of the parties on the issues raised, albeit within the framework of the objections raised, based on the Doctrines of Exhaustion and Constitutional Avoidance and mindful of the limits imposed by our earlier finding on jurisdiction under Articles 22 and 23.

B. Whether the petition is justiciable or ripe or whether it offends the doctrines of exhaustion, separation of powers and parliamentary approval processes under Article 250(2) of the *Constitution*

376. The 1st Respondent opposes the Petition dated 13th May, 2025 on the following grounds:

a. The Petition is non-justiciable on account of having been instituted contrary to the principle of ripeness.

b. The Petitioners have offended the doctrine of exhaustion as they have not exhausted the constitutionally provided remedy before invoking the jurisdiction of the Honourable Court.

377. On its part, the 3rd Respondent, the National Assembly contended that the petition is not justiciable for violating the doctrine of ripeness. It was argued that to the extent that the petition challenges an ongoing constitutional process in respect of which no decision or action has been taken by the National

Assembly, the Petition are speculative and deals with prospective anticipatory circumstances rather than current or probable events.

378. The 2nd Interested Party agrees with the 3rd interested party and argues that the proper forum for the petitioners to have raised their grievances was before the National Assembly during vetting.

379. The Respondents argue that this Court would be violating the doctrine of separation of powers if it was to direct another organ on how to exercise its mandate as was underscored by the Supreme Court in *Justus Kariuki Mate & another v Martin Nyaga Wambora & another* [2017] eKLR and *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others* [2013] eKLR.

380. The Respondents and the interested parties argued that this Court has no jurisdiction to substitute its findings for that of the National Assembly approval process and its ultimate decision in the absence of evidence that the National Assembly disregarded the *Constitution* and the law.

381. The petitioners maintained that the petition is competently before this Court and that the issues raised are justiciable under Articles 22 , 165(3) (b) and 258 of the *Constitution*. They argue that Article 22 grants every person the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed or is threatened.

382. It is their case further, that Article 258 grants every person the right to institute court proceedings, claiming that the *Constitution* has been contravened, or is threatened with contravention and that Article 165 (3) (b) vests in the High Court jurisdiction to determine whether a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed or threatened.

383. According to the petitioners, the nomination of the interested parties threatens violation of the *Constitution* and the right to a free and fair election conducted by an independent body. Further, that the validity of the nomination process and its outcome is a question ripe for determination by this Court and that therefore, the dispute is justiciable.

384. The petitioners relied on

In Re the Matter of the Interim Independent Electoral Commission [2011] eKLR , where the Supreme Court observed that:

> " The effect of the *Constitution*'s detailed provision for the rule of law in the processes of governance, is that the legality of executive or administrative actions is to be determined by the courts, which are independent of the Executive branch. The essence of separation of powers, in this context, is that the totality of governance-powers is shared out among different organs of government, and that these organs play mutually-countervailing roles. In this set-up, it is to be recognized that none of the several governmental organs functions in splendid isolation."

385. The bastion of the power to determine disputes through the exercise of judicial authority and the capacity to commence action for such determination is based on the universal concept or principle of justiciability.

386. The doctrine of justiciability encompasses such principles as the refusal of the court to make declarations to, assume jurisdiction over matters which are allocated to such other branches of the government as the legislature or the executive, refusal to decide issues which are not ripe or those which are moot.

387. *Black's Law Dictionary* 9th edition defines justiciability to mean- a matter is "proper to be examined in courts of justice" or "a question as may properly come before a tribunal for decision." It further defines

a 'justiciable controversy' as "a controversy in which a claim or right is asserted against one who has an interest in contesting it."

388. The other definition given of a justiciable controversy is "a question as may properly come before a tribunal for decision". In other words, courts should only decide matters that require to be decided.

389. In /*Ashwander –v- Tennessee Valley Authority* [19 36] 297 U.S 288, the US Supreme Court stated that courts should only decide cases which invite "a real earnest and vital controversy".

390. Effectively, the justiciability dogma prohibits the court from entertaining hypothetical or academic interest cases. The court is not expected to engage in abstract arguments. It is prevented from determining an issue when it is too early or simply out of apprehension, hence the principle of ripeness and an issue before the court must be ripe, through a factual matrix, for determination.

391. Conversely, the court is also prevented from determining an issue that has been overtaken by events. When an issue no longer presents an existing or live controversy, then it is said to be moot and not worthy of taking the much-sought judicial time. The exception, it must be noted, exists where the court is allowed by law to offer advisory opinions.

392. The justiciability dogma and all principles under it are part of our Constitutional law and jurisprudence. The court in *John Harun Mwau & 3 Others –v- AG & 2 others* HCCP No. 65 of 2011 (unreported) stated as follows:

> "We also agree with the submissions of Prof. Ghai that this Court should not deal with hypothetical and academic issues. In our view, it is correct to state that the jurisdiction to interpret the *Constitution* conferred under Article 165(3) (d) does not exist in a vacuum and it is not exercised independently in the absence of a real dispute. It is exercised in the context of a dispute or controversy."

393. In *Jesse Kamau & 25 Others V. Attorney General* [2010]e KLR, the court stated as follows:

> "To us therefore the doctrines of justiciability, ripeness, mootness, collusive suits and the political question cannot be determined on their own. They are aids to, or matters to be considered in the interpretation and determination of a particular constitutional issue, if any, before the court. If any of the above grounds are present in an application, whether by way of reference from a subordinate or a lower court, or directly by Petition to the High Court, the court may uphold or strike out the application on those or other grounds.
>
> Even without those doctrines, the constitutional position in Kenya is very clear. The High Court has a sextuple jurisdiction. Firstly it has original and unlimited jurisdiction in civil and criminal matters. Secondly it has supervisory jurisdiction over the subordinate courts under section 65(2) of the *Constitution* in all matters in which subordinate courts have jurisdiction. Thirdly it has jurisdiction to interpret any provision of the *Constitution* under section 67 (references, appeals and interpretation of the *Constitution*).

394. In /*Coalition for Reform and Democracy (CORD) & 2 Others -v- Republic of Kenya & Another* HCCP 628 of 2014 [2015]eKLR, the Court cited the case of *Patrick Ouma Onyango & 12 Others –v- AG & 2 Others* Misc. Appl No. 677 of 2005 in which the Court endorsed the doctrine of justiciability as stated by Lawrence H. Tribe in his treatise American Constitutional Law, 2nd Ed . as follows:

> "In order for a claim to be justiciable as an article III matter, it must "present a real and substantial controversy which unequivocally calls for adjudication of the rights asserted."

> In part, the extent to which there is a 'real and substantial controversy is determined under the doctrine of standing' by an examination of the sufficiency of the stake of the person making the claim, to ensure the litigant has suffered an actual injury which is fairly traceable to challenged action and likely to be redressed by the judicial relief requested. The substantiality of the controversy is also in part a feature of the controversy itself-an aspect of 'the appropriateness of the issues for judicial decision...and the actual hardship of denying litigants the relief sought. Examination of the contours of the controversy is regarded as necessary to ensure that courts do not overstep their constitutional authority by issuing advisory opinions. The ban on advisory opinion is further articulated and reinforced by judicial consideration of two supplementary doctrines: that of 'ripeness' which requires that the factual claims underlying the litigation be concretely presented and not based on speculative future contigencies and of 'mootness' which reflects the complementary concern of ensuring that the passage of time or succession of events has not destroyed the previously live nature of the controversy. Finally, related to the nature of the controversy is the 'political question' doctrine, barring decision of certain disputes best suited to resolution by other governmental actors."

395. With regard to the several objections raised concerning the competency of the Petition, this Court reiterates its earlier finding under Issue No. 1, to the effect that the Petition is not properly anchored on Article 22 of the *Constitution*.

396. However, notwithstanding that procedural deficiency, the Court is satisfied that the Petition raises substantial and weighty constitutional questions. These include, inter alia, alleged violations of Chapter Six of the *Constitution* on leadership and integrity, Article 88 concerning the establishment, composition, and independence of the (IEBC), as well as the constitutionally prescribed procedure for the selection, nomination and appointment of Commissioners to the said Commission.

397. It is the finding of this Court that, at the time the Petitioners moved the Court, the issues surrounding the nomination, appointment, and assumption of office by the Interested Parties as Commissioners of the (IEBC) were real, live, and justiciable. These issues formed the substantive basis of the cause of action.

398. It is also noted that one of the reliefs that the Petitioners are seeking is that this court do issue an injunction to restrain the interested parties from occupying office. The Assumption of office issue is alive and pending determination.

399. Additionally, while the shortlisting of candidates had already been concluded, the appointment of the Interested Parties by the President had not taken place.

400. We are further fortified by the case of *Hon. Martin Nyaga Wambora –v- Speaker of County Assembly of Embu and 5 Others* HCCP No. 3 of 2014 , the court observed as follows:

> "It is clear from the above definition that whether a matter before a Court is justiciable or not depends on the facts and circumstances of each particular case but the Court must first satisfy itself that it has jurisdiction to entertain the matter before it can resolve the issue of justiciability.'

401. The Respondents and the interested parties further argued that the Petitioners did not exhaust the available alternative remedies including the National Assembly. According to the Respondents and the interested parties, the Petitioners, having failed to exhaust all redress avenues available to them

under the *Constitution* and the Standing Orders, the Petition and Application violate the doctrine of exhaustion and are therefore premature.

402. In *Republic v Independent Electoral and Boundaries Commission (I.E.B.C.) & Others Exparte the National Super Alliance (NASA) Kenya & 6 others* [2017] KEHC 4663(KLR) it was held that:

> "While, exceptions to the exhaustion requirement are not clearly delineated, Courts must undertake an extensive analysis of the facts, regulatory scheme involved, the nature of the interests involved – including level of public interest involved and the polycentricism of the issue (and hence the ability of a statutory forum to balance them) to determine whether an exception applies."

403. In *MMM (Suing Through JMM as Guardian and Next Friend) v Attorney General & 8 others; Moi Primary School Kabarak – Nakuru (Interested Party)* (Petition E488 of 2023) [2024] KEHC 4010 (KL), the court expressed itself as follows on the question of the doctrine of exhaustion;

> "Equally, the Supreme Court in Albert Chaurembo Mumba & 7 others (sued on their own behalf and on behalf of predecessors and or successors in title in their capacities as the Registered Trustees of Kenya Ports Authority Pensions Scheme) v Maurice Munyao & 148 others (suing on their own behalf and on behalf of the Plaintiffs and other Members/ Beneficiaries of the Kenya Ports Authority Pensions Scheme) (2019) eKLR stated as follows:"... the Court must exercise restraint in exercising its jurisdiction under Article
>
> 165. Where there exist alternative methods of dispute resolution, the Court must exercise deference to the bodies statutorily mandated to deal with specific disputes in the first instance.... The foregoing verdict also finds support in an adage principle in administrative law of "Exhaustion of Administrative Remedies" and from the jurisprudence emanating from this Court and the lower Courts, which has been restated with notoriety to the effect that, where there exists an alternative method of dispute resolution established by legislation, the Courts must exercise restraint in exercising their Jurisdiction conferred by the *Constitution* and must give deference to the dispute resolution bodies established by statutes with the mandate to deal with such specific disputes in the first instance ..."

404. With the foregoing background this court is of the view that the petition is not moot. The same is justiciable and properly before us pending determination.

C. What is the effect of non-joinder of the IEBC Selection Panel, the Parliamentary Service Commission and persons adversely mentioned by the Petitioners? Can a Court issue adverse orders against persons who are not parties to the petition?

405. It is not in dispute that the IEBC Selection Panel, the Parliamentary Service Commission in its capacity as the secretariat of the IEBC Selection Panel and nominating authority, are not parties to these proceedings.

406. The 2nd Interested Party and the 5th Interested Party in particular argued that the Petition is fatally defective for failing to join those crucial parties against whom adverse allegations have been made and adverse orders sought. They contend that if the adverse orders sought in the Petition are issued as against the IEBC Selection Panel, the Parliamentary Service Commission and the President of the Republic; their rights to due process and a fair hearing as enshrined in the *Constitution* will be violated.

407. On their part, the Petitioners argue that Rule 5 (b) of the *Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013* provides that a Petition shall not be defeated by solely for the reason of the misjoinder or non-joinder of parties.

408. The Petitioners argue that in any event, the IEBC Selection Panel is now functus officio and dissolved, and hence it has no capacity to sue or be sued.

409. In the case of *Okoiti v Attorney General & 5 others* [2021]KEHC439(KLR) the Court held as follows;

> "On non-joinder, the petition was filed when the IEBC Amendment Act had been passed into law, but the selection panel was yet to be appointed. Later, the selection panel was put in place. On learning of that development, the petitioner filed the notice of motion dated April 27, 2021.
>
> There was no attempt to amend the petition. The petitioner was using the application to expand the petition without properly amending it. The status of the members of the selection panel sought to be served through the Hon. Attorney General was not clear.
>
> The correct procedure to have been adopted by the petitioner was to apply to court to amend the petition and introduce the new cause of action which was the appointment of the selection panel. The petitioner would then have indicated how the members of the selection panel would participate in the matter and the amended petition would have had concise prayers for the new cause of action. The petitioner would have taken the game to a level playing field. As the petitioner failed to do so, the court did not find any justification to deal with that application first or to issue any interim conservatory orders. The court directed that the application be heard together with the petition.
>
> Given that the members of the selection panel were not enjoined as parties in the instant matter, the court could not, at the tail-end of the proceedings, issue any orders to the detriment of any of them. If the court did so then it would infringe on the members' right to a fair trial which was guaranteed under article 50(1) of the *Constitution*. The right to a fair trial was one of the rights which could not be limited in any manner whatsoever as provided for under article 25 of the *Constitution*."

410. The Supreme Court in the case of *Jirongo v Soy Developers Ltd & 9 others* [2021]KESC32(KLR) observed thus;_

> "This court in the case of Hon.Christopher Odhiambo Karan v David Ouma Ochieng & 2 others[2018]SCPetitionNo36 of 20 19 had an opportunity to discuss the significance, distinctive meaning, scope and implication of the right to a fair trial and stated that "It is therefore settled law that all persons who come to any court are entitled to a fair hearing whether the matter instituted is criminal or civil in nature. In this context, the drafters of theConstitution 2010in article 25(c) placed a bar on limitation of the right to a fair trial, in civil and criminal matters."

411. The Petitioners did not sue the IEBC Selection Panel, the Parliamentary Service Commission, and the nominating authority being the President of the Republic; nor did they apply to amend their Petition to introduce those parties.

412. It is our finding that granting any of the reliefs sought in the Petition as against parties whom the Petitioners failed to sue would offend Article 50(1) of the *Constitution* and thereby create an illegality. This Court cannot countenance that, and accordingly we decline to grant any of the reliefs sought

against parties not sued in these proceedings. The prayers in the Petition that seek those orders must necessarily be dismissed on that basis, and we hereby dismiss the same.

D. Whether the IEBC Selection Panel acted illegally and unconstitutionally by issuing a subsequent expanded shortlist

413. It is the Petitioner's case that Mr. Hassan Noor Hassan, the 5th Interested Party was never shortlisted for the interviews and that he was only snuck in through an addendum shortlist, contrary to the selection and nomination process under the *Independent Electoral and Boundaries Commission Act*. The Petitioners claim that the IEBC Selection Panel acted illegally and in a manner that discriminated against all other candidates.

414. They contend that the inclusion and subsequent publication of the name of the 5th Interested Party during the course of the interviews, despite not having been initially shortlisted, was procedurally irregular and devoid of any lawful justification. In their view, this act contravened the principles of transparency, fairness, equality and public participation, as enshrined in Articles 10, 47, 232, and 250 of the *Constitution*, as well as Section 3 of the *IEBC Act*. The Petitioners argue that the manner in which the process was conducted violated their legitimate expectation and that of the public at large, that the IEBC Selection Panel would at all times discharge its mandate in an open, accountable and procedurally fair manner, consistent with the constitutional and statutory framework governing appointments to independent commissions.

415. On the part of the Respondents, they contended that the 5th interested Party was amongst the applicants in the longlist who applied and was shortlisted for the interview for the position of commissioner of IEBC which interviews were held on 24th April 2025 at 12.30 pm and that the shortlist as republished by the IEBC Selection Panel on 25th March 2025 was in accordance with paragraph 2 of the First Schedule to the *IEBC Act*.

416. In response, the Respondents and Interested Parties maintain that the selection process was conducted in strict conformity with the relevant constitutional and statutory provisions. They contend that the nomination of the 5th Interested Party was the product of a rigorous, competitive and fair selection process, undertaken in accordance with established procedures and criteria.

417. Accordingly, they reject the Petitioners' assertions of procedural impropriety or constitutional breach and assert that the process met both the letter and spirit of the law governing public appointments to independent commissions.

418. The question that we must answer, from the rival positions above is whether the deviation from the original shortlist through the republication and adding of more names of applicants who were on the long list offended Articles 10, 27, 47, 232 and 250 of the *Constitution* and the selection process under the *IEBC Act*and the *Public Appointments (Parliamentary Approval) Act*.

419. Article 10 of the *Constitution* sets out the national values and principles of governance which include transparency, accountability, non-discrimination and inclusiveness. Article 27(1) guarantees equality before the law and equal protection and benefit of the law, while Article 47(1) secures every person's right to lawful, reasonable and procedurally fair administrative action. Article 232(1) lays down the values and principles of public service, which include fair competition, merit-based appointments, transparency and representation of Kenya's diverse communities. These principles are replicated in Chapter six of the *Constitution* and more specifically, Article 73 on responsibilities of Leadership.

420. We have carefully considered the sequence of events. On 5th March, 2025, the IEBC Selection Panel published a longlist of all applicants and a shortlist containing 92 persons excluding the 5th interested

party. The 5th interested party is number 985 on the long list at page 230 of the petition. The total number of applicants was 1,356.

421. Subsequently, on 25th March 2025, the IEBC Selection Panel republished the shortlist with six additional names, comprising the 5th interested party and five others. The name of the 5th interested party is number 4 of the interviewees for 24th April, 2025 at 12.30 pm and is contained at page 325 of the petition, accompanied by a public explanation at page 320 of the petition, indicating that the revision of the shortlist was made to further enhance compliance with the constitutional principles of regional balance, representation of the youth and overall inclusivity.

422. The First Schedule to the IEBC Act, at Paragraph 5, empowers the Selection Panel to regulate its own procedure, provided that such procedure complies with constitutional and statutory requirements.

423. The petitioners referred us to paragraph 2 of the First Schedule to the *IEBC Act* which nonetheless makes no reference to any procedure to be adopted by the IEBC Selection Panel. Neither did the petitioners point out to this Court any specific procedure which the IEBC Selection Panel allegedly failed to adhere to in their selection of the applicants.

424. Notably, the republication occurred prior to the interview stage and no previously shortlisted or longlisted candidate has come forward to allege prejudice or challenge the fairness of the process.

425. There is also no evidence that the IEBC Selection Panel acted covertly or arbitrarily; rather, it took an open, reasoned and corrective step in alignment with its constitutional obligations.

426. In our humble view, the discretion to revise a shortlist, as was exercised by the IEBC Selection Panel, in the absence of evidence of bad faith and for a constitutionally justifiable reasons which they provided by way of an explanation in the republication, does not, per se, offend the law.

427. Courts have previously dealt with similar concerns. In *Trusted Society of Human Rights Alliance v AG & Others* [2012] eKLR, the High Court underscored that appointment to public office must not only comply with constitutional standards but must also be seen to be fair, competitive and merit-based and we fully concur. However, the Court did not suggest that mere perception, without supporting evidence of impropriety, is enough to invalidate a lawful appointment. Borrowing from the persuasive South African jurisprudence, in *Ngwenya v Minister of Police* (SS24398/2013) [2015] ZAGPJHC 323 (23 November 2015), the Southern Gauteng High Court, explained that if a discretion is "bona fide exercised," courts should not substitute their views, unless the decision is mala fide, capricious, or wholly irrational. The above decision cited *Shadiack v Union Government (Minister of interior)* 1912 AD 642 at 651-652, where the Court stated:

> "Now it is settled law that where a matter is left to the discretion or the determination of a public officer, and where his discretion has been bona fide exercised or his judgement bona fide expressed, the court will not interfere with the result. Not being a judicial functionary no appeal or review in the ordinary sense would he, and if he has duly and honestly applied himself to the question which has been left to his discretion, it is impossible for a court of law to make him change his mind or to substitute its conclusion for its own. There are circumstances in which inference would be possible and right. If for instance such an officer has acted mala fide or from ulterior and improper motives, if he had not applied his mind to the matter or exercised his discretion at all, or if he had disregarded the express provision of a statute, in such cases the court might grant relief. But it would be unable to interfere with a due and honest exercise of discretion, even if it considered the decision inequitable or wrong."[emphasis ours]

428. Additionally, in *Mumo Matemu v Trusted Society of Human Rights Alliance* [2013] eKLR, the Court of Appeal cautioned against conflating public suspicion or political pressure with constitutional violations. It affirmed that each appointment must be assessed on the evidence of its compliance with legal criteria and not on assumptions of impropriety based on identity or association.

429. In the case English case of *R v Commission for Racial Equality ex p Hillingdon* LBC [1982] QB 276 Griffiths LJ has stated as follows concerning exercise of discretion:

> "Now it goes without saying that Parliament can never be taken to have intended to give any statutory body a power to act in bad faith or a power to abuse its powers. When the court says it will intervene if the particular body acted in bad faith it is but another way of saying that the power was not being exercised within the scope of the statutory authority given by Parliament. Of course it is often a difficult matter to determine the precise extent of the power given by the statute particularly where it is a discretionary power and it is with this consideration that the courts have been much occupied in the many decisions that have developed our administrative law since the last war."

430. In *Kimpi v Attorney General & Anor* (Miscellaneous Cause No.23 OF 2017) [2018] UGHCCD 92 (17 August 2018), Ugandan High Court, (persuasively) stated as follows regarding exercise of legislative discretion:

> "It can therefore be deduced from the above decisions that where Parliament confers power upon some institution like the IEBC Selection Panel, or other authority to be used in discretion, it is obvious that the discretion ought to be that of the designated authority and not the court....On the other hand, Parliament cannot be supposed to have intended that the power should be open to serious abuse. It must have assumed that the designated authority would act properly and responsibly, with a view to doing what was best in the public interest and most consistent with the policy of the statute. It is from this presumption that the courts take their warrant to impose legal bounds on even the most extensive discretion."

431. In the case of *Sharp v Wakefield* [1891] AC 173 the court observed that:

> "'discretion' means when it is said that something is to be done within the discretion of the authorities that something is to be done according the rules of reason and justice, not according to private opinion: Rookes case; according to the law and humour. It is to be, not arbitrary, vague, and fanciful, but legal and regular. And it must be exercised within the limit, to which an honest man competent to the discharge of his office ought to confine himself."

432. It was further stated in *Republic v Judicial Service Commission ex parte Pareno* [2004] eKLR, that fairness and transparency are central to public appointments, but not every procedural irregularity amounts to a constitutional violation.

433. From the explanation given to the public on why the expanded shortlist was necessary, the IEBC Selection Panel the petitioners have not set out circumstances or plausible facts upon which the exercise of discretion to add more candidates in the second shortlist could be challenged on grounds of wrongful exercise of discretion.

434. Accordingly, we find that the IEBC Selection Panel did not violate any law or constitutional provision in adding more candidates to the second republished shortlist.



435. On alleged breach of legitimate expectation of the petitioners and other candidate applicants, the doctrine of legitimate expectation was extensively considered by the Supreme Court in *Communication Commission of Kenya & 5 Others v Royal Media Services & 5 Others* [2014] eKLR Several principles of the doctrine were extrapolated as follows:

> "It is a well-established and recognized doctrine in administrative law, legitimate expectation arises when a body, by representation or past practice has raised an expectation in a citizen that it is within its power to fulfil, a legitimate exception must be founded upon a promise or practice by a public authority, the representation must be one that the pubic authority is competently and lawfully capable of making, clear statutory words override any contrary expectation, and that a public authority that has made a representation which in law it has no power to make is not precluded from asserting the correct position in law."

436. This Court appreciates that any violation of constitutional values would vitiate the selection process. However, in this case, there was no evidence showing that the subsequent expanded shortlist was a substantive procedural deviation which violates rights and caused harm and therefore, this Court finds no constitutional violation.

437. In our view, the principle De Minimis Non Curat Lex –(the law does not concern itself with trifles) applies in this case. This principle applies in constitutional interpretation that minor deviations that do not cause substantive harm or infringe constitutional values are often not treated as violations that warrant judicial nullification.

438. Accordingly, we find and hold that the republished shortlist did not offend Articles 10, 27, 47, or 232 of the *Constitution*. On the contrary, the IEBC Selection Panel's action, which was taken transparently and explained publicly, demonstrates a good-faith effort to align the selection process with Kenya's constitutional ethos. We further find no evidence of violation of the principles of equality, fairness or procedural justice.

E. Effect of Familial relations of the 5th interested party, Hassan Noor Hassan with the leader of Minority in the National Assembly, on the selection and nomination of the 5th interested party

439. Apart from challenging the 5th interested party's selection and nomination on account of his having been shortlisted in the republished shortlist, on another front, the petitioners also contend that the 5th interested party admitted during his vetting by the National Assembly that he is the brother in-law to the Member of Parliament for Suna East Constituency, Migori County, Hon. Junet Mohamed, who is also the current Minority Leader in the National Assembly.

440. Consequently, it is the Petitioners' case that the 5th Interested Party is not eligible for appointment as a member of the Commission and that he will not be impartial.

441. The issue for determination is whether the alleged familial relationship between the 5th Interested Party and Hon. Junet Mohamed, the Leader of Minority in the National Assembly, is sufficient to create a reasonable apprehension in the mind of a fair-minded and informed member of the public that the said nominee may not exercise impartiality if appointed. It is further necessary to consider whether this alleged relationship was the sole or primary basis for the inclusion of the 5th Interested Party in the republished shortlist of nominees to the IEBC.

442. It is public knowledge that this allegation was widely circulated in the media, with headlines such as "Godfathers have it" appearing in a publication dated Thursday, 5th June 2025 in one of the Daily

Newspapers of nationwide circulation. Such reports had the effect of framing a narrative in the public domain that the nomination process was influenced by political patronage. Nevertheless, among all the nominees, it was only the 5th Interested Party whose familial connection to a senior political figure was specifically alleged.

443. The 5th Interested Party, in his response, admitted to the existence of a familial relationship with the Leader of Minority in the National Assembly, saying that the latter was his brother in-law.

444. It is trite law that public appointments must adhere to the constitutional principles of integrity, fairness, merit and transparency. These principles are entrenched in Articles 10, 27, 73, 232, and Chapter Six of the *Constitution*. Specifically, Article 73(2)(a) emphasizes that the guiding principle of leadership and integrity includes selection based on personal integrity, competence and suitability. Additionally, Article 232(1)(g) requires fair competition and merit as key criteria in public service appointments.

445. More importantly, Article 232 of the *Constitution* sets out the core values and principles that govern all public service in Kenya. The Article mandates that public officers and institutions must uphold standards of professionalism and competence; ethical conduct and integrity; accountability and transparency; non-discrimination and equality; efficient, effective, and responsive service delivery and promotion of national values and unity.

446. In essence, Article 232 ensures that the public service operates in a manner that is ethical, impartial and dedicated to serving the public interest in accordance with constitutional values. These values and principles apply to State organs at both levels of government as well as state corporations.

447. On the other hand, Article 73 provides for responsibilities of leadership and makes it clear that leadership is a privilege and responsibility to serve the people. That Article mandates that state officers must be selected on the basis of personal integrity, competence and suitability, not connections or influence.

448. Further, public trust demands that decisions (including appointments) be made objectively, impartially and in the public interest. It follows that state officers must avoid nepotism, favoritism or conduct that undermines integrity and public confidence. Article 75 calls on State Officers to avoid any conflict between personal interests and public duties, compromising any public or official interest in favour of a personal interest or demeaning the office the officer holds.

449. The *Leadership and Integrity Act*, 2012 operationalizes Chapter Six of the *Constitution* and specifically requires that appointments to State offices must be transparent and based on merit; nominees must demonstrate integrity, competence and ethical conduct and a person with a history or risk of conflict of interest, or who cannot serve independently, should not be appointed.

450. Thus, an appointment that appears to serve personal, familial or political interests may be challenged under this provision and therefore it is for this reason that State officers should not place themselves in positions where they might be influenced by relationships or loyalties that compromise impartiality.

451. Furthermore, while the existence of a familial relationship between a nominee and a politician is not in itself a legal bar to appointment, such a connection cannot be ignored where it gives rise to a reasonable perception of partiality, undue influence or political patronage. Public office is held in trust for the people and the perception of independence and impartiality is as vital as the reality.

452. That said, the *Constitution* does not impose a blanket prohibition against individuals related to politicians from holding public office. Doing so would risk violating the right to equal opportunity

and the principle of merit-based appointments, unless such appointment would raise reasonable apprehension of bias in the minds of a reasonable and informed person.

453. The proper approach is a contextual and case-specific evaluation, considering whether the nominee has demonstrated a track record of independence, professionalism and transparency regarding the relationship, whether institutional safeguards against conflict of interest are in place and whether their appointment would undermine or reinforce public confidence in the appointing institution. It is this balance between safeguarding institutional integrity and ensuring fair access to public service that the *Constitution* seeks to uphold.

454. In *Wanjigi v Chebukati*[2022]eKLR the Court of Appeal dealing with the doctrine of bias and citing other decisions had this to say on the test of bias: /"Earlier on, expounding further on the above test, the Supreme Court of Canada explained as follows inR. v S (R.D.)[1977] 3 SCR 484: The apprehension ofbiasmust be a reasonable one held by reasonable and right-minded persons, applying themselves to the question and obtaining thereon the required information. The test is what would an informed person, viewing the matter realistically and practically — and having thought the matter through conclude. This test contains a two-fold objective element: the person considering the allegedbiasmust be reasonable and the apprehension ofbiasitself must also be reasonable in the circumstances of the case. Further the reasonable person must be an informed person, with knowledge of all the relevant circumstances, including the traditions of integrity and impartiality that form a part of the background and apprised also of the fact that impartiality is one of the duties the judges swear to uphold. The reasonable person should also be taken to be aware of the social reality that forms the background to a particular case, such as societal awareness and acknowledgement of the prevalence of racism or genderbiasin a particular community. The jurisprudence indicates that areal likelihood or probability ofbiasmust be demonstrated and that a mere suspicion is not enough. The existence of a reasonable apprehension ofbiasdepends entirely on the facts. The threshold for such a finding is high and the onus of demonstratingbiaslies with the person who is alleging its existence." (Emphasis added).

455. In this case, the 5th interested party did not deny the fact that he is the brother in-law to Hon. Junet Mohamed. The question is whether that was the sole reason for his being selected, shortlisted and nominated as the proposed member of the IEBC.

456. As we answer this question, we observe that the petitioners have not impeached the 5th interested party's professional qualifications and neither have they said that he is wanting in integrity. Save for the alleged disqualification under Article 88(2) (a) (i) which is addressed elsewhere in this judgment, the Petitioners have not challenged the 5th interested party's overall suitability for appointment as Commissioner of the IEBC.

457. Therefore, while perceived conflicts of interest, nepotism and bias are legitimate public concerns, they must be grounded in evidence of procedural breach, bias or influence. Where none of these features exist and where a candidate has undergone a transparent and competitive process, has been interviewed, vetted and found to be competent and meeting all other set criteria, familial relations alone cannot be a constitutional disqualifier. To hold otherwise would effectively impose an extra-constitutional bar based on association, thus offending the principles of equality and dignity of opportunity, particularly where merit has been established.

458. The Court of Appeal in *Gachagua & 5 others v Maingi & 80 others* (Civil Appeal E829 of 2024 & E022 of 2025 (Consolidated)) [2025] KECA 790 (KLR) (9 May 2025) (Judgment) (the Gachagua Case), dealt with these very concerns of familial relations. The Superior Court had this to say concerning allegations of bias on account of familial relations, addressing the issue of whether the Judges in the



High Court should have recused themselves from hearing the case on the impeachment of the Deputy President of the Republic of Kenya, a principle which we find is relevant to the instant petition:

> " 197. We fully endorse the findings of the High Court that family members of judges are entitled to pursue independent careers, and such pursuits, in and of themselves, should not cast doubt on a judge's impartiality. Family members of judges, like any other qualified Kenyan, can lawfully be appointed to any public office, and that, per se, cannot be a ground for a judge's recusal, unless it is demonstrated that the appointment was intended to give the appointing authority an undue advantage in judicial proceedings, or for any other improper factor relating to the appointment and the judge's discharge of judicial duties. To suggest otherwise would impose an unreasonable and disproportionate burden on judges and judicial officers. The professional undertakings of a judge's spouse, particularly where they bear no direct relevance to the matter before the court, cannot serve as a valid basis to question the judge's objectivity. In the absence of specific and compelling evidence of a conflict of interest, such allegations amount to mere speculation and fail to meet the requisite legal standard for recusal."

459. In this case, we find that the petitioners have not discharged the legal burden of proving that the 5th interested party's selection and nomination was influenced by his relation with a top politician or that the nominee if appointed as a member of the IEBC will not be impartial in the discharge of his constitutional mandate as a member of IEBC.

460. In Evans Nyakwana –v - Cleophas Bwana Ongaro [2015] eKLR it was stated that:

> " As a general preposition the legal burden of proof lies upon the party who invokes the aid of the law and substantially asserts the affirmative of the issue. That is the purport of Section 107 (i) of the *Evidence Act*, Chapter 80 Laws of Kenya. Furthermore, the evidential burden... is cast upon any party, the burden of proving any particular fact which he desires the court to believe in its existence. That is captured in Section 109 and 112 of law that proof of that fact shall lie on any particular person...The appellant did not discharge that burden and as Section 108 of the *Evidence Act* provides the burden lies in that person who would fail fi no evidence at all were given as either side."

461. In view of the foregoing, we find that in the absence of undue influence, interference or irregularity in the selection and nomination process of the 5th interested party, his admitted familial relationship to a political actor or public official cannot, without more, invalidate or negate his selection, nomination and appointment to serve as a member of the IEBC, which is a state office, provided the selection, nomination and appointment satisfies all other constitutional and statutory requirements.

462. We therefore reject the invitation by the petitioners to declare the 5th interested party ineligible for nomination and possible appointment as IEBC Commissioner on account of familial relations with a serving politician.

F. Alleged disqualifications against each of the nominees

463. This section of our decision answers the issues raised by the petitioners that some of the nominees are allegedly automatically disqualified to be selected, nominated and appointed to serve in the IEBC as Commissioners and that therefore their selection and nomination was unconstitutional.



464. In every constitutional democracy, the conduct of free, fair and credible elections is the bedrock upon which the legitimacy of government rests. At the heart of this process lies the electoral body, an institution entrusted with safeguarding the sovereign will of the people. The integrity, impartiality and competence of such a body are not mere procedural formalities; they are fundamental constitutional guarantees.

465. the *Constitution* of Kenya, 2010, in recognizing the centrality of electoral justice, envisages an electoral commission that is independent, transparent, accountable and composed of individuals who exemplify merit, impartiality and integrity. The process of appointment to such a constitutional commission must therefore be guided by clear, objective and fair criteria that uphold the values of Chapter Six of the *Constitution* on leadership and integrity and give effect to Articles 10, 81, and 88.

466. Any departure from these constitutional imperatives in the appointment of commissioners undermines not only public confidence in the electoral process but also erodes the very foundation of democratic governance. The significance of appointing commissioners on the basis of merit and integrity is thus not abstract, it is a constitutional obligation designed to secure electoral processes that reflect the true and sovereign will of the people.

467. This part of the decision is the heartbeat of this judgment and the nerve centre of the petition. It examines whether the process and criteria for the appointment of members to the IEBC met the constitutional threshold of suitability, transparency, merit/qualification and integrity as well as the requirements under Article 232 of the and whether any failure in this regard has a bearing on the validity of the Commission's anticipated composition and its ability to discharge its constitutional mandate under Article 88(4).

468. But first things first, what is the rationale for the constitutional disqualifications? Many Articles of the *Constitution* provide for disqualifications of State officers from being appointed to other State offices while still serving. This constitutional bar may be attributed to a number of reasons, among others: a. Upholding the Doctrine of Separation of Powers. the *Constitution* is built on the principle of separation of powers between the Executive, Legislature and Judiciary. Allowing one person to serve simultaneously in two or more State offices undermines institutional independence and blurs lines of accountability. b. Preventing Conflict of Interest. Dual office-holding creates real or perceived conflicts of interest where a state officer may prioritize the interests of one office over another or use information improperly. Chapter Six of the *Constitution* (Leadership and Integrity) demands that State officers avoid situations where personal interests conflict with public duties.

In *Trusted Society of Human Rights Alliance v AG & Others* [2012] eKLR, the High Court stressed that public officers must adhere to the highest standards of integrity and impartiality. c. Safeguarding Public Resources and Accountability. Each State office attracts remuneration, security and public funding. Holding two offices may lead to misuse of public resources, double compensation or non-performance. In this regard, Article 73(1)(b) emphasizes objectivity and accountability in service to the public, which is undermined when serving officers occupy multiple offices. d. Ensuring Merit-Based Appointments. Disqualification provisions prevent politically motivated or opportunistic transfers between powerful offices without proper vetting. It ensures due process, competitive recruitment and public participation in State appointments, as required under Article 232 (Values and Principles of Public Service). e. Promoting Fairness and Equal Opportunity. Allowing serving State officers to occupy multiple roles limits opportunities for other qualified Kenyans, violating Article 27 (Equality and Non-Discrimination). Constitutional disqualification promotes equity, inclusiveness and transparency, which are the cornerstones of democratic governance. f. Guarding Against Abuse of Power. A serving officer could use their current position to influence or interfere

with the appointment process for another role (e.g., through lobbying, intimidation or misuse of State machinery). Disqualifying such appointments reduces patronage and impunity, which the *Constitution* was designed to eliminate post-2010.

g. Respecting Constitutional Design and Checks. the *Constitution* intentionally defines State offices as distinct, with different mandates, responsibilities and checks and balances. Allowing overlap violates Articles 10 (national values) and Article 73 (leadership standards).

469. Such disqualifications are not punitive, but necessary safeguards to protect the integrity, functionality and legitimacy of public institutions.

470. The petitioners challenge the lawfulness and constitutional validity of the process through which the 1st to 7th Interested Parties were selected and subsequently nominated and vetted to serve as Chairman and Commissioners of the (IEBC). It is the petitioners' case that the said process contravened the provisions of the *Constitution*, particularly those enshrining the national values and principles of governance under Article 10, the principles of public participation, transparency and accountability and the requirements of Chapter Six on leadership and integrity.

471. One of the major challenges to the selection and nomination of the 1st to 7th interested parties is the allegation that some of them are not suitable or qualified to be appointed as Commissioners of the IEBC.

472. The petitioners have also set out specific allegations against each of the 1st to 7th Interested Parties, contending that the individuals in question do not meet the constitutional and statutory criteria for nomination to serve as Chairman and Commissioners.

473. The petitioners assert that the respective nominations were not only procedurally flawed but that the 1st to 7th Interested Parties are, in various respects, unsuitable for the positions to which they were nominated, thereby undermining the spirit and letter of the *Constitution*.

a. Allegations of unsuitability of the 1st interested party Mr. Erastus Ethekon Edung

474. The Petitioners have challenged the selection and nomination of Mr. Erastus Edung Ethekon, the 1st Interested Party, as the Chairperson of IEBC, on grounds that the entire selection and nomination process is tainted by a perception of political bias and partiality. The crux of the challenge is the alleged past professional association between the 1st Interested Party and Mr. Josephat Nanok, the Deputy Chief of Staff in the Office of the President, stemming from the 1st Interested Party's prior service as County Attorney in Turkana County during Mr. Nanok's tenure as Governor.

475. The petitioners allege that this past association gives rise to a perception that the 1st Interested Party may be beholden to or influenced by Mr. Nanok, thereby undermining the appearance of independence, neutrality and impartiality required of the Chairperson of the IEBC under the *Constitution*. The Petitioners assert that this association also raises a reasonable apprehension of bias, thus disqualifying the 1st Interested Party under Chapter Six of the *Constitution* and Article 88(2).

476. In response, the 1st Interested Party avers that his nomination as chairperson of IEBC followed a competitive recruitment process and that his service as County Attorney was not in a personal capacity to the then Governor, but as a public officer under the County Government of Turkana. The 1st Interested Party's case is that his appointment was made under Section 5 of the County Attorneys Act, Cap 265E Laws of Kenya, through a transparent process involving nomination by the Governor and vetting by the County Assembly. He also argues that he had no personal familial or undue political relationship with Honourable Nanok and that the latter was his supervisor in the official capacity of County Governor and their interaction was strictly professional.

477. He further asserts that he served under two successive governors from different political affiliations, thereby rebutting the claim that he harbours partisan allegiance or political bias. The 1st Interested Party maintains that his professional conduct was guided by the law and that no evidence has been placed before this Court to demonstrate otherwise.

478. This Court is mindful that public confidence in the IEBC is integral to the credibility of the electoral process. It is equally alive to the fact that actual bias need not be proved; what is sufficient is a reasonable apprehension of bias on the part of a fair-minded and informed observer.

479. In public and electoral administration, perception matters greatly and it is more important for the process to be fair and to be seen to be fair. However, this principle must be balanced against the constitutional right of individuals to public service and the imperative of fairness in public appointments.

480. In addition, the burden is on the party alleging bias to establish a reasonable suspicion of bias on a balance of probabilities, using cogent, factual evidence, not mere assertions.

481. This Court is guided by established jurisprudence on the question of bias in public appointments. In Charles Ndungu Mwangi v IEBC Chair & 4 Others [2018] KEHC 8444, the High Court affirmed that both actual bias and a reasonable apprehension of bias are grounds for disqualification. The applicable standard, however, is an objective one: whether a fair-minded and informed observer, having regard to all the circumstances, would reasonably apprehend that the person in question may not bring an impartial mind to the matter at hand.

482. Similarly, in Wanjigi v Chebukati & 2 Others [2022] KECA 724, the Court of Appeal underscored that mere suspicion, conjecture, or unsubstantiated allegations are inadequate to establish a constitutional violation on the basis of perceived bias. The threshold is a high one and must be met with cogent and credible evidence.

483. In Kaplana H. Rawal v Judicial Service Commission & 2 Others [2016] eKLR,cited in theWanjigi v Chebukati(supra), the Court of Appeal Court stated: -

> " It cannot be gainsaid that the applicant bears the duty of establishing the facts upon which the inference is to be drawn that a fair minded and informed observer will conclude that the judge is biased. It is not enough to just make a bare allegation. Reasonable grounds must be presented from which an inference of bias may be drawn."

484. In the Wanjigi v Chebukati & 2 Others (supra), the Court of Appeal further stated as follows, regarding the test of bias:

> " In a case founded on apparent bias, the test is an objective one, of whether there is reasonable apprehension of bias. The test was expressed as follows in Attorney General of the Republic of Kenya v. Prof. Peter Anyang Nyongo & 10 Others, EACJ Application No. 5 of 2007:-
>
> > " We think that the objective test of "reasonable apprehension of bias" is good law. The test is stated variously, but amounts to this: do the circumstances give rise to a reasonable apprehension, in the mind of the reasonable, fair minded and informed member of the public that the judge did not (will not apply his mind to the case impartially? Needless to say, (a) litigant who seeks disqualification of a judge comes to court because of his own perception that there is appearance of bias on the part of the judge. The court however, has to envisage what would be

the perception of a member of the public who is not only reasonable but also fair minded and informed about all the circumstances of the case." (Emphasis added).

485. The Court of Appeal in the above cited *Wanjigi v Chebukati* case, citing with approval the decision by the Supreme Court of Uganda in *Re Application for Recusal of Owiny-Dollo, CJ. by Male H. Mabirizi K. Kiwanuka* Misc. App No. 3 of 2021 , where the Supreme Court of Uganda was dealing with an application whose facts bear uncanny resemblance to the appeal before the Court of Appeal in the *Wanjigi v Chebukati* (*supra*) case and to this matter, albeit the alleged bias is not against a judge or judicial officer, in which case, the application sought the recusal of the Chief Justice from hearing an election petition against the President of Uganda on the main ground that as a private practitioner, the Chief Justice had acted for the President. In rejecting the application, the Court held:

> "The onus to pass the test for bias is upon the person seeking recusal by a judicial officer. An unfounded or unreasonable apprehension of bias cannot be a justifiable cause for recusal. Furthermore, even where the apprehension of bias is expressed by a reasonable person, such apprehension must be assessed in the light of the true facts established at the hearing of the application. Courts are hesitant to make a finding of bias or to conclude that there is reasonable apprehension of bias in the absence of convincing evidence to that effect; meaning, it does not suffice to merely allege. The reasonable, objective, and informed person should be appraised of all the correct facts before determining whether or not, there is bias."

486. In this case, just like in the *Wanjigi v Chebukati* (*supra*) case, other than the insipid assertion that the nominee chairperson will be partisan or partial and biased because he worked as the County Attorney under the leadership of governor Nanok who now works at Statehouse, the Petitioners have not placed any material that would persuade us that a reasonable, well-informed and fair-minded person would conclude, merely from having worked as a County Attorney under governor Nanok, that the nominee chairperson for IEBC would be biased in the discharge of his constitutional mandate, if appointed.

487. The 1st Interested Party's evidence that he served under more than one governor further weakens the allegation of political allegiance to a single individual.

488. The Petitioners have not placed before this Court any evidence of conduct, utterances, affiliations or decisions by the 1st Interested Party that would give rise to a reasonable apprehension of bias or suggest a lack of neutrality. Perception alone, if not grounded in fact, cannot be elevated to a constitutional disqualification.

489. Indeed, to disqualify a nominee solely on the basis of prior professional engagement with a political figure, without more, would amount to setting a precedent that unfairly excludes competent and experienced public officers and individuals from national service.

490. In the result, this Court finds and holds that the selection and nomination of the 1st Interested Party, Mr. Erastus Edung Ethekon, for appointment as Chairperson of the IEBC has not been shown to contravene the *Constitution*.

491. Accordingly, the challenge to his nomination on the ground of perceived bias is without merit and is hereby dismissed.

b. Allegations of disqualification against the 2nd interested party Anne Njeri Nderitu

492. According to the Petitioners, Anne Njeri Nderitu who is the 2nd interested party was and is still a State Officer and hence she was and/or is ineligible to apply for or be selected and appointed to serve as a Commissioner of the IEBC. The petitioners state that during her vetting /approval hearing by the

National Assembly, she admitted that, at the time of her nomination and interview for appointment as a member of the IEBC, she was still serving as the Registrar of Political Parties, a state office. That this admission is contrary to the provisions of Article 88(2)(b) of the *Constitution*, which expressly provides that a person is not eligible for appointment as a member of the Commission if the person holds any State office.

493. In response to this alleged disqualification, the 3rd respondent which is the National Assembly contended that during the vetting of the nominee, the National Assembly Justice and Legal Affairs Committee (JLAC) noted that the nominee is yet to be appointed to the Commission and that her appointment was subject to approval by the National Assembly and resignation before assuming office in accordance with Article 88(2) of the *Constitution*.

494. In response to the constitutional disqualification argument, the 2nd Interested Party states that she applied for Member of the IEBC and that upon due consideration of her qualifications, including her academic credentials and professional experience, she was deemed to have met the requisite statutory and regulatory criteria, whereupon she was duly shortlisted and she appeared for her interview on the 28th March 2025 at 3:50pm.

495. According to the 2nd Interested Party, there is no bar against State Officers applying for the positions of Member of the IEBC provided that upon appointment, such individual tenders their resignation from the prior office held, which is the lawful and logical course of action in accordance with established constitutional and statutory principles. She maintains that the disqualification under Article 88(2)(b) only crystallizes at the point of appointment, and not at the stage of application or shortlisting.

496. She argued that the rationale underpinning Article 88(2)(b) of the *Constitution* is to prevent the concurrent holding of multiple state or public offices by a single individual. This provision, she argues, serves to safeguard the principles of separation of powers, prevent conflicts of interest and ensure that public officers discharge their duties with undivided loyalty and independence.

497. According to the 2nd Interested Party, this constitutional safeguard aims to promote good governance, accountability and integrity in public service by requiring an individual to relinquish any existing state office before assuming a new appointment.

498. It is her case that during her vetting in Parliament, she was asked questions on a memorandum filed concerning the alleged ineligibility of a state officer, an issue which she answered by tendering credible evidence to her aid and which included a ruling made by Parliament in a similar scenario.

499. The 2nd Interested Party argues that Section 9 of the *IEBC Act*clearly stipulates that appointment can only crystallize upon oath taking.

500. Further, that expecting a state officer to resign from any other state office held prior to being formally confirmed or appointed to a new public office would be premature and contrary to established constitutional and administrative practice. She further argues that Article 88(2)(b) must be read together with Article 250(6)(b) of the *Constitution*.

501. The 2nd Interested Party maintains that her nominations to the IEBC fully complied with the constitutional requirements set out under Articles 10, 27(1), 232, 250(3) and (4), as the nominations demonstrably uphold the principles of national unity by ensuring equitable regional representation and ethnic balance.

502. On allegations of violation of the principles espoused in Articles 10,20 and 232, she further argues that given that the Commission's membership is limited to seven persons, it is inherently infeasible to

represent every interest or group exhaustively and that the nomination process must reasonably balance constitutional diversity with merit and requisite competences.

503. She further argues that the petitioners' averments that nominees are not eligible due to their place of origin is unconstitutional and discriminatory as everyone is equal before the law and the positions were open to everyone to apply as long one met the criteria set.

504. Article 88 (1) of the *Constitution* establishes the Independent Electoral and Boundaries Commission. The Article also provides for eligibility for appointment as Commissioner or member of the Commission at sub-article 2 thereof as follows:

> 88(2) A person is not eligible for appointment as a member of the Commission if the person—
>
> (a) has, at any time within the preceding five years, held office, or stood for election as—
>
> (i) a member of Parliament or of a county assembly; or
>
> (ii) a member of the governing body of a political party; or
>
> (b) holds any State office.

505. This provision imposes a specific disqualification for appointment to the IEBC as a member. Its intent is to safeguard the independence, neutrality and public confidence in the electoral body by insulating it from political or governmental entanglements.

506. It is not in dispute that the 2nd interested party is the sitting Registrar of Political Parties and that the Office of Registrar of Political Parties is a state office established and designated as such by Section 33 of the *Political Parties Act*. The designation of the Office of Registrar of Political Parties as a state office is by dint of Article 260 of the *Constitution* which defines office to mean any of the following offices- (q) an office established and designated as a state office by national legislation.

507. Section 33 of the *Political Parties Act* provides: /33.

> 1) There is established the Office of the Registrar of Political Parties which shall be a body corporate with perpetual succession and a seal and which shall be capable of suing and being sued in its corporate name.
>
> (2) The Registrar shall be deputised by three Assistant Registrars, not more than two of whom shall be of the same gender.
>
> (3) The Office of Registrar shall be a State office

508. The 2nd interested party does not deny that she is a state officer by virtue of her office being designated by legislation to be a state office, as contemplated in Article 260.

Her argument is that she was eligible for selection, nomination and appointment as a member of the Commission and that only upon her assuming office by taking oath of office as stipulated in section 9 of the *IEBC Act*would she be expected to resign.

509. She argues that in that manner, she will not have held two state offices and that she should not have been expected to resign from her position as Registrar of Political Parties before applying for the new job.

510. We have carefully considered the arguments for and against the disqualification. The question for determination is whether, being a state officer constitutes an automatic bar under Article 88(2)(b), and more broadly, whether a serving State officer is precluded from transitioning to another constitutional or independent office.

511. In our considered view, a literal and rigid interpretation of Article 88(2)(b) of the *Constitution* that disqualifies any person who is currently a State officer from applying for a new State office, even with the intention of resigning upon successful appointment, would lead to unreasonable and impractical consequences.

512. The interpretation of "holds any state office" in this context must be approached purposively. A literal reading, that any current State officer is per se disqualified, would result in an unreasonable bar to career development and advancement within the public sector. It would also contradict the logic of other provisions of the *Constitution* which contemplate that an individual may move from one constitutional office to another, provided there is no simultaneous occupation of both offices.

513. In *Ndynabo v Attorney General* [2001] 2 E.A. 485 the court held as follows:

> "the *Constitution* is a living instrument, having a soul and consciousness of its own ... it must be construed in line with the lofty purpose for which its makers framed it. ... A timorous and unimaginative exercise of the judicial power of Constitutional interpretation leaves the *Constitution* a stale and sterile document."

514. In the Ugandan case of Tinyefuza v Attorney Genaral, Constitutional Appeal No. 1 OF 1997 , the court held as follows:

> " The entire Constitution has be read as an integrated whole and no one particular provision destroying the other but each sustaining the other. This is the rule of harmony, rule of completeness and exhaustiveness and the rule of paramountcy of the written Constitution."

515. In the instant case, our view is that an interpretation that bars career reasons serving in the public service from any upward mobility within the public service would unjustifiably fetter the right to seek employment and career progression in the public sector. It would also go against the constitutional values under Article 27 (equality and non-discrimination) and Article 41 (labour rights).

516. We take judicial notice that in the Kenyan legal and administrative practice, it is not uncommon for persons currently holding one public or even state office to apply for another, on the understanding that they will vacate the former upon appointment to the new position. For example, a magistrate may apply to be appointed as a judge and upon successful recruitment by the Judicial Service Commission and appointment by the President, they will be required to automatically relinquish their prior position. Similarly, public servants who are also designated as state officers routinely apply for higher positions in constitutional commissions or independent offices, with resignation being a precondition to assumption, not application of office.

517. Additionally, in interpreting Article 88 on disqualifications, it is important to consider other constitutional and legislative provisions. Under Article 77(1) on General Restriction Against Gainful Employment While in State Office, it provides:

> " A full-time State officer shall not participate in any other gainful employment."

518. This provision does not bar application for another State office. Rather, it prohibits concurrent gainful engagement, especially where the public interest, time commitments or conflict of interest may arise. It presumes that once a state officer assumes a new office, the prior one must be relinquished to avoid dual obligations.

519. Notably, Article 88(2) (b) does not mandate resignation at the point of application. Instead, it prohibits simultaneous service. This supports the view that one may apply and be vetted for a different

constitutional or independent office, including the IEBC, as long as they do not concurrently hold both positions.

520. Article 78 (1) on Citizenship Requirements for State Officers focuses on citizenship and provides:

A person is not eligible for election or appointment to a State office unless the person is a citizen of Kenya.

521. This Article further bars persons holding dual citizenship from being elected or appointed to State office unless they renounce the foreign citizenship. This is a personal status-based bar, distinct from the time-based or role-based restrictions in Article 88(2)(b). Like Article 77, this Article 88(2((b) does not preclude application, but limits eligibility upon appointment, unless the dual citizenship is renounced before assumption of office.

522. We are also alive to the legislative bar to simultaneous service by state officers as reinforced by various statutes and codes of conduct and we cite here a few examples:

i. Section 16 of the *Leadership and Integrity Act* provides:

> " A State officer shall not hold more than one full-time public office."

ii. Section 26 of the *Public Service Commission Act*, prohibits public officers from engaging in activities that present a conflict of interest or affect the performance of their duties.

523. The above legal framework confirms that the issue is not applying for another office but holding multiple offices simultaneously. Thus, disqualification applies only at the point of assumption of the new office.

524. This disqualification in Article 88(2)(b) is distinct from that in Article 88(2)(a) which ensures that persons with recent active political roles do not serve on the IEBC, preserving the Commission's impartiality. The 5-year "cooling-off" period, in our view, is intended to create distance from partisan influence. The disqualification is also intended to prevent the recycling of politicians into electoral management roles shortly after leaving office or party positions.

525. In the case of Article 88(2)(b), the disqualification is, in our opinion, intended to ensure institutional independence and guard against conflict of interest or abuse of office. This is achieved by precluding simultaneous occupancy of State roles. This constitutional provision serves a similar protective function as the persuasive English Gallaher doctrine, which was developed to ensure independence, integrity and undivided loyalty in the leadership of the office. The Gallaher principle enunciated in *R v Gallaher*, (1883) 12 QBD 5 15 guards against concurrent office-holding due to incompatibility of duties. In the said English case, Mr. Gallaher was elected as a member of a municipal corporation (a local council). Subsequently, he accepted a second public office that was legally incompatible with his role as a municipal councillor.

526. The central issue before that court was whether, by accepting this second office, he had automatically vacated his existing seat on the council, even though he had not tendered a formal resignation. The Court held that the acceptance of the second, incompatible office operated by law to vacate the first office. This decision became foundational for the common-law doctrine now known as the Gallaher principle, which mandates that where the functions of two offices are inherently incompatible, the assumption of one creates an implied vacancy in the other.

527. Under a purposive interpretation (aligned with Article 259), this interpretation ensures that public officers are free to seek appointment, while preserving the constitutional integrity of the IEBC by

prohibiting dual office-holding. In our understanding, what the *Constitution* and the law prohibit is simultaneous service, not career progression within public service.

528. We are therefore persuaded that there is no blanket constitutional bar for a serving State officer to apply for consideration for appointment to the IEBC, so long as they resign from their current office before they take oath of office of Commissioner.

529. Consequently, we find and hold that the mere fact that the 2nd Interested Party Anne Njeri Nderitu was a state officer at the time of application, did not in itself render her constitutionally ineligible for consideration for appointment to the IEBC, provided that she relinquishes the prior office before taking oath and assuming the new one, if successfully appointed.

b. As against the 3rd and 6th interested parties

530. The petitioners only alleged that the 3rd interested party scored low marks. No specific allegations of constitutional disqualification was levelled against the 6th interested party, Francis Odhiambo Aduol. However, no evidence was adduced to prove that the 3rd interested party, Mr. Moses Alutalala Mukhwana scored low marks at the interview. No score sheets were availed to court and therefore we find that allegation to be farfetched and spurious. On the whole, we find that the petitioners have not made out any case against these two interested parties to warrant any adverse findings against them. c. Allegations Regarding the Nomination of the 4th interested party, Ms Mary Karen Sorobit

531. The petitioners contend that the nomination of the 4th interested party, Ms. Mary Karen Sorobit is unconstitutional and unlawful. It is their assertion that, at the time of her nomination, Ms. Sorobit was a member and office bearer of a political party, specifically, that she had served as the County Chairperson/Executive Director of the Jubilee Party within the five-year period preceding the General Elections held in August 2022.

In view of this, the petitioners argue that her nomination contravenes the express provisions of Article 88(2)(a)(ii) of the *Constitution*, which disqualifies any person who, within the preceding five years, has held office or stood for election as a member of the governing body in a political party from being appointed to the IEBC.

532. Further, the petitioners assert that the said nomination violates Article 10 which binds all State organs, State officers, public officers and all persons to uphold the national values and principles of governance. These values include- integrity, transparency, accountability and adherence to the rule of law.

533. It is the petitioners' position that the circumstances surrounding Ms. Sorobit's nomination fall short of these constitutional ideals. They also allege that the nomination of Ms. Sorobit offends the provisions of Article 73(2)(a), which outlines the guiding principles of leadership and integrity, including selection on the basis of personal integrity, competence and suitability. The petitioners maintain that Ms Sorobit's recent political affiliations raise legitimate concerns as to her ability to discharge the duties of the office impartially and without bias.

534. The petitioners further argue that Ms. Sorobit's recent and active involvement in partisan political affairs undermines public confidence in the independence, neutrality and impartiality of the IEBC, attributes which are fundamental to the constitutional and institutional integrity of the Commission.

535. Lastly, the petitioners contend that the process leading to Ms. Sorobit's nomination did not meet the threshold of a fair, open and merit-based recruitment process as envisaged under Article 232(1)(g) of the *Constitution*. They claim that there was a lack of transparency and that the public was not afforded timely and accurate information regarding the process, thereby rendering her selection procedurally defective and constitutionally infirm.

536. The 4th Interested Party, Ms Sorobit, emphatically denies having served as either Executive Director or member of the Jubilee Party's governing body within the five-year period preceding her nomination. She relies on the unequivocal confirmation from the Registrar of Political Parties in a letter dated 15th May 2025 (Ref: RPP/FRP/027#VOL.VI (39)), annexed to her replying affidavit, which affirms that she held no such office during the material timeframe.

537. She further submits that the petitioners' allegations of her political affiliation are wholly unsubstantiated. She maintains that she bears no current or recent affiliation, formal or otherwise, with any political party or formation, so as to cast any doubt upon her independence, neutrality, or impartiality, particularly in the event of her assuming office as a member of the IEBC.

538. To further counter the petitioners' assertions, the 4th interested party in her replying affidavit and submissions contends that no cogent evidence has been adduced demonstrating her alleged service as an Executive Director or party office-bearer or member of the governing body, despite extensive efforts by the petitioners, referenced at page 859 of the Petition, in a letter dated 9th May 2025 addressed to the Registrar of Political Parties seeking information on her political party 2020 to 2024.

539. Regarding constitutional challenge under Articles 10 and 73(2), the 4th Interested Party avers that mere allegation, without proof, fall short of the constitutional standards.

540. The 4th interested party submits that the petitioners have failed in law to demonstrate any contravention of Articles 10, 73(2)(a) or 88(2)(a), as they have not shown:

(i) that she held disqualifying office within the Jubilee Party during the relevant five-year period;

(ii) that her integrity, competence, or suitability have been compromised; or

(iii) that the selection process itself was conducted in a manner inconsistent with constitutional requirements.

541. The 4th Interested Party further submits that the interpretation and application of Article 88(2)(a)(ii) of the *Constitution* must be undertaken contextually and purposively, and in light of related constitutional and statutory provisions. Specifically, it is her contention that Article 88(2)(a)(ii)ought to be read together with Article 91 and Section 4 of the *Political Parties Act*, which collectively provide the framework for the formation, structure and governance of political parties in Kenya.

542. She submitted that Article 91 outlines the minimum requirements for political parties, including democratic principles, internal democracy and organizational structure, while Section 4 of the *Political Parties Act*, in turn, sets out what constitutes a political party and the mandatory elements that every political party must incorporate in its constitution, including the definition and composition of its governing body.

543. The 4th Interested Party submits that the phrase "member of the governing body of a political party," as used in Article 88(2)(a)(ii), is not a matter of conjecture or subjective determination by political parties themselves. Rather, that it is a legal status defined by legislation, specifically under the *Political Parties Act* and that any inquiry into whether a person held such a position must be based on the statutory and constitutional framework, not on informal, perceived, administrative or honorary roles within party structures.

544. She relies on the principle of harmonious interpretation of the *Constitution*, as espoused in *Centre for Rights Education and Awareness (CREAW) & 7 others v Attorney General* [2011] eKLR , where the Court held that constitutional provisions must be read in an integrated manner, without any one provision destroying the meaning of another. Accordingly, that a literal reading of Article 88(2)(a)

(ii) in isolation would risk disqualifying individuals on the basis of unclear or informal roles, which is inconsistent with the precision and legal certainty required in matters of eligibility for public office.

545. In view of the above provisions, the 4th Interested Party further submits that there is no evidence demonstrating that she was ever elected or appointed to a position within the formal governing organs of any political party as defined by law. She emphasizes that the confirmation letter from the Registrar of Political Parties, a statutory office under the *Political Parties Act*, is authoritative and must be accorded probative weight.

546. In conclusion, the 4th Interested Party contends that, in the absence of any legally admissible evidence that she held office in a political party's governing body as defined under Section 4 of the *Political Parties Act*, Article 88(2)(a)(ii) cannot operate to disqualify her.

547. She urges this Court to adopt a legally grounded and constitutionally harmonious interpretation of the relevant provisions and to find that the petitioners have failed to meet the threshold for her disqualification under the law.

548. The 4th interested party denied serving as a member of the governing body of Jubilee Party in the five years preceding the 2022 general elections. However, during her vetting by the Justice and Legal Affairs Committee of the National Assembly, and upon being questioned as to her eligibility under Article 88(2) (a) (ii), she stated that she only served as the Director in charge of Legal Affairs.

549. The question is whether the 4th Interested Party, having admitted that she served as Director in charge of Legal Affairs within Jubilee Political party, qualifies as having held office in the "governing body of a political party" within the meaning of Article 88(2)(a)(ii) and therefore, whether she is disqualified from appointment to the IEBC.

550. We have already given the justification for constitutional disqualifications. In this case, the applicable provision is Article 88(2) (a) (ii) which we have reproduced in the preceding part of this judgment

551. As affirmed in G'oganyo v IEBC Selection Panel [2022], the burden of proof lies on the petitioners to establish that political activity or affiliation is of such a nature as to render the nominee ineligible under Article 88(2)(a) (ii) of the *Constitution*. In the absence of any credible record, assertions of constitutional disqualification or impropriety would remain speculative and legally inadequate. The petitioners bear the evidentiary burden to prove that the 4th Interested Party held a disqualifying position within a political party.

552. To answer the question of whether the 4th interested party is ineligible for nomination or appointment as a member of the IEBC, in the context of the arguments by the petitioners and the 4th interested party, this requires interpretation of the Constitutional provisions. We shall therefore briefly revisit the principles of constitutional interpretation

553. In interpreting the *Constitution*, this Court is bound by the provisions of Article 259 which require that the *Constitution* be interpreted in a manner that promotes its purposes, values and principles; advances the rule of law and the human rights and fundamental freedoms in the bill of rights; permits the development of the law and contributes to good governance. Article 259(3) states, in part that:

> "Every provision of this Constitution shall be construed according to the doctrine of interpretation that the law is always speaking ..."



554. In *David Ndii & others v Attorney General & others* [2021] eKLR('the BBI case') the High Court precisely captured the manner in which the *Constitution* ought to be interpreted. The five-judge bench stated as follows:

> "399. One of the imports of recognition of the nature of the transformative character of our Constitution is that it has informed our methods of constitutional interpretation. In particular, the following four constitutional interpretive principles have emerged from our jurisprudence: a) First, the *Constitution* must be interpreted holistically; only a structural holistic approach breathes life into the *Constitution* in the way it was intended by the framers. Hence, the Supreme Court has stated in In the Matter of the Kenya National Commission on Human Rights, Supreme Court Advisory Opinion Reference No 1 of 2012; [2014] eKLR thus (at paragraph 26): But what is meant by a holistic interpretation of the *Constitution*? It must mean interpreting the *Constitution* in context. It is contextual analysis of a constitutional provision, reading it alongside and against other provisions, so as to maintain a rational explication of what the *Constitution* must be taken to mean in the light of its history, of the issues in dispute, and of the prevailing circumstances. b) Second, our Transformative Constitution does not favour formalistic approaches to its interpretation. It must not be interpreted as one would a mere statute. The Supreme Court pronounced itself on this principle. In re Interim Independent Election Commission [2011] eKLR, para [86] thus: The rules of constitutional interpretation do not favour formalistic or positivistic approaches (articles 20(4) and 259(1)). the *Constitution* has incorporated non-legal considerations, which we must take into account, in exercising our jurisdiction. the *Constitution* has a most modern Bill of Rights, that envisions a human right based, and social-justice oriented State and society. The values and principles articulated in the preamble, in article 10, in chapter 6, and in various provisions, reflect historical, economic, social, cultural and political realities and aspirations that are critical in building a robust, patriotic and indigenous jurisprudence for Kenya. Article 159(1) states that judicial authority is derived from the people.That authority must be reflected in the decisions made by the courts. c) Third, the *Constitution* has provided its own theory of interpretation to protect and preserve is values, objects and purposes. As the Retired CJ Mutunga expressed in his concurring opinion in In Re the Speaker of the Senate & another v Attorney General & 4 others, Supreme Court Advisory Opinion No 2 of 2013; [2013] eKLR. (paragraphs 155- 157): (155) In both my respective dissenting and concurring opinions, In the Matter of the Principle of Gender Representation in the National Assembly and Senate, Sup Ct Appl No 2 of 2012; and Jasbir Singh Rai& 3 others v Tarlochan Singh Rai & 4 others Sup Ct Petition No 4 of 2012, I argued that both the *Constitution*, 2010 and the *Supreme Court Act*, 2011 provide comprehensive interpretative frameworks upon which fundamental hooks, pillars, and solid foundations for the interpreting our Constitution should be based. In both opinions, I provided the interpretative coordinates that should guide our jurisprudential journey, as we identify the core provisions of our Constitution, understand its content, and determine its intended effect. (156) The Supreme Court of Kenya, in the exercise of

the powers vested in it by the *Constitution*, has a solemn duty and a clear obligation to provide from and recognizable reference-points that the lower courts and other institutions can rely on, when they are called upon to interpret the *Constitution*. Each matter that comes before the court must be seized upon as an opportunity to provide high-yielding interpretative guidance on the *Constitution*; and this must be done in a manner that advances its purposes, gives effect to its intents, and illuminates its contents. The court must also remain conscious of the fact that constitution-making requires compromise, which can occasionally lead to contradictions; and that the political and social demands of compromise that mark constitutional moments, fertilize vagueness in phraseology and draftsman ship. It is to the courts that the country turns, in order to resolve these contradictions; clarify draftsman ship gaps; and settle constitutional disputes. In other words, constitution making does not end with its promulgation; it continues with its interpretation. It is the duty of the court to illuminate legal penumbras that Constitution borne out of long drawn compromises, such as ours, tend to create. The constitutional text and letter may not properly express the minds of the framers, and the minds and hands of the framers may also fail to properly mine the aspirations of the people. It is in this context that the spirit of the *Constitution* has to be invoked by the court as the searchlight for the illumination and elimination of these legal penumbras. d) Fourthly, in interpreting *Constitution of Kenya, 2010*, non-legal considerations are important to give its true meaning and values. The Supreme Court expounded about the incorporation of the non-legal considerations and their importance in constitutional interpretation in the Communications Commission of Kenya Case. It stated thus:

(356) We revisit once again the critical theory of constitutional-interpretation and relate it to the emerging human rights jurisprudence based on Chapter Four – The Bill of Rights – of our Constitution. The fundamental right in question in this case is the freedom and the independence of the media. We have taken this opportunity to illustrate how historical, economic, social, cultural, and political content is fundamentally critical in discerning the various provisions of the *Constitution* that pronounce on its theory of interpretation. A brief narrative of the historical, economic, social, cultural, and political background to articles 4(2), 33, 34, and 35 of our Constitution has been given above in paragraphs 145- 163.

(357) We begin with the concurring opinion of the CJ and President in Gatirau Peter Munya v Dickson Mwenda Kithinji & 2 others, Supreme Court Petition No 2B of 2014 left ofl (see paragraphs 227- 232). In paragraphs 232 and 233 he stated thus: (232) ...References to Black's Law Dictionary will not, therefore, always be enough, and references to foreign cases will have to take into account these peculiar Kenyan needs and contexts. (233) It is possible to set out the ingredients of the theory of the interpretation of the *Constitution*: the theory is derived from the *Constitution* through conceptions that my dissenting and concurring opinions have signalled, as examples of interpretative coordinates; it is also derived from the provisions of section 3 of the *Supreme Court Act*, that introduce non-legal phenomena into the interpretation of the

> *Constitution*, so as to enrich the jurisprudence evolved while interpreting all its provisions; and the strands emerging from the various chapters also crystallize this theory. Ultimately, therefore, this court as the custodian of the norm of the *Constitution* has to oversee the coherence, certainty, harmony, predictability, uniformity, and stability of various interpretative frameworks dully authorized. The overall objective of the interpretative theory, in the terms of the *Supreme Court Act*, is to "facilitate the social, economic and political growth" of Kenya. (400) With these interpretive principles in mind, which we will call the Canon of constitutional interpretation principles to our Transformative Constitution, we will presently return to the transcendental question posed in these consolidated petitions...."

555. In *Centre For Rights Education And Awareness (Creaw) & 7 Others V Attorney General* [2011] KEHC 4297 (KLR), Musinga J (as he then was in the High Court) stated as follows, citing other decisions and constitutional provisions on interpretation of the *Constitution*: /"In interpreting the *Constitution*, the letter and the spirit of the supreme law must be respected. Various provisions of the *Constitution* must be read together in order to get a proper interpretation. In the Ugandan case of Tinyefuza v Attorney Genaral, Constitutional Appeal No. 1 OF 1997, the court held as follows:

> " The entire Constitution has be read as an integrated whole and no one particular provision destroying the other but each sustaining the other. This is the rule of harmony, rule of completeness and exhaustiveness and the rule of paramountcy of the written Constitution."
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> A similar principle was enunciated by the United States Supreme Court in Smith Dakota v North Carolina Para 19 2 U.S. 268 [PARA 19 40]. The court stated:
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> > " It is an elementary rule of Constitutional construction that no one provision of the *Constitution* is to be segregated from the others and to be considered alone but that all the provisions bearing upon a particular subject are to be brought into view and to be interpreted as to effectuate the great purpose of the instrument."
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> > In NDynabo v Attorney General [2001] 2 E.A. 485 the court held as follows:
> >
> > > " the *Constitution* is a living instrument, having a soul and consciousness of its own ... it must be construed in line with the lofty purpose for which its makers framed it. ... A timorous and unimaginative exercise of the judicial power of Constitutional interpretation leaves the *Constitution* a stale and sterile document."
> > >
> > > It is in the background of the foregoing principle of harmonization that I will interpret the various Articles of the *Constitution* that were cited before this court...."

556. Article 165(3) (d) grants this court jurisdiction to hear and determine any question respecting the interpretation of the *Constitution* including the determination of the question whether anything said to be done under the authority of the *Constitution* or of any law is inconsistent with or in contravention of the *Constitution*.

557. With the above principles on constitutional interpretation in mind, we now proceed to interpret Article 88(2)(a) (ii) of the *Constitution* alongside other Articles and statutory provisions.

558. Article 88(2)(a) (ii) provides that a person shall not be eligible for appointment as a member of the Commission if the person has, at any time within the preceding five years, held office, or stood for election, as a member of the governing body of a political party.

559. The petitioners allege that the 4th Interested Party's prior role within the Jubilee Party as Executive Director disqualifies her under this provision.

560. As correctly submitted by the 4th interested party, this Court takes judicial notice that Article 88(2)(a) (ii) must be interpreted in light of other relevant constitutional and statutory provisions.

561. Both Article 91 and Section 4 of the *Political Parties Act* require political parties to establish internal democratic structures and define their governing bodies in their respective constitutions.

562. Article 91 provides:

> 91. Basic requirements for political parties
>
> (1) Every political party shall—
>
> (a) have a national character as prescribed by an Act of Parliament;
>
> (b) have a democratically elected governing body;
>
> (c) promote and uphold national unity;
>
> ...

563. On the other hand, section 4 of the *Political Parties Act* provides that: 4

. Requirements of a political party

(1) An association of persons or an organisation shall not operate or function as a political party unless it has been registered in accordance with the provisions of this Act.

(2) The Registrar shall not register an association of persons or an organisation as a political party if such association or organisation does not meet the requirements set out in Article 91 of the *Constitution*.

564. Members of party governing bodies often play key roles in candidate nominations, coalition-building and election strategy. Their appointment to the IEBC would, therefore, in our view, create an inherent conflict of interest, particularly when resolving disputes involving their former or affiliated parties.

565. The IEBC is constitutionally mandated to conduct free, fair, and impartial elections (Article 88(4)). Therefore, a person who is, or recently was, part of a political party's leadership is presumed to have partisan loyalties or interests. Their presence on the Commission could compromise, or appear to compromise, the neutrality of IEBC decisions, especially in party-related disputes.

566. Disqualification of political party governing body members under Article 88(2)(a) (ii) is intended to protect the IEBC's constitutional obligation to be independent, impartial and credible. It promotes fairness, avoids conflicts of interest and sustains public confidence in the electoral system.

567. For this Court to determine whether Ms Mary Karen Sorobit was a member of the political party's governing body, we must examine several other provisions of the *Constitution* and the enabling legislation on the subject.

568. We begin with registration of political parties. One of the requirements for registration of a political party by the Registrar of Political Parties is that the party must meet the requirements set out in Article 91.

Article 91 provides for basic requirements for political parties among them is that a political party must, under Article 91(1)

(b) have a democratically elected governing body.

569. The 4th Interested Party has denied holding any such position and relies on a letter dated 15th May 2025 from the Office of Registrar of Political Parties, confirming that the 4th interested party has not served as a member of the governing body of the Jubilee Party within the relevant period. The Registrar of Political Parties, being the statutory custodian of all official records relating to political parties under the *Political Parties Act*, provides a credible and authoritative position in this regard, and there is no contrary position.

570. The petitioners, on their part, have not adduced any evidence, including minutes of meetings, appointment letters or records from the Registrar of Political Parties, to show that the 4th Interested Party was either elected or appointed to the governing body of the Jubilee Party.

571. Courts have generally required clear documentary evidence to show that a person held a governing role. Mere title or association has been found to be insufficient. In *Musalia Mudavadi v Registrar of Political Parties & Another* [2011] eKLR, the Court emphasized that the Registrar's records are authoritative in determining party office-bearers.

572. In our humble view, allegations founded on title or the 4th interested party's perceived membership to the political party's governing body, without legal or structural backing, do not meet the evidentiary threshold required to establish constitutional disqualification.

573. This Court reiterates the principle of harmonious and purposive interpretation of the *Constitution* as established in *Centre for Rights Education and Awareness (CREAW) & 7 Others v Attorney General* (*supra*), citing other authoritative decisions, where the Court held that constitutional provisions must be read together and effect given to each without rendering others redundant.

574. In this case, we have also read the provisions of Article 233 which bear similarity with Article 88(2). In the former Article which concerns appointment of Commissioners of the Public Service Commission, it is clear that the Article at 233(3)(d) prohibits any person who (d) is, or has at any time been, the holder of an office in any political organisation that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a member of Parliament or of a county assembly.

575. Unlike the above underlined provision, to be a member of a political party or holding an office in a political party, other than holding office or standing for election as a member of the governing body of a political party, would not be disqualified on that ground from being appointed as IEBC Commissioner. Article 88 (2) is not as expansive and restrictive as the similar sub article 3(d) of Article 233.

The drafters of the *Constitution* in this regard were deliberate in their choice of words in each of the respective Articles and therefore each Article must be read and interpreted in its own context.

576. In the present case, the petitioners have failed to demonstrate that the 4th Interested Party held office in the governing body of a political party as defined in law. Her alleged role as Deputy Executive Director (Legal), which was not proved, following her clarification during her vetting by the National Assembly,



appears to have been administrative or technical in nature and does not, without more, amount to holding office in a political party's governing body.

577. We therefore find and hold that the petitioners have not demonstrated that the disqualification under Article 88(2)(a)(ii) does apply to the 4th interested party.

578. On alleged lack of integrity by the 4th interested party, this Court is mindful that technical competence, academic qualifications and professional experience are important considerations in the appointment of individuals to public office. However, under the *Constitution*, integrity is not merely an accessory qualification. It is a foundational, non-negotiable requirement. Article 73(2)(a) provides that the guiding principles of leadership and integrity include:

> "Selection on the basis of personal integrity, competence and suitability..."

579. Particularly, integrity is not an ancillary attribute. It is the very linchpin of public trust and legitimacy. A candidate's qualifications and competence, however impressive, are of little constitutional or practical value absent unblemished ethical character. Article 73(2)(a) expressly mandates that leadership be based on personal integrity, competence and suitability, placing integrity first, a deliberate constitutional choice. This in our view, underscores the primacy of integrity and reflects the constitutional vision of public service as a trust, not merely a profession. A person may possess exceptional qualifications and vast experience, but if their character is tainted by dishonesty, corruption or ethical lapses, they cannot meet the constitutional threshold for public leadership.

580. As was aptly stated in *Trusted Society of Human Rights Alliance v. AG & Others* [2012] eKLR and we concur, that it is not enough for a person to be academically qualified or professionally experienced if such a person does not meet the ethical and moral expectations of the *Constitution*.

581. It follows, therefore, that however qualified a person may be, if they lack integrity, the *Constitution* bars their appointment to public office. The suitability of a candidate must be evaluated not just by their flowery or long impressive curriculum vitae, but also by their moral record, ethical conduct and public trustworthiness. To permit otherwise would amount to constitutional betrayal and constitutional betrayal is infidelity to the sovereign people of Kenya, thereby allowing the gates of public power to be opened to those least fit to exercise that power.

582. The word Integrity was mentioned several times in this petition. Our scan of the petition shown that the term integrity was used more than 120 times. It would therefore mean that the term is so important that one cannot just alleged lack of integrity without evidence to support the allegation. As earlier stated, the burden of proof lay on the petitioners to adduce evidence to prove that the 4th interested party lacked integrity, a prerequisite for nomination and appointment as an IEBC Commissioner.

583. However, other than her alleged affiliation to the Jubilee political party as a member of the governing body, which allegation this Court has found to be baseless, there is also no evidence to show that Ms Mary Karen Sorobit failed the integrity test stipulated in Chapter six of the *Constitution*, or that she failed to meet the minimum qualifications provided for in section 6 of the *IEBC Act.*

584. The Court in the *Trusted Society of Human Rights Alliance v The Attorney General & 2 Others* (*supra*) case had this to say on integrity:

> "To our mind, therefore, a person is said to lack integrity when there are serious unresolved questions about his honesty, financial probity, scrupulousness, fairness, reputation, soundness of his moral judgment or his commitment to the national values enumerated in the *Constitution*. In our view, for purposes of the integrity test in our Constitution,

there is no requirement that the behaviour, attribute or conduct in question has to rise to the threshold of criminality. It therefore follows that the fact that a person has not been convicted of a criminal offence is not dispositive of the inquiry whether they lack integrity or not. As the Democratic Alliance case held, it is enough if there are sufficient serious, plausible allegations which raise substantial unresolved questions about one's integrity."

585. It is also worth noting that although the petitioners cited Articles, 10 and 232 of the *Constitution* alleging that these Articles were violated in the nomination of the 4th interested party as Commissioner of the IEBC, there is not a drop of evidence placed before this Court on how the Selection Panel or the 4th interested party violated these provisions of the supreme law.

586. In view of the foregoing, this Court finds and holds that the petitioners have failed to discharge the burden of proof required to demonstrate that the 4th Interested Party is constitutionally disqualified from being nominated and appointed to the Independent Electoral and Boundaries Commission on account of lack of integrity or on any other ground.

d. Further Allegations of disqualification of the 5th interested party Hassan Noor Hassan

587. Apart from claiming that the 5th interested party was related to the Leader of Minority Party in the National Assembly and that he was snuck in the second expanded shortlist, the petitioners further challenge the eligibility of the 5th Interested Party Hassan Noor Hassan for nomination to the IEBC on the basis that he stood for election as Governor of Mandera County during the General Elections held in August 2022.

According to the petitioners, this act alone brings the 5th interested party within the ambit of Article 88(2)(a)(i), which prohibits certain political actors from being appointed as commissioners of the IEBC.

588. The respondents and the 5th Interested Party, in rebuttal, submit that Article 88(2)(a)(i) applies specifically and exclusively to persons who have stood for election as members of Parliament or a county assembly and not to those who contested for office of Governor or other positions under Article 180 of the *Constitution*, these being, Governor and Deputy Governor. It is further argued that the Court should not read into the *Constitution* what the framers deliberately excluded.

589. It is argued that while Article 88(2)(a)(i) disqualifies a person who stood for election as a Member of Parliament or member of County Assembly from appointment as a member of the IEBC, that disqualification does not apply to the 5th Interested party.

590. Article 88(2)(a) provides as follows:

> " A person is not eligible for appointment as a member of the Commission if the person—
>
> (a) has, at any time within the five years immediately preceding the date of appointment, held office, or stood for election as—
>
> (i) a member of Parliament or of a county assembly; or
>
> (ii) a member of the governing body of a political party."

591. The operative disqualification is at Article 88(2) (a) (i), specifically, the reference to those who have

> " stood for election as a member of Parliament or of a county assembly."

The legal and constitutional question is whether this clause implicitly includes gubernatorial candidates, or whether its meaning is confined only to those who vied for seats in the National Assembly, Senate or County Assemblies.

592. As stated elsewhere in this judgment, and it is worth repeating it here, that Article 259 provides for the how the *Constitution* shall be interpreted.

593. Judicially, the Courts have interpreted Article 259 as requiring a liberal, purposive and holistic approach to constitutional interpretation, meaning, that the *Constitution* must not be interpreted narrowly or technically, but in a way that gives full effect to its values, spirit and transformative goals. In *Centre for Rights Education and Awareness (CREAW) v AG & Another* [20 15] eKLR, it was held that the *Constitution* must be interpreted holistically and in a manner that promotes its purposes, values and principles and advances the rule of law and human rights.

594. Additionally, and as stated elsewhere in this judgment, all provisions of the *Constitution* must be read together, not in isolation, to ensure internal consistency and to avoid conflict between different parts of the *Constitution*.

595. In the *Re The Matter of the Interim Independent Electoral Commission* [2011] eKLR , the Supreme Court emphasized that the *Constitution* must be read as an integrated whole, with no one provision destroying the other. Further, that the *Constitution* as a living document must be interpreted in a way that permits the development of the law, adapting to new realities and protecting rights in changing contexts.

596. In *Jasbir Singh Rai & 3 Others v Tarlochan Singh Rai & 4 Others* [2013] eKLR the Court acknowledged that constitutional interpretation must allow for growth of jurisprudence to meet societal needs.

597. Article 259(1)(b) requires that all interpretation must promote and not limit the rights enshrined in Chapter Four. In *Coalition for Reform and Democracy (CORD) & 2 Others v Republic* [2015] eKLR, the Court stated that where two interpretations are possible, the one that better promotes fundamental rights and freedoms must be preferred.

598. On the interpretation that promotes good governance and accountability, courts have held that interpretation of the *Constitution* must reinforce the values of transparency, accountability and integrity under Article 10.

599. In *Speaker of the Senate & Another v Attorney-General & 4 Others* [2013] eKLR, the Supreme Court stated that constitutional interpretation should strengthen democratic institutions and good governance.

690. It is also a settled principle of constitutional interpretation that where the language of the *Constitution* is plain, clear and unambiguous, the duty of the Court is to give effect to that language as written, without straining its meaning or importing extraneous concepts.

691. the *Constitution* must, of course, and as stated above, be interpreted holistically and purposively. However, purposive interpretation does not permit the Court to rewrite the text or to read into the *Constitution* provisions or intentions that are not evident from its language, spirit or structure. The Court must remain faithful to the text and the context within which the drafters adopted it. As was stated by the Court of Appeal in *Centre for Rights Education and Awareness (CREAW) v AG & Another* [20 15] eKLR, the Court should avoid reading into the *Constitution* words which are not expressly stated unless doing so is necessary to effectuate its purpose and avoid absurdity. Similarly,

the Supreme Court in *In the Matter of the Interim Independent Electoral Commission* [2011] eKLR warned that Judges are not at liberty to add or subtract from the language of the *Constitution*.

692. Accordingly, where the *Constitution* speaks in plain terms, it must be interpreted according to its natural and ordinary meaning, and courts must resist the temptation to legislate from the bench by infusing provisions with meanings that are neither supported by the text nor required to fulfill its purpose. This is not to say that the *Constitution* shall be interpreted restrictively. But that Courts must avoid giving an interpretation that leads to mutilating the *Constitution* and in effect rendering an unconstitutional decision when interpreting the *Constitution*.

693. In *Attorney General v Law Society of Kenya & 4 others* [2019] eKLR it was held that:

> " The starting point, as always, is Article 259 on the construction of the *Constitution* which directs that it shall be interpreted 'in a manner that:
>
> (a) promotes its purposes, values and principles;
>
> (b) advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights;
>
> (c) permits the development of the law; and
>
> (d) contributes to good governance'. Those values must permeate the process of constitutional interpretation. Many local and international decisions were cited before us to illustrate other governing principles of interpretation but we shall not belabour them as they are largely common ground. For emphasis, however, we reiterate what this Court stated in the case of Njoya & 6 Others v Attorney General & another [2004] eKLR thus:
>
> > " Constitutional provisions ought to be interpreted broadly or liberally. Constitutional provisions must be read to give values and aspirations of the people. The Court must appreciate throughout that the *Constitution*, of necessity, has principles and values embodied in it, that a constitution is a living piece of legislation. It is a living document."

694. This Court reaffirms the principle of holistic interpretation of the *Constitution*, which requires that the *Constitution* be construed as a whole, with each Chapter and Article reinforcing and complementing the others. The various provisions must not be read in isolation or in conflict, but rather in a manner that promotes coherence, internal consistency and harmonious interpretation, so as to give full effect to the *Constitution*'s values, principles, and objectives.

695. The Uganda Constitutional Court in the case of *Tinyefuze v Attorney General of Uganda* Constitutional Petition No. 1 of 1997 [1997] 3 UGCC

put it thus:

> " The entire Constitution has to be read together as an integrated whole, not one particular provision destroying the other but each sustaining the other. This is the rule of harmony, the rule of completeness and exhaustiveness."

696. The Supreme Court *In the Matter of Kenya National Commission on Human Rights* [2014] eKLR explained what a holistic interpretation entails when one counsel before it persisted on asking the

Court to find that Article163(6) of the *Constitution* does not mean what it says, through "a holistic interpretation." The Court stated:

> "But what is meant by a 'holistic interpretation of the *Constitution*'? It must mean interpreting the *Constitution* in context. It is the contextual analysis of a constitutional provision, reading it alongside and against other provisions, so as to maintain a rational explication of what the *Constitution* must be taken to mean in light of its history, of the issues in dispute, and of the prevailing circumstances. Such scheme of interpretation does not mean an unbridled extrapolation of discrete constitutional provisions into each other, so as to arrive at a desired result."

697. In *Stephen Wachira Karani & another v Attorney General & 4 others* [2017] eKLR the Court clearly elaborated the guiding principles of constitutional interpretation as follows:

> "26. The purposive approach (sometimes referred to as purposivism, or purposive construction, or purposive interpretation, or the modern principle in construction) is an approach to statutory and constitutional interpretation under which common law courts interpret an enactment (a statute, part of a statute, or a clause of a constitution) within the context of the law's purpose."

698. The five-judge bench in *Leina Konchellah & others v Chief Justice and President of Supreme Court of Kenya & others; Speaker of National Assembly & others (Interested Parties)* [2021] eKLR citing with approval Mativo J (as he then was) in the above Stephen Wachira Karani Case identified the principles a court should consider in both statutory and constitutional interpretation as follows:

> "45. It is equally important that the court should also as far as possible, avoid any decision or interpretation of the *Constitution*, which would bring about the result of rendering the *Constitution* unworkable in practice or create a situation that will go against other provisions of the *Constitution* governing the subject in issue. In this case, it is important to bear in mind the goal and objects of the drafters of the *Constitution*. What was the mischief the drafters intended to cure...
>
> 46. There are important principles which apply to the construction of statues such as
>
> (a) presumption against "absurdity" – meaning that a court should avoid a construction that produces an absurd result;
>
> (b) the presumption against unworkable or impracticable result - meaning that a court should find against a construction which produces "unworkable or impracticable" result;
>
> (c) presumption against anomalous or illogical result, - meaning that a court should find against a construction that creates an "anomaly" or otherwise produces an "irrational" or "illogical" result and
>
> d) the presumption against artificial result – meaning that a court should find against a construction that produces "artificial" result and, lastly,
>
> (e) the principle that the law should serve public interest –meaning that the court should strive to avoid adopting a construction which is in any way adverse to "public interest," "economic", "social" and "political" or "otherwise.""

699. The above principle was affirmed by the Court of Appeal in *Timamy Issa Abdalla v IEBC & Others* [2014] eKLR , where the Court stated that Courts must give meaning to constitutional texts based on the ordinary meaning of the words used, unless doing so would result in absurdity or injustice.

610. Applying the above principles on constitutional interpretation, the petitioners have invited this Court to interpret Article 88 (2) (a) (i) to include Governor. They argue that since in the eligibility criteria for one to be elected as county governor, one must first be eligible for election as a member of the County Assembly, under Article 180(2), then by implication, governor is included in Article 88 (2) (a) (i). To the petitioners, that is a purposive holistic interpretation of the *Constitution*.

611. Article 88(2) (a) (i) provides that:

> (2) A person is not eligible for appointment as a member of the Commission if the person—
>
> (a) has, at any time within the preceding five years, held office, or stood for election as—
>
> i. a member of Parliament or of a county assembly;
>
> ii. ....

612. On the other hand, Article 180(2) on election of county governor and deputy governor provides that:

> (2) To be eligible for election as county governor, a person must be eligible for election as a member of the county assembly

613. The language of Article 88(2)(a)(i) mentions only "members of Parliament or of a county assembly."

It is not in dispute that the office of Governor is a distinct constitutional office created under Article180, separate from those enumerated under Article 88(2)(a)(i).

614. In our view, the principle of expressio unius est exclusio alterius (the express mention of one thing excludes all others) is applicable here. If the drafters of this very robust, progressive and always speaking Constitution had intended to include governors or other elective office holders such as President, Deputy President or Deputy Governor, they would have expressly done so.

615. We hold a further view that the *Constitution* is not to be interpreted in a manner that imputes intention where none is expressed or can be inferred in context. In other words, constitutional disqualifications must not be expanded by inference to include persons not expressly mentioned, unless it can be shown that such inclusion is necessary to fulfil the object of the provision, which is not the case here.

616. Accordingly, the petitioners' invitation to this Court to expand the scope of the constitutional disqualification clause to include other elective offices is not supported by law and would offend the principle of literal and purposive interpretation of the *Constitution*, as there is no ambiguity in the language used in the Article.

617. Besides, there is no evidence placed before us or compelling reason presented in this petition to suggest that the exclusion of gubernatorial candidates from Article 88(2)(a)(i) was inadvertent or was a legislative oversight.

618. The IEBC is a body tasked with overseeing elections at all levels in the country and yet in the sub article as reproduced herein above, the *Constitution* disqualifies only those who stood for legislative roles. This selective disqualification, in our most humble view, appears deliberate and must be respected as such.

619. Consequently, in light of the clear wording of Article 88(2)(a)(i) and applying the principles of textual fidelity and non-interference with express constitutional design, this Court finds that the phrase "stood

for election as a member of Parliament or of a county assembly" in Article 88(2)(a)(i) does not include individuals who stood for election as Governor.

620. On integrity, no evidence was placed before us suggesting even faintly that the 5th interested party was tainted with integrity issues. On whether the 5th interested party met all other criteria in terms of competence among other criteria set out in Article 232, we have not been shown any evidence that excludes him from being considered for member of IEBC.

621. This Court further finds and holds that the 5th Interested Party, having previously vied for the position of Governor in the last general election, is not disqualified under Article 88(2)(a)(i) from being nominated or appointed as a Commissioner of the IEBC on the basis of having vied for that office.

622. We reiterate our earlier finding that familial relations with political leaders is not a bar to seeking public positions which are competitive and where the seeker of the public office if found to be competent and meeting all the constitutional requirements for appointment to such office.

e. Allegations of disqualification against Fahima Araphat Abdalla the 7th Interested Party

623. The petitioners impeach the nomination of Ms Fahima Araphat Abdalla the 7th interested party on the ground that she is a public officer/state officer. The petitioners contend that as such, she is disqualified from being appointed as a member of the IEBC and that disqualification is as stipulated in Article 88(2)(b) of the *Constitution*.

624. This disqualification is akin to that which was alleged to apply to the 2nd interested party, Anne Njeri Nderitu for allegedly being a state officer, although the petitioners stated that the 7th interested party is a public/state officer by virtue of he being a member of the Lamu County Assembly Service Board.

625. From the video recordings produced by the Petitioners in relation to the vetting exercise by the National Assembly, it was revealed that the 7th Interested Party is a youth and received her early education in Shela, Lamu. She holds a Bachelor of Commerce degree from Kenyatta University and a Master of Arts degree in Project Planning from the University of Nairobi. In addition to her academic qualifications, she has undertaken various professional courses and is currently pursuing the Certified Public Accountant (CPA) qualification.

626. She is a certified Project Management Professional and also holds a Diploma in Investment Advice (Securities). Her public service career includes serving as a Ward Administrator in 2014, a position she held until 2017.

Thereafter, she served as a County Executive Committee Member in various departments. Upon conclusion of her tenure as a County Executive, she was appointed on a part-time basis to serve at the Lamu County Assembly Service Board.

627. The issue for determination is whether membership in the County Assembly Service Board (CASB) constitutes holding a state office within the meaning of Article 260 and relevant statutory provisions.

628. The Court of Appeal in the case of *Kibeh v Waibara & another* (Civil Appeal E468 of 2020) [2022] KECA 388 (KLR) (4 March 2022) stated as follows regarding public officer vis avis state officer:

> "... Article 99 of the *Constitution*, dealt with qualification and disqualification for election as member of Parliament. The 1st appellant, being a member of a county assembly, was the holder of a state office and therefore a state Officer. That was ascertainable from article 260 of the *Constitution* which defined a state officer as a person holding a State office and a member of a County Assembly as a State Office.

2. The proper meaning of public officer, for purposes of the electoral law, was that embodied in article 260 of the *Constitution* as read together with section 2 of the *Elections Act*. The different definitions in other statutory provisions, such as those enumerated earlier on, ought not to take precedence over the constitutional provision. The proper meaning of public officer currently was:

    1. the person concerned was a State officer; or

    2. any other person who held public office – an office within the national government, county government, public service;

    3. a person holding such an office, being sustained in terms of remuneration and benefits from the public exchequer."

629. A county assembly member is explicitly a State Officer.This is stated in the above Article 260 and other relevant statutes.

630. A state officer can only be determined by the *Constitution* and legislation, as stated in Article 260 and not by inference.

631. The County Assembly Service Board is established under section 12 of the *County Governments Act* No. 17 of 2012, which provides as follows:

    The county assembly Service Board

    (1) There shall be a county assembly service board for each county assembly.

    (2) The county assembly service board shall be a body corporate with perpetual succession and a common seal.

    (3) The Board consists of—

        (a) the Speaker of the county assembly, as the chairperson;

        (b) a vice-chairperson elected by the Board from the members appointed under paragraph (c);

        (c) two members of the county assembly nominated by the political parties represented in the county assembly according to their proportion of members in the county assembly; and

        (d) one man and one woman appointed by the county assembly from amongst persons who are experienced in public affairs, but are not members of the county assembly.

    (3A) The members of the Board appointed under section 12(3)(d) shall serve on a part-time basis.

    (4) The county assembly clerk shall be the secretary to the county assembly service board.

    (5) A member of the county assembly service board shall vacate office—

        (a) if the person is a member of the county assembly—

            (i) at the end of the term of the county assembly; or

(ii) if the person ceases to be a member of the county assembly; or

(b) if the person is an appointed member, on revocation of the person's appointment by the county assembly; or

(c) if the person is the Speaker, when the person ceases to be such Speaker.

(6) Despite subsection (5), when the term of the county assembly ends, a member of the county assembly service board under subsection (3)(d) shall continue in office until a new member has assumed office in the member's place in the next assembly

(7) The county assembly service board is responsible for—

(a) providing services and facilities to ensure the efficient and effective functioning of the county assembly;

(b) constituting offices in the county assembly service, and appointing and supervising office holders;

(c) preparing annual estimates of expenditure of the county assembly service and submitting them to the county assembly for approval, and exercising budgetary control over the service;

(d) undertaking, singly or jointly with other relevant organizations, programmes to promote the ideals of parliamentary democracy; and

(e) performing other functions—

(i) necessary for the well-being of the members and staff of the county assembly; or

(ii) prescribed by national legislation.

632. The *County Assembly Services Act* (Act No. 24 of 2017) makes further provisions on the County Assembly Service Board and the County Assembly Service as established under the *County Governments Act* in relation to each county; and for connected purposes.

633. We have read the provisions of the *County Assembly Services Act* and we note that County Assembly Service Board (CASB) is an administrative body established within the framework of the County Assembly, tasked with overseeing the organization and functioning of County Assembly services.

634. Pursuant to Article 260, which defines a "State office and state officer, it is obvious that a County Assembly Service Board is not defined as a state office and neither is the office holder defined as a state officer. The Court must therefore establish whether there is any other legislation enacted which establishes and designates the county assembly public service Board as a state office upon which, the office holder of such office shall be a state officer.

635. The petitioners did not identify to us any legislation that makes the 7th interested party to be a state officer or a person holding a state office.



636. On our part, we have examined the various pieces of legislation including the *County Governments Act*, *County Assembly Services Act*, *Public Officer Ethics Act* among other statutes and we are unable to find that the members of the County Assembly Public Service Boards, other than those Members of the County Assembly who are members of the Board, are state officers. We are equally unable to find that the County Assembly Public Service Board of the respective Counties is a state office.

637. Additionally, there is no evidence that the 7th interested party is a member of Lamu County Assembly and serving in such capacity in the County Assembly Service Board.

638. It is however important to mention that public officers who are not state officers are not in the category of persons disqualified under Article 88(2) from appointment as members of the IEBC, save that if one is a public officer, they cannot hold another remunerative position. Further, under Articles 77(1) and 250(6), once appointed as a member of the Commission on full time basis one would not hold another remunerative office.

639. The Court observes that, had it been established that the 7th Interested Party holds the position of a state officer, the reasons and findings applicable to the 2nd Interested Party would have applied with equal force to the 7th Interested Party. However, upon careful examination of the material placed before the Court, we find that no evidence has been adduced to demonstrate that the 7th Interested Party is, in fact, a State officer within the meaning of Article 260 of the *Constitution*.

640. Consequently, we find no basis upon which to invoke the disqualifying provisions of Article 88(2) against the 7th Interested Party. It is therefore the finding of this Court that the 7th Interested Party was not constitutionally disqualified from being nominated or appointed as a member of the IEBC.

E. Other allegations levelled against all the interested parties

641. The petitioners did not stop at claiming that the 2nd, 4th, 5th and 7th interested parties were disqualified by dint of Article 88(2) of the *Constitution*. In their petition and submissions, they seek for declarations that globally call upon this Court to declare the selection and nomination of all the 1st to 7th interested parties to be unconstitutional.

642. According to the petitioners, the entire list as published is unconstitutional for, among other grounds, that the nomination did not meet the requirements of Articles 10,27(1),232 and 250(3) and (4) on the requirement of regional balance, ethnic balance and the inclusion for persons with disabilities.

643. On alleged failure to take into account regional balance, and as against the 1st and 4th interested parties, it was claimed that they both come from the same region which is the Rift Valley Region in the context of the former provinces and that therefore the nomination list did not meet the regional and ethnic balance threshold.

644. On the part of the respondents and interested parties, they contended that Article 262 as read together with Section 17 of the Sixth Schedule to the *Constitution* does not support the Petitioners' argument, nor does it lend legal justification to the claim that provinces remain operative or relevant for purposes of assessing regional representation and therefore that their reliance on this criterion is misplaced.

645. The respondents maintain that the nominees collectively reflect the face of Kenya, in accordance with the requirements of Article 232(1)(h), by embodying ethnic, cultural, and regional diversity in the public service.

646. We have considered the respective parties' positions on this question of regional balance and combined it with ethnic balance. We observe that there are only seven positions available for Chairman and six

Commissioners of the IEBC and this is a constitutional threshold at Article 250(1) which provides that each Constitutional Commission shall consist of at least three but not more than nine members.

647. We also note that the nominees as listed in the table on page 10 of the petition at paragraph 7 shows that the nominee Erastus Edung Ethekon, as Chairperson, is from Turkana County, Anne Njeri Nderitu is from Nyandarua, Moses Alutalala Mukhwana is from Kakamega, Mary Karen Sorobit is from Uasin Gishu, Francis Odhiambo Aduol is from Kisumu, Hassan Noor Hassan is from Mandera, while Fahima Araphat Abdalla is from Lamu County.

648. It is also important to note that Kenya as a Nation and Republic has over 42 ethnic groups and under Article 6(1) of the *Constitution*, the Territory of Kenya is divided into the counties specified in the First Schedule. There are 47 Counties and from the list of nominees provided, each of them comes from a different County. Thus, seven counties are represented in the Commission in terms of Chairperson and Commissioner nominees.

649. Although the petitioners submit that there are regions and they use the analogy of the old provinces which were abolished by the devolved system of governance under the 2010 *Constitution*, and even if this Court was to use the old system of governance, it is clear that apart from the Chairperson nominee and Mary Karen Sorobit who come from the old larger Rift Valley province, the rest of the nominees are from different provinces. Of the former 8 provinces, Rift valley is the biggest of all.

650. That said, this Court would not make determinations based on provinces or regions which are not constitutionally recognized as a basis for disqualification of the nominees, that not being the constitutional yardstick for consideration of nominees for appointment to the Commission. We concur with the holding in *Consortium for the Empowerment & Development of Marginalized Communities & 2 others v Chairman the Selection Panel for Appointment of Chairperson & Commissioners to Kenya National Human Rights Commission & 4 others* [2013] KEHC 2527 (KLR) where Mumbi Ngugi J (as she then was) stated, inter alia:

> " As correctly argued by the Respondents, the *Constitution* has now divided the country into 47 Counties, so that the administrative units known as provinces or regions on which this petition is based are no longer in existence."

651. In *Mohamed Osman Warfa & Others v Office of the President & Others*, H.C. Petition No. 77 of 2013 the High Court stated inter alia, that while ethnic and regional diversity is an important factor, it must be balanced with other constitutional imperatives such as equal opportunity for men and women, fair competition, merit and the inclusion of persons with disabilities; and that no one principle operates in isolation.

652. The petitioners also allege that Article 232 was violated. This Article concerns Principles and Values of Public Service and indeed, since the nominee commissioners will be occupying state offices of a state organ as defined under Article 260, they are bound by those principles, besides the values enshrined in Article 73 of Chapter Six on leadership and integrity. The IEBC Selection Panel and the National Assembly were equally bound by these principles in their selection and nomination respectively.

653. Under Article 232,

(1) The values and principles of public service include—

(a) high standards of professional ethics;

(b) efficient, effective and economic use of resources;

(c) responsive, prompt, effective, impartial and equitable provision of services;

(d) involvement of the people in the process of policy making;

(e) accountability for administrative acts;

(f) transparency and provision to the public of timely, accurate information;

(g) subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;

(h) representation of Kenya's diverse communities; and

(i) affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—

(i) men and women;

(ii) the members of all ethnic groups; and

(iii) persons with disabilities.

(2) The values and principles of public service apply to public service in—

(a) all State organs in both levels of government; and

(b) all State corporations.

(3) Parliament shall enact legislation to give full effect to this Article.

654. the *Constitution* at Article 232 acknowledges fair competition and merit to be the basis of public appointments but that such merit is subject to other factors including representation of Kenya's diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service and the following factors must be taken into account namely- men and women; the members of all ethnic groups; and persons with disabilities.

655. On ethnicity, from the list of nominees, we observe that there is no evidence placed before us to show that more than one nominee is from the same ethnic group. No evidence was adduced to show that any of the nominees are from the same community, Kenya being a country comprising diverse communities, or that the nomination list offends Article 27(8) which provides that not more than two thirds of the nominees are of the same gender or that they come from the same community.

656. On the question of consideration of persons with disabilities as provided for under Article 54(2) the Petitioners' case is that the list containing the nominated Commissioners for the IEBC is unconstitutional and illegal as it is discriminatory and failed to include any person with disability. That the transmittal letter gave the persons with disability but no affirmative action was taken.

657. In their submissions, counsel for the Petitioners indicated that there was a person with Disability who was discriminated against even after reaching the nomination stage. It was his submission that where the position is appointive, the command is mandatory and as such, there is no reason why he was not considered for Chairperson.

658. The 2nd Respondent contended that, there is no express legal requirement that each commission must have a person with disability. Reliance was placed on the case of *Njogu v Attorney General* [2025] KEHC 301 (KLR).



659. On the part of the 3rd Respondent, it was contended that on violation of Article 54(2) the JLAC appreciated this to be a progressive right. The 3rd Respondent also relied on the case of *Njogu v Attorney General* (*supra*) and argued that there is no constitutional violation unless there is evidence of bad faith and discrimination of qualified candidates.

660. It was submitted that the failure to include persons with disability cannot be characterized as unconstitutional as the Chairperson of the IEBC Selection Panel publicly encouraged applications from youths and persons with disabilities and that indeed, some such candidates applied, were shortlisted and interviewed. However, that the fact that these candidates did not meet the established criteria for nomination during the interview process cannot be imputed as a failure or illegality on the part of the IEBC Selection Panel, as the Panel was constitutionally mandated to select candidates who are suitable, qualified and competent, in accordance with the principles of fair administrative action and meritocracy as enshrined in the *Constitution*. Further argument was that a person with disability was interviewed and his name presented to the President.

661. It was submitted that the 5% provided for under Article 54(2) must be interpreted with data and also that the National Council for Persons with Disabilities has not been asked for data to say that the 5% threshold has not been attained.

662. On the allegation that the IEBC Selection Panel failed to consider persons with disabilities, it stated that nothing could be further from the truth as all persons were allowed to apply and one of the names sent to the President for consideration for nomination for position of chairperson was a person living with disability.

663. The 4th interested party's take on this issue was that it is true that discrimination on the basis of disability is prohibited under Article 10 and 27.

However, that it was open for all to apply and that the Petitioners have failed to provide evidence of discrimination and/or disqualification on the basis of disability. It was contended that the list included Two (2) of the names of persons living with disabilities, one of them, being Mr. Edward Katama Ngeywa and thus the list was not discriminatory.

664. It was also submitted that Article 54(2) provides for progressive realization of the right. Further that nowhere in the Petition does it state that in all elective & appointive positions, the right is violated.

665. The 6th Interested Party adopted the position taken by the respondents.

666. We note that although the petitioners impeach the nomination of the 1st to 7th interested parties on the ground of failure to include persons with disabilities thereby discriminating against the said persons, the IEBC Selection Panel nominated a person with disability for consideration as chairman, a Mr. Ngeywa Katama, alongside the 1st interested party.

667. The question is whether this Court can interfere with the discretion exercised by the nominating authority to nominate the 1st interested party and not the person with disability.

668. Courts have pronounced themselves on this issue and we shall cite a few of these decisions while appreciating the international and regional instruments to which Kenya is a signatory and therefore forming part of the law of Kenya under the *Constitution* as stipulated in Article 2(5) and (6), constitutional and legislative on the rights of persons with disabilities.

669. Article 29 of the *United Nations Convention of Persons with Disabilities, 2006* on Participation in political and public life mandates that all State Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake

to:Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice.

670. On the regional front, the *African Charter on Human and People's Rights on the Rights of Persons with Disabilities in Africa* under Article 21 provides as follows:

> " Every person with a disability has the right to participate in political and public life.
>
> States Parties shall take all appropriate policy, legislative and other measures to ensure this right, on the basis of equality, including through:
>
> Encouraging the effective participation of persons with disabilities in political and public life including as members of political parties, electors and holders of political and public offices in accordance with national laws.

671. Back home, Article 54 (2) of the *Constitution* is dedicated to persons with disabilities and it stipulates that:

54.

(1) A person with any disability is entitled—

(a) to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning;

(b) to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person;

(c) to reasonable access to all places, public transport and information;

(d) to use Sign language, Braille or other appropriate means of communication; and

(e) to access materials and devices to overcome constraints arising from the person's disability.

(2) The State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.

672. The implementing legislation in respect of Article 54 is the *Persons with Disabilities Act*, No.4 of 2025.

The newly enacted Act was assented to on 8th May 2025 and took effect on 27th May, 2025.

It provides a comprehensive legal framework for the promotion, protection and advancement of disability rights, aligning with Kenya's international and constitutional commitments under Articles 2 (6), 27, 54 and 260(definition of disability)) and the *United Nations Convention on the Rights of Persons with Disabilities* (UNCRPD).

673. The question is whether the failure to nominate Persons with disabilities for appointment as a member of the IEBC was unconstitutional.

674. In answering this question, we are alive to the fact that a person with disability was selected by the IEBC Selection Panel for nomination by the President, alongside the 1st interested party, for the position of Chairperson and that, this issue is not new or novel. Courts have, among other grounds, held that there must be prove of discrimination of the persons with disabilities.

675. In *Northern Nomadic Disabled Person's Organization (NONDO) v The Governor, County Government of Garissa & another* (Constitutional Petition 4 of 2013) [2013] KEHC 467 (KLR) (16 December 2013) (Judgment), S. Mutuku J was confronted with a constitutional petition by members of theNorthern Nomadic Disabled Person's Organization (NONDO)as petitioners, claiming that they were left out of the County Government appointments.

676. The learned judge, after discussing the onus of proof borne by the petitioners of proving that its members applied and were not considered, stated as follows, citing other judicial decisions among them, a Supreme Court decision:

> "I have perused the petitioner's pleadings and I did not see any evidence that any of their members applied or presented themselves and were not considered.
>
> 45. The Supreme Court of Kenya in the Advisory Opinion No 2 of 2012 - In the Matter of the Principle of Gender Representation in the National Assembly and the Senate defined "Progressive realization" as a gradual movement or development towards a destination" (Concise Oxford English Dictionary). The Justices went on to say that: (53) We believe that the expression "progressive realization" is neither stand-alone Nora technical phrase. It simply refers to the gradual or phased-out attainment of a goal – a human rights goal which by its very nature, cannot be achieved on its own, unless first, a certain set of supportive measures are taken by the State. The exact shape of such measures will vary, depending on the nature of the right in question, as well as the prevailing social, economic, cultural and political environment. Such supportive measures may involve legislative, policy or programme initiatives including a normative action."
>
> 46. The language of Article 54(2) to my mind is clear that realization of five percent of the members of the public in elective and appointive bodies of persons with disabilities is progressive going by the Supreme Court Advisory Opinion (supra).
>
> 47. I have considered the provisions of article 54(2) and I agree with the respondents that it is not a right but a principle on how to implement the five percent of persons with disabilities requirement. The rights of persons with disabilities are to be found in article 54(1) of the *Constitution*. The petition did not claim that any of those rights under article 54(1) have been violated.
>
> 48. My understanding of Article 81 of the *Constitution* is that electoral system are obligated to comply with the principle of fair representation of persons with disabilities and as argued by the respondents, the matter before me is about appointive positions not elective."



677. In *Constantine Joseph Advocates LLP v Judicial Service Commission & 2 others* (Petition 195 of 2021) [2023] KEELRC 1424 (KLR) (10 May 2023) (Ruling) the Employment and Labour Relations Court persuasively stated as follows:

> "A careful reading of the law reveals this: section 13 of thePersons with Disabilities Act, 2003 as read with Regulation 11(3) of the Persons with Disabilities (Access to Employment, Services and Facilities) Regulations, 2009 neither confers a right nor a duty upon any person or organ. Section 13 states that the 2nd Respondent shall endeavour to secure the reservation of five percent of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities. Read together with Article 54(2) ofthe Constitutionwhich provides that the State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are to be persons with disabilities, means that the alleged failure to realise the implementation of the five percent rule espoused in Article 54 is not one that can be placed on the steps of either the 1st or 2nd Respondent but the State. The State is defined under Article 260 ofthe Constitutionas the collectivity of offices, organs and other entities comprising the government of the Republic underthe Constitution. I agree with the 1st Respondent that the phrase "the State" cannot be used synonymously with the independent commissions established under Chapter Fifteen ofthe Constitution.
>
> The Petitioner submitted that in August 2020, the UN released its first ever guidelines on access to social justice for people with disabilities to make it easier for them to access justice systems around the world. On a side note, this was a decade after the promulgation of our Constitution. It seems lost in the wind that Principle 7 under the guidelines provides that persons with disabilities have the right to participate in the administration of justice on an equal basis with others. The Petitioner fails to appreciate that the guidelines under Principle 7 provide for progressive application of the principle. It provides for instance at Guideline 7.1 as follows:-
>
> The right to equal access to justice requires that persons with disabilities have the opportunity to participate directly in adjudicative processes and be involved in various roles in the administration of justice on an equal basis with others. States should ensure that persons with disabilities are able to act as judges, lawyers, prosecutors, witnesses, jurors, experts and court officials in the justice system without discrimination.
>
> The Respondents have not been shown to have impeded in any way, manner, shape or form, the implementation of Article 54, thePersons with Disabilities Actor the Persons with Disabilities (Access to Employment, Services and Facilities) Regulations, 2009.
>
> In Wanjiru Gikonyo & 2 others v National Assembly of Kenya & 4 others [2016] eKLR Onguto J stated thus:_
>
> (27) Effectively, the justiciability dogma prohibits the court from entertaining hypothetical or academic interest cases..... The court is prevented from determining an issue when it is too early or is simply out of apprehension, hence the principle of ripeness. An issue before court must be ripe, through a factual matrix for determination."
>
> The Court opines that the Petition is an affront to the ripeness doctrine my brother the late Onguto J. spoke of in that case. As there is no dispute to resolve, no controversy requiring adjudication by this Court and no facts to support the assertions made in the Petition, the



Petition is premised on hypothetical scenarios devoid of a factual matrix and is only fit for dismissal.

As the Petition was brought mistakenly in the belief that the Respondents bear any responsibility in the implementation of the five percent rule, and the fact that it was articulated by a law firm that should have researched the matter better than a lay person or institution, it must be mulcted in costs since the Petition was merely full of hot air and nothing more."

678. In *Federation of Women Lawyers Kenya (FIDA-K) & 5 others v Attorney General & another* [2015] eKLR, the Court held that:

> "...It is also our view that Article 27 as a whole or in part does not address or impose a duty upon the Judicial Service Commission in the performance of its Constitutional, Statutory and administrative functions. We think any claim on Article 27 can only be sustained against the Government with specific complaints and after it has failed to take legislative and other measures or after inadequate mechanisms by the State..."

679. In the above case, the Petitioner articulated the issue of alleged failure to comply with the Constitutional provision and to recommend for appointment qualified persons with disabilities as judges of the Supreme Court, the Court of Appeal and the High Court. Addressing that issue, the Court stated:

> "A careful reading of the law reveals this: section 13 of the *Persons with Disabilities Act*, 2003 as read with Regulation 11(3) of the Persons with Disabilities (Access to Employment, Services and Facilities) Regulations, 2009 neither confers a right nor a duty upon any person or organ. Section 13 states that the 2nd Respondent shall endeavour to secure the reservation of five percent of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities. Read together with Article 54(2) of the *Constitution* which provides that the State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are to be persons with disabilities, means that the alleged failure to realise the implementation of the five percent rule espoused in Article 54 is not one that can be placed on the steps of either the 1st or 2nd Respondent but the State. The State is defined under Article 260 of the *Constitution* as the collectivity of offices, organs and other entities comprising the government of the Republic under the *Constitution*. I agree with the 1st Respondent that the phrase "the State" cannot be used synonymously with the independent commissions established under Chapter Fifteen of the *Constitution*."

680. The issues voiced in the above cases are on all fours with this petition. The petition was filed on 13th May 2025 while the new *Persons with Disabilities Act* came into effect on 27th May 2025.

It follows that the Act that was in place when this petition was filed was the now repealed *Persons with Disabilities Act*, 2003 and the Regulations made thereunder.

681. The Supreme Court of Kenya, in a landmark Advisory Opinion *in the Matter of the Principle of Gender Representation in the National Assembly and the Senate* (Advisory Opinions Application No. 2 of 2012) [2012] KESC 5 (KLR), addressed the meaning and implications of the principle

of progressive realization within the context of constitutional rights, including the attainment of equitable representation in public bodies and stated as follows:

> "4. Progressive realization" connotes a phased-out attainment of an identified goal - human rights goal which by its very nature, cannot be achieved on its own, unless first, a certain set of supportive measures are taken by the State. The exact shape of such measures will vary, depending on the nature of the right in question, as well as the prevailing social, economic, cultural and political environment. Such supportive measures may involve legislative, policy or programme initiatives including affirmative action.
>
> 7. Whether a right is to be realized "progressively" or "immediately" is not a self-evident question: it depends on factors such as the language used in the normative safeguard, or in the expression of principle; the mechanisms provided for attainment of gender- equity; the nature of the right in question; the mode of constitution of the public body in question (e.g. appointive or elective; if elective, the mode and control process for the election); the identity and character of the players who introduce the candidates for appointment or election and it depends on the manner of presenting candidature for election or nomination."

682. Applying the principles espoused in the above cited cases, it is clear that the 5% inclusion of persons with disabilities to appointive positions is not immediately enforceable in all instances. Instead, it is subject to "progressive realization", meaning it depends on the availability of resources, policies and a legislative or regulatory framework.

683. More so, the legal meaning of progressive realization as given by the Supreme Court and other superior Courts and as stated in the above cited case of *Centre for Rights Education and Awareness (CREAW) & Others v Attorney General & Another,* (*supra*), asserted that affirmative action measures, including gender and disability representation, require implementation frameworks and cannot always be enforced without those structures. The Court observed that obligations such as the two-thirds gender rule and disability inclusion must be realized progressively, unless specific mechanisms are in place to enforce them.

684. What the above cited decisions are clear about is that there is no automatic invalidity in appointments that do not take into account the 5% aspect of persons with disability representation, without discriminatory intent.

685. Thus, to successfully argue discrimination in a public appointment, a party must show that the appointing body acted unreasonably or in a capricious manner and that the decision specifically excluded persons with disabilities without justification.

686. In *National Gender and Equality Commission v IEBC & Another* [2013] eKLR , the High Court held that the absence of persons with disabilities or women in electoral positions does not automatically render the appointments invalid unless it is shown that the appointing body failed to act reasonably and within constitutional principles. The Court emphasized that discretion must be exercised reasonably, and without unjustified exclusion of qualified individuals from marginalized groups.

687. In the instant case, besides the application of Article 54(2), the IEBC commissioners' appointments must comply with Articles 10 (national values), 27 (freedom from discrimination and 232 (values and principles of public service), which require inclusiveness, equality, non-discrimination and representation of Kenya's diverse communities.

688. However, owing to the discretion given to the appointing authority as there is no mandatory duty placed upon the appointing authority to appoint a person with disabilities to serve as a member of the Commission, then only an unreasonable or capricious exercise of that discretion can be challenged. Where discretion is given, unless there is evidence of bad faith, discrimination or failure to consider constitutional imperatives, courts will be slow to interfere.

689. It has not been demonstrated on a balance of probabilities that the IEBC Selection Panel or the nominating and appointing authority have impeded in any way, manner, shape or form, the implementation of Article 54, the *Persons with Disabilities Act* or the *Persons with Disabilities (Access to Employment, Services and Facilities) Regulations, 2009.*

690. As was stated in the case of *Sharp v Wakefield* [1891] AC173 cited above, the court the petitioners in this matter have not set out circumstances or plausible facts upon which the exercise of discretion to appoint the 1st interested party could be challenged on grounds of wrongful exercise of discretion by the President within the parameters set out in the above cited decisions.

691. We are further persuaded by the holding in *Okoiti & another v Public Service Commission & 73 others; Law Society of Kenya & another (Interested Parties)* (Petition 33 & 42 of 2018 (Consolidated)) [2021] KEHC 464 (KLR) (Constitutional and Human Rights) (20 April 2021) (Judgment) , where Mrima J stated as follows:

> "39. When applying the progressive realization principle there were three important considerations. Article 81(b) of the *Constitution* on the two-thirds gender principle was about the election of members into public bodies. The issue in question was about appointments in public bodies. Secondly, any mandatory obligation that involved protracted measures, legislative actions, policy-making or the conception of plans for the attainment of a particular goal, was not necessarily inconsistent with the progressive realization of a goal. Thirdly, the word 'shall' would only translate into an immediate command where the task in question was a cut-and-dried one, executed as it was without further moulding or preparation, and where the subject was inherently disposable by action emanating from a single agency.
>
> 40. The nominations and appointments were made by a single agency; the President. The appointments did not involve protracted measures, legislative actions, policy-making or conception of plans to be attained. They were simply appointments into public offices. Therefore, the realization of rights related to the appointments translated into an immediate command.
>
> 41. Unless it could sufficiently be demonstrated that the appointments could not possibly be made in favour of qualified women, youths, persons living with disabilities, minorities and marginalized groups, the appointing authority had to comply with the constitutional calling. In case of a failure to appoint such categories of persons, the appointing authority had to show that there were no suitably qualified persons falling in the given category.
>
> 42. All appointments into public offices had to be done in strict conformity with the *Constitution* and the law unless otherwise legally permissible."

692. In *Qabale Diba Badake & 2 others v Public Service Board Marsabit County & 3 others; National Gender & Equality Commission (Interested Party)* [2019] eKLR the Court stated:

> "It is not in doubt that the State is required to ensure on a progressive basis that at least 5% of members to appointive and elective positions are persons with disabilities and the *Constitution* also requires that persons with disability are afforded adequate and equal opportunities for appointment, training and advancement at all levels of the public service. This must be a goal for each County including the 3rd Respondent and the progressive realization of the aspiration by the framers of our Constitution do not mean there will be immediate realization of the ideal. The Petitioners did not demonstrate that they were discriminated against or the appointees who secured the nominations considered more favourably than they were. In my considered view there was no proper challenge to the nominations as there was adherence to the law."

693. In the end, we find and hold that the petitioners have not demonstrated that the failure to nominate persons with disabilities as members of the IEBC violated Article 54 of the *Constitution* or the *Persons with Disabilities Act* and Regulations (Access to Employment, Services and Facilities) Regulations, 2009, and that as a result, vitiated the entire process of recruitment and nomination of the person to serve as members of the IEBC.

694. Having said that, we trust that Parliament, the National Executive, the County Executive Governments and the County Assemblies shall move with speed to put in place the structures envisaged by Sections 4 and 5 of the *Persons with Disabilities Act*, 2025.

695. We are confident that Sections 4(f) and 5(1)(e) of the 2025 Act which require that the National and County Governments respectively shall promote the inclusion of persons with disabilities in their respective public services by putting in place measures to ensure that at least five per centum of the employment positions therein are filled by persons with disabilities will be implemented in the shortest time possible.

F. Whether the Attorney General failed in the exercise of her constitutional mandate to provide independent, impartial and sound legal advice to the executive regarding nomination of commissioners thereby failing to protect the rule pf law and public interest.

696. The petitioners in their prayer (i) of their petition sought a declaration that the Attorney General failed in their constitutional mandate under Article 156(4) of the *Constitution* by neglecting to provide independent, impartial and sound legal advise to the Executive regarding the nomination of the 1st to 7th interested parties as commissioners to the IEBC and that she therefore failed to protect the rule of law and the public interest as mandated by the *Constitution*.

697. Submissions were made during the hearing that the Attorney General either misadvised or failed to advise the Executive on the process of selection and nomination and the subsequent appointment of the 1st to 7th interested parties as commissioners of IEBC.

698. The office of Attorney General is established under Article 156 of the *Constitution* and operationalized by the *Office of Attorney General Act*.

699. Under Article 156, material to this petition,

(4) The Attorney-General—

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

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

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

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

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

(7) The powers of the Attorney-General may be exercised in person or by subordinate officers acting in accordance with general or special instructions.

700. It is a trite principle of constitutional adjudication that declaratory relief must be founded upon cogent evidence. A court cannot issue a declaration against a constitutional officeholder such as the Attorney General, whether for failure to advise or for misadvising the executive, without a factual basis establishing, at a minimum, that advice was sought or rendered, or that a refusal to advise occurred. Courts do not act in the abstract or upon speculation; they adjudicate live controversies based on proven or admitted facts.

701. Here, we do not need authority to resolve this issue. While Article 156 of the *Constitution* mandates the Attorney General to be the principal legal adviser to the government, it does not impose a blanket presumption that the Attorney General must advise in every instance unless specifically called upon to do so. In the instant case, there is no evidence that the Attorney General advised or failed to advise the executive on matters subject of this petition and therefore any finding or declaration attributing fault or failure to the Attorney General would amount to judicial conjecture, which offends both due process and the judicial function under the separation of powers.

702. Declaratory judgments are not to be granted in a vacuum; they must rest on concrete facts showing breach, omission, or violation of legal duty and therefore Courts must be guided by evidence before issuing declaratory relief. Mere speculation about the conduct of public officials does not suffice

703. Accordingly, in the absence of evidence that the Attorney General was called upon to advise the executive, that such advice was in fact rendered, or that there was a deliberate refusal to do so, a court cannot properly issue a declaratory judgment imputing failure or misadvice. To do so would breach the evidentiary threshold for declaratory relief and would risk transforming the judicial function into an inquisitorial or speculative exercise.

704. We therefore find the allegation and prayer for a declaration against her to be hypothetical and speculative. We decline the invitation to issue any declaration or adverse orders against her.

G. Whether the processes of selection, nomination, and appointment of the IEBC nominees violated the constitutional principles of public participation, consultation with political parties, and access to information as enshrined in Articles 10, 35, and 38 of the *Constitution* and/or the Recommendations contained in the Report of the National Dialogue Committee (NADCO)

705. The Petitioners allege a lack of public participation at two distinct stages. Firstly, they contend that upon receipt from the IEBC Selection Panel of the two nominees for the position of Chairperson and nine names for the six positions of Commissioner, the President should have engaged in quasi-public participation with the leadership of the Majority and Minority Parties in the National Assembly as per

the recommendations of the National Dialogue Committee Report, or put that list of eleven names to public participation through receipt of comments from the general public.

706. Secondly, the Petitioners argue that in the absence of the Report of the IEBC Selection Panel and the scoresheets indicating the scores of each interviewed candidate, the public was unable to form informed positions on the merit and suitability of the nominees forwarded to the National Assembly by the President; and thus, the subsequent public participation exercise was inherently watered-down and flawed.

707. The Petitioners assert that both the *Constitution* at Article 47 and the *Fair Administrative Action Act* impose a legal obligation on the IEBC Selection Panel to disclose relevant information. Further, they underscore that under the constitutional principles of transparency, accountability, and public participation; state organs, including the IEBC Selection Panel and the President, are required to conduct their affairs in an open manner.

708. The Petitioners also argue that the *Fair Administrative Action Act* codifies this duty to disclose relevant information and mandates that administrative bodies provide reasons for their decisions and allow affected parties access to pertinent information. They assert that the IEBC Selection Panel must adhere to these disclosure requirements in the interest of justice and compliance with statutory and constitutional mandates.

709. According to the Petitioners, the failure of the IEBC Selection Panel to disclose individual candidate scores and the rationale behind its decisions undermines the fundamental principles of transparency and accountability. It is submitted that without access to this critical information, the evaluation process remains opaque, leaving candidates and the public unable to assess whether selections were made fairly, objectively, and in accordance with established criteria; thus, rendering public participation at the National Assembly stage uninformed and thus unmeaningful.

710. The Respondents and the Interested Parties were diametrically opposed to the Petitioners' arguments. They argued in unison that the NADCO recommendations were now spent for the reason that they were incorporated into the IEBC Amendment Act, 2024.

To their minds, there would be no value to requiring consultation with the Majority and Minority leadership of the National Assembly prior to the President submitting a list of nominees to the National Assembly for parliamentary vetting and approval, since those House Leaders can effectively express their views in the August House.

711. The 3rd Respondent, the national Assembly, in particular, situated the President's role as an intermediate step that was preceded by public participation at the IEBC Selection Panel stage and was followed by public participation at the National Assembly stage. In that regard, the 3rd Respondent argued that another round of public participation at the presidential stage would add no value and would only serve to create additional expense and delay without in anyway creating additional gains in terms of public participation, transparency and accountability.

712. They rested their arguments on this point by noting that the National Assembly has the power to reject a nominee under Section 10 of the *Public Appointments (Parliamentary Approval) Act* and the President would thereafter be compelled to transmit one of the other name or names in substitution thereof. Thus, there is no need for consultation with the House prior to submission of names by the President.

713. With respect to whether public participation was watered-down for want of the public having the IEBC Selection Panel's Report and scoresheets, and that failure to release those documents breached

the constitutional values and principles on transparency and accountability, the Respondents and Interested Parties took a mixed approach in response.

714. Some, and in particular the 2nd Interested Party, argued that there exists no legal obligation compelling the IEBC Selection Panel to publish or publicize the interview report or results. It was her contention that Articles 35 and Article 47 and their conjunction with public participation, transparency and accountability must be read in conformity with other constitutional and statutory provisions such as Article 28 on human dignity, Article 31 on privacy, and the provisions of *Data Protection Act.*

715. The 2nd Interested Party further argued that public dissemination of the IEBC Selection Panel's Report and the scoresheets, particularly in respect of candidates who may have performed poorly, would pose a real risk of reputational harm and may prejudice their future employment prospects. According to her, such publication may result in more harm than good.

716. We have considered all the arguments above. The promulgation of the *Constitution* of Kenya 2010 was a major milestone towards realizing the positive transformation of our nation. At the heart of the desire of the people of Kenya for a fundamental break from an unfortunate past sits Article 10.

This Article espouses the national values and principles of governance that bind all State Organs, State Officers, Public Officers, and any other person who is applying or interpreting the *Constitution* or Statute, or is crafting or implementing public policy decisions.

717. The question of public participation goes hand in hand with the issues of transparency and accountability. The Petitioners have rightly situated public participation as a means of promoting the constitutional values and principles of transparency and accountability. They have also linked it with Article 35 on Access to Information as well as Article 47 on Fair Administrative Action.

718. The proper discharge of the adjudicative function inherently involves balancing, to the greatest extent possible, competing rights and antagonistic interests. In the present petition, this Court is being called upon to weigh the Petitioners' contentions on public participation, transparency, accountability; access to information and fair administrative action in terms of consultations with the Majority and Minority Party Leadership in the National Assembly and the release of the IEBC Selection Panel's Report and the scoresheets as against the Respondents' and Interested Parties' calls for the same not be ordered by this Court in light of the constitutional rights to privacy and human dignity enjoyed by all those persons who applied for the positions of Chairperson and Commissioners.

719. This Court is also being called upon to ascertain where the public interest falls, with the Petitioners asserting that the public interest lies in the adoption of their position while the parties opposed contend that the aims of public participation, accountability and transparency were already well catered for even in the absence of the materials and information sought by the Petitioners.

720. We begin by cautioning that an element of this issue has already been determined by this Court in the Ruling on Disclosure and Notice to Produce dated and issued on 24/06/2025.

Consequently, what remains available for determination by this Court at this stage is whether the unavailability of the Selection Panel's Report and the interviews scoresheets unconstitutionally limited the scope and vitality of public participation and was therefore inconsistent with the constitutional imperatives on transparency and accountability.

721. One basis for limiting the application of a right or fundamental freedom is the attempt at striking a balance between competing rights and interests. The Petitioners' positions on Public Participation, Transparency and Accountability and their proposals on how these values can be further promoted within the selection, nomination and appointment processes of IEBC Members, must be weighed



against the imperatives raised by the Respondents and Interested Parties regarding human dignity and privacy.

722. The Supreme Court, in its judgment in the case of *Cabinet Secretary for the National Treasury and Planning & 4 others v Okoiti & 52 others; Bhatia (Amicus Curiae)* (Petition E031, E032 & E033 of 2024 (Consolidated)) [2024] KESC 63 (KLR) had opportunity to consider and guide on how the constitutional imperatives of public participation, transparency and accountability should be construed. At Paragraphs 143 – 147 of its judgment the apex court stated:

> "
>
> "143. We have also considered Article 1 18(1) of the *Constitution* and based on the textual markers therein, Parliament's duty is to "facilitate public participation and involvement in the legislative and other business of Parliament and its committees."_
>
> As is plain from its wording, this provision only imposes a duty to facilitate public participation and involvement in the legislative process and therefore cannot be the basis for the argument that the National Assembly is under an obligation to provide reasons for accepting or rejecting public views.
>
> a. We now turn to the question of whether this obligation arises from the values and principles of governance stipulated in Article 10(2) of the *Constitution*. As noted earlier, it is Article 10(2) upon which the Court of Appeal based its 1nding that Parliament is obligated to provide reasons for accepting or rejecting public views.
>
> b. In addressing whether this duty arises from the national values and principles of governance— particularly the values and principles of transparency and accountability in Article 10(2)(c)—we consider, 1rst the nature of obligations arising from such values and principles. I*n the Matter of the Principle of Gender Representation in the National Assembly and the Senat*e (Advisory Opinions Application 2 of 2012) [2012] KESC 5 (KLR), this Court noted thus at paragraph 54:
>
> > "Certain provisions of *the Constitution* of Kenya have to be perceived in the context of such variable ground-situations, and of such open texture in the scope for necessary public actions. A consideration of different Constitutions shows that they are often written in different styles and modes of expression. Some Constitutions are highly legalistic and minimalist, as regards express safeguards and public commitment. But the Kenyan Constitution fuses this approach with declarations of general principles and statements of policy. Such principles or policy declarations signify a value system, an ethos, a culture, or a political environment within which the citizens aspire to conduct their affairs and to interact among

themselves and with their public institutions. Where a constitution takes such a fused form in its terms, we believe, a Court of law ought to keep an open mind while interpreting its provisions. In such circumstances, we are inclined in favour of an interpretation that contributes to the development of both the prescribed norm and the declared principle or policy; and care should be taken not to substitute one for the other. In our opinion, a norm of the kind in question herein, should be interpreted in such a manner as to contribute to the enhancement and delineation of the relevant principle, while a principle should be so interpreted as to contribute to the clari1cation of the content and elements of the norm." [Emphasis added]

In effect, this Court highlighted the need to avoid interpreting broad constitutional values and principles, such as those articulated in Article 10(2) of the Constitution as though they were prescribed normative rules. Values and principles act as guiding frameworks, outlining the considerations that duty bearers, such as Parliament, should take into account when making decisions. However, they do not define specific duties or actions. In this respect, values and principles are inherently open- textured, meaning they provide direction without prescribing exact steps to be taken by duty-bearers. See in this regard Ronald Dworkin, Taking Rights Seriously (Harvard University Press, 1978) p. 2G; and Robert Alexy, A Theory of Constitutional Rights (Oxford University Press, 2020) pp. 44-93; and Marcelo Neves, Constitutionalism and the Paradox of Principles and Rules (Oxford University Press, 2021) pp. 10- *Based on this proposition, courts should be careful to distinguish between values and principles on the one hand, and normative rules on the other hand, to avoid overprescribing duties from principles and values which are by nature open- textured. We draw from the words of Robert Alexy, a Legal Philosopher in his publication 'Constitutional Rights and Proportionality' (2014) 22 Revus - Journal for Constitutional Theory and Philosophy of Law 51, at page 52 that:*

> "Rules are norms that require something definitively. They are definitive commands. Their form of application is subsumption. If a rule is valid and if its conditions of application are ful1lled, it is de1nitively required that exactly what it demands be done. If this is done, the rule is complied with; if this is not done, the rule is not complied with. By contrast, principles are optimization requirements. As such, they demand that something be realized to the greatest extent possible given the legal and factual possibilities."

It follows that values and principles are optimizing commands that allow duty bearers to come up with suitable measures for fulfilment of the obligations that they impose, without dictating definitive and specific actions that they ought to take."

723. Guided and bound by the above decision of the Supreme Court, it is our finding that the Selection and nomination of IEBC members process as it currently stands sufficiently applies public participation, transparency and accountability within its various milestones, and in a way that safeguards the dignity and privacy of applicants.

724. We note that the selection and vetting processes were highly publicized both in the print and electronic media which evidence of publication was generously availed to this Court by the petitioners themselves through a supplementary affidavit (2).

725. There is no dispute that the public was asked to submit any memoranda or any information that they possessed concerning each candidate/ nominee. There is no evidence that information supplied to the IEBC Selection Panel and the National Assembly by any member of the public was ignored to the advantage of the present nominees.

726. Parliament, of course, can always provide for greater levels of public participation, transparency and accountability in the process of selecting persons to serve in the IEBC; noting that the Commission is a highly sensitive one that arguably requires an even higher standard of public confidence in the individuals and the body than other Commissions and Independent Offices, a matter we have highlighted at the beginning of this judgment. This off course, can be done through the enactment of legislation on public participation that provides uniform and enforceable standards. This will actualize Article 1 18(1)(b) of the *Constitution* which provides that Parliament shall facilitate public participation and involvement in legislative and other business, as stated in the above cited Supreme Court in *Cabinet Secretary for the National Treasury and Planning & 4 others v Okoiti & 52 others; Bhatia (Amicus Curiae)* (Petition E031, E032 & E033 of 2024.

727. Currently, Kenya lacks a comprehensive Public Participation legislation and as a result, different bodies apply inconsistent procedures, leading to legal challenges and questions about legitimacy. This judgment therefore calls on Parliament to enact a law to standardize how public participation is carried out, especially for sensitive institutions like the IEBC.

728. As we conclude on this matter of alleged disqualifications and unsuitability of the nominees for appointment to the IEBC, this Court is acutely aware of the powerful role that public perception plays in shaping confidence in constitutional institutions.

729. In the present matter, it has been argued that the public was made to believe that all the nominees to the IEBC were products of political patronage, having been handpicked by powerful figures in government. These claims were widely disseminated through media narratives and public discourse, with headlines such as " Godfathers Have It" shaping a particular mental frame in the minds of the citizenry. However, as Aldous Huxley aptly observed,

> " The deepest sin against the human mind is to believe things without evidence."

This maxim finds particular relevance in public law, where decisions affecting rights, reputations and institutional integrity must rest upon verifiable facts, not conjecture, perception, or unproven allegations.

730. In the present petition, allegations of godfatherism and nepotism have been levelled against certain nominees to the IEBC. However, no credible or admissible evidence has been placed before this Court to substantiate that the appointments were secured through improper influence, familial favour, or breach of constitutional or statutory procedures. No material has been adduced to demonstrate that the Selection and nominating authorities acted outside the framework of merit, transparency or fairness as required under Article 232 of the *Constitution*.

731. The principle of legality, which underpins our constitutional democracy, requires that every exercise of power, particularly judicial power, must be based on objective facts and evidence. Courts are not to act on suspicion, speculation, or public sentiment, however strongly held. The presumption of regularity

in official acts and the right of individuals to be assessed on the basis of merit, not perceived associations, are fundamental tenets of administrative justice.

732. To hold otherwise would be to sanction a governance culture driven not by the rule of law, but by innuendo and populism. It would mean substituting proof with perception, and process with prejudice, an approach that is wholly incompatible with the demands of constitutional adjudication.

733. This Court underscores that constitutional adjudication must be grounded in verifiable facts, not innuendo or conjecture. While public perception is relevant, particularly where impartiality and integrity are in question, such perception must be objectively justified by evidence.

734. Accordingly, in the absence of any substantiated evidence of nepotism or improper influence, this Court finds no basis to impugn the selection and nominations of the 1st to 7th interested parties as Commissioners to the IEBC.

735. The allegations, while serious if proven, remain unproven and thus cannot form the basis of any adverse judicial finding or relief. In the absence of such evidence, this Court cannot lend legal credence to narratives, however widely circulated, that rest on speculation rather than proof.

What is the validity of Gazette Notices Nos. 7724 and 7725 both dated 10th June, 2025?

736. We now address the question of the two Gazette Notices appointing the 1st to the 7th interested parties as Chairperson and Commissioners of the Independent Electoral and Boundaries Commission.

737. On 29/05/2025, L.N. Mugambi J issued conservatory orders preserving the obtaining status quo and prohibited, inter alia, the gazettement and swearing in of the 1st to 7th Interested Parties as Chairperson and Commissioners of the IEBC.

738. It is not in dispute that Gazette Notice 7724 dated 10/06/2024 appointing the 1st Interested Party as the Chairperson of the IEBC and Gazette Notice 7725 dated 10/06/2025 appointing the 2nd to 7th Interested Parties as Commissioners of the IEBC were published in the Kenya Gazette Volume CXXVII No. 122 of 10/06/2025.

Both Gazette Notices were issued by the President of the Republic in his capacity as the appointing authority.

739. The issue under consideration is whether individuals nominated for appointment as members of the IEBC may be lawfully sworn into office when there exists a conservatory order staying their appointment.

740. Specifically, whether proceeding with such appointments, in defiance of a court order issued on 29th May, 2025 and without recommencing the appointment process in accordance with the law, would render the appointments unconstitutional and illegitimate.

741. At the hearing of this petition on 23rd June, 2025, the Petitioners moved this Court orally, as highlighted in paragraph 43 of their supplementary affidavit (2) ,sworn on 15th June, 2025, urging us to find that the President of the Republic, the Head of Public Service, the Attorney-General and the Head of Government Press were jointly and severally in contempt of court for causing the publication or publishing the Gazette Notices appointing the 1st to 7th Interested Parties, despite the conservatory order prohibiting them from doing so.

742. In our ruling rendered on 24/06/2025, we declined to determine the issue substantively on the basis of an oral application for contempt of court, in light of the gravity and special nature inherent in contempt of court.

743. In our said ruling, this Court made it clear that court orders are not mere suggestions and obedience of court orders is not optional. This court also stated in no uncertain terms that contempt proceedings can be dealt with at any stage of the proceedings, including, post judgment.

744. Our Ruling dated 24/06/2025 therefore left the fate of the two Gazette Notices for this Judgment.

745. According to the petitioners, the two Gazette Notices 7724 and 7725, which appoint the 1st to 7th Interested Parties to the IEBC, are null and void *ab initio* for violating the Conservatory order issued by L.N. Mugambi J on 29th May, 2025.

In the petitioners' view, the only legal and logical outcome would be for this Court to quash the two Gazette Notices.

746. The Respondents took a nuanced approach to the issue. While they acknowledged the issuance of the two Gazette Notices, they nonetheless distanced themselves from the question of the legitimacy of the said Gazette Notices and left the matter to this Court to determine as we see fit.

747. The 1st to 7th Interested Parties similarly avoided the substance of the question of the legitimacy and standing of the two Gazette Notices, with a number, and in particular, the 6th Interested Party, taking the position that the 1st to the 7th interested parties having already been gazetted, they were already appointed to their respective offices hence the issue was moot. The 8th Interested Party did not address this question.

748. In resolving this issue and question, we shall briefly answer the question of whether the appointment of the nominees subject of this petition is moot.

749. First things first, what is the doctrine of mootness and what is it concerned with? In *Dande & 3 others v Inspector General, National Police Service & 5 others* SC Petition No. 6(E007) OF 2022 (Consolidated with Petition Nos. 4 (E005) & 8 (E010) OF 2022 , the Supreme Court stated:

> "The doctrine of mootness requires that controversy must exist throughout judicial proceedings including at the appellate level. An appeal or an issue is moot when a decision will not have the effect of resolving a live controversy affecting or potentially affecting the rights of parties. Such a live controversy must be present not only when the action or proceeding is commenced but also when the court is called upon to reach a decision. The doctrine of mootness is therefore based on the notion that judicial resources ought to be utilized efficiently and should not be dedicated to an abstract proposition of law and that courts should avoid deciding on matters that are abstract, academic, or hypothetical."

750. Thus, mootness involves the situation where a dispute no longer exists. The question is whether the appointment of the nominees is an issue that no longer exists and which this Court is now deprived of any jurisdiction to entertain.

751. Articles 10 and 159 of the *Constitution* underscore respect for the rule of law as a foundational value of the Republic. The principle of the rule of law necessitates the faithful execution of court orders. Disobedience, particularly by state officials, undermines the legal framework and can lead to a breakdown of order, potentially resulting in citizens resorting to self-help.

752. One may argue that the nominees having been appointed, then they can only be removed from office in the manner provided for under Article 251 of the *Constitution*. A similar situation arose in *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others* [2013] KECA 445 (KLR).



The Court of Appeal addressed that issue as follows:

"(37) It is clear that on its face, the jurisdiction of the High Court is broad enough to cover review of the constitutionality or legality of appointments by other organs of government. However, the analysis does not end there. We were urged by learned counsel for the appellant that having been gazetted, the appellant could only be removed through the procedure provided underArticle 251of the *Constitution*; that the High Court had no jurisdiction to set aside the appellant's appointment because such an order amounted to a removal exercisable only by a tribunal appointed underArticle 251of the *Constitution*. It was contended further that had the learned Judges of the superior court below considered the provisions ofsection 42of *Leadership and Integrity Act*, 2012, they would have laid down their tools and required the 1stRespondent to comply with the procedures set therein for lodging complaints against a State Officer. We considered this latter argument as an averment that the petition was rendered moot by the gazettement of the appointment of the appellant.

(38) We disagree with this approach and are not prepared to hold as urged by the appellant as such an approach would pose a recharacterization risk in similar forms of constitutional litigation. In our considered opinion, the petition before the High Court was not instituted as a removal procedure nor as a complaint against the appellant in his capacity as a State Officer. The petition was a challenge to the constitutionality of the process and manner of the appellant's appointment. This Court takes the view therefore that it is not theoutcomeof litigation that is determinative of its nature, but itssubstanceat the time of seizure and proceedings. Viewed thus, an order setting aside the appointment of the appellant flows from a judicial finding of the unconstitutionality of the process and manner of appointment, not as a consequence of a removal procedure. We note with affirmation the holding of the High Court in the*Federation of Women Lawyers Kenya (FIDA-K) & 5 others v Attorney General & Another*(2011) eKLR,which we cite below inextensofor its relevance:

> "In our view the jurisdiction of this Court under Article 165 is completely different from that of Tribunal under Article 168.
>
> It is clear that the Tribunal's jurisdiction kicks in when there is an alleged misconduct on the part of the Judge or when he is unable to perform the functions of his office...
>
> On the other hand, the question that is for our determination is about the process and it is our view that no step is greater than the other and any of the three steps are equally important and constitutionally mandatory. Therefore, what is at stake is the process used to nominate and appoint the Supreme Court Judges. It is our duty to evaluate and assess whether the business conducted by theJudicial Service Commissionwas in accordance with the law, fairness and justice.If the process of appointment is unconstitutional, wrong, unprocedural or illegal, it cannot lie

for the Respondents to say that the process is complete and this Court has no jurisdiction to address the grievances raised by the Petitioners. In our own view, even if the five appointees were sworn in, this Court has the jurisdiction to entertain and deal with the matter. The jurisdiction of this Court is dependent on the process and constitutionality of appointment. In this sense, if the Judicial Service Commission a State Organ does anything or omits to do something under the authority of *the Constitution* and which contravenes that Constitution, that act or omission when so proved before the High Court shall be invalid.Accordingly, we find and hold that we are properly seized of this Petition as we have the requisite jurisdiction." (Emphasis supplied)

753. It is evident that the Petition before this Court does not seek the removal of commissioners from office, but rather challenges the legality and constitutionality of the process leading to their selection, nomination, and eventual appointment. As such, the core issue lies not in the suitability or conduct of the members' post-appointment, but in whether the process of their appointment complied with the *Constitution* and relevant statutory provisions.

754. In this context, the Court is properly clothed with jurisdiction under Article165(3)(d)(ii) of the *Constitution* to determine

> "whether anything said to be done under the authority of the *Constitution* or of any law is inconsistent with, or in contravention of, the *Constitution*."

755. This position finds support in the *Law Society of Kenya v Attorney General & 2 others* [2016]KEHC 5096 (KLR) where it was held that the Court has the constitutional duty and jurisdiction to intervene in actions of other arms of government and State organs where it is alleged or demonstrated that the *Constitution* has either been violated or is threatened with violation. In such circumstances, the High Court would be abdicating its constitutional mandate if it failed to intervene

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756. Similarly, in *Trusted Society of Human Rights Alliance v Attorney General & Others* [2012] eKLR , the Court emphasized that the process of appointment to public office must comply with the *Constitution* and the law, and it is within the Court's jurisdiction to interrogate whether that process meets the constitutional and statutory threshold. This is not interference with executive authority, but rather, enforcement of constitutional norms.

757. Accordingly, this Court affirms that it has jurisdiction to interrogate whether the impugned gazette notices adhered to constitutional principles.

758. This is because, a State or public officer who proceeds to act in defiance of a lawful order issued by a court of competent jurisdiction, offends the *Constitution* and undermines judicial authority.

759. In our view, while the doctrine of mootness serves to prevent courts from engaging in abstract or academic determinations, this does not apply in the present situations as the issue of compliance remains alive and raises serious questions of constitutionality and or illegality.

760. The Court of Appeal in *Dr. Christopher Ndarathi H Murungaru v Kenya Anti-Corruption Commission & Another* Civil Application No. Nai. 43 of 2006 [2006] 1 KLR 77 had this to say, on why court orders should always be obeyed:

> "Since the Kenyan nation has chosen the path of democracy rather than dictatorship, the Courts must stick to the rule of law even if the public may in any particular case want a contrary thing and even if those who are mighty and powerful might ignore the Court's decisions since occasionally those who have been mighty and powerful are the ones who would run and seek the protection of the Courts when circumstances have changed...The courts must continue to give justice to all and sundry irrespective of their status or former status."

761. In other words, no Court of law should be seen to condone an illegality and especially when the illegality gives rise to illegitimacy. To do so would embolden disobedience, erode public trust in the administration of justice and render court orders sterile suggestions.

762. A situation similar to the one we face arose in *Judicial Service Commission v Speaker of the National Assembly & another* (Petition 518 of 2013) [2013] KEHC 911 (KLR) (Constitutional and Human Rights) (3 December 2013) (Ruling) where the Court had stayed the President's appointment of a tribunal appointed to investigate the conduct of Commissioners of the Judicial Service Commission but the President went ahead and appointed the tribunal. Odunga J (as he then was), our very own Lord Denning, had this to say and we have no reason to depart from those extremely important judicial pronouncements:

> "Lest we forget under Article 1(1) of the *Constitution*, all sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution and since the courts are the temples of justice and the last frontier of the rule of law, Court decisions must of necessity be respected and the dignity of the Court upheld at all times. I associate myself with the sentiments of Rawal, J (as she then was) in Charles Lukeyen Nabori & 9 Others v The Hon. Attorney General & 3 Others Nairobi HCCP No. 466 of 2006 [2007] 2 KLR 331 that the Judiciary as a bastion of the rights of the people is the safeguard and watchdog of the rights, which are fundamental to human existence, security and dignity and that the old school of thought articulated by Sir Charles Bacon, that "Judges must be like lions, but yet lions who sit at the feet of the throne" has no place.
>
> 14. The people of Kenya in enacting the *Constitution* recognized in the preamble thereto that they aspired for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law. Article 4(1) of the *Constitution*, declares the national values and principles of governance as the foundation upon which Kenya as a multi-party democratic state is grounded. In Article 10 of the *Constitution*, the people of the Republic of Kenya enacted that national values and principles of governance bind all State organs, State officers, public officers and all persons whenever any of them––a) applies or interprets the *Constitution*;(b) enacts, applies or interprets any law; or(c)makes or implements public policy decisions. One of the values and principles of governance under that Article is the rule of law and under Article 255 of the *Constitution*, the people of Kenya took these values and principles of governance so seriously that they provided that any amendment thereto must be subjected to a referendum. It is therefore clear

that an attempt to ignore the same may amount to attempt to usurp the powers of the people which the people reserved unto themselves under the said Article 255.

15. In this case, it is in effect contended that the orders of this Court issued on 6th November 2013 have been abrogated or abridged by brazen or subtle schemes and manoeuvres in the name of Article 251 of the *Constitution*.

16. In Central Bank of Kenya & Another v Ratilal Automobiles Limited & Others Civil Application No. Nai. 247 of 2006, the Court of Appeal held that Judicial power in Kenya vests in the Courts and other tribunals established under the *Constitution* and that it is a fundamental tenet of the rule of law that court orders must be obeyed and it is not open to any person or persons to choose whether or not to comply with or to ignore such orders as directed to him or them by a Court of law. The consequences of failure to obey Court orders are that any action taken in breach of the court order is a nullity and of no effect. See Commercial Bank of Africa Ltd. v Isaac Kamau Ndirangu Civil Appeal No.157 of 1995 [1990-1994] EA 69. Where an act is a nullity, it is trite that it is void and if an act is void, then it is in law a nullity as it is not only bad but incurably bad and there is no need for an order of the Court to set it aside, though sometimes it is convenient to have the Court declare it to be so. Where the Court finds this to be so, the actions taken in pursuance of actions taken in breach of a Court order must therefore break-down once the superstructure upon which it is based is removed since you cannot put something on nothing and expect it to stay there as it will collapse. See Macfoy v United Africa Co. Ltd [1961] 2 ALL ER 1169 at 1172 & Omega Enterprises (Kenya) Ltd. v KTDC & 2 Others Civil Appeal No. 59 of 1993.

17. In my view, it does not matter that the person alleged to have acted in contempt of court was unaware of the existence of the order. Whereas he may not be committed for contempt of a court order which he was not aware of, his unawareness does not sanitise the illegal action which would still be null and void.

18. If, therefore it turns out that the action by His Excellency the President of appointing the Tribunal was undertaken in breach of the orders of this Court, that action may well be null and void and of no effect. It is as if it was never done in the first place. It is as if it never existed.

19. To permit the Tribunal to commence its duties under such circumstances before all the parties are heard in the present application would not only amount to abetting and aiding the disobedience of the Court order but may end up being a waste of public funds."

[emphasis ours]

763. In the above cited case, the petitioners also asked the court whether the Judicial Service Commission Commissioners who had been suspended and a tribunal appointed to investigate them would remain in office, following the finding by the court that the President had acted illegally by appointing the

tribunal, despite the existence of the conservatory order. The learned judge stated as follows, applying other decisions and we concur that:

> "21. The petitioners have urged the court to clarify that in light of the orders of the Court made on 6th November 2013, the said Commissioners do remain in the office. In the Privy Council Case of Attorney General –V- Sumair Bansraj (1985) 38 WIR 286Braithwaite J.A. expressed himself follows:
>
> > "Now to the formula. Both remedies of an interim injunction and an Interim declaration order are excluded by the State Liability and Proceedings Act, as applied by Section 14 (2) and (3) of the *Constitution* and also by high judicial authority. The only judicial remedy is that of what has become to be known as the "Conservatory Order" in the strictest sense of that term. The order would direct both parties to undertake that no action of any kind to enforce their respective right will be taken until the substantive originating motion has been determined; that the status quo of the subject matter will remain intact. The order would not then be in the nature of an injunction, ... but on the other hand it would be well within the competence and jurisdiction of the High court to "give such directions as it may consider appropriate for the purpose of securing the enforcement of ... the provisions" of the *Constitution*...In the exercise of its discretion given under Section 14(2) of the *Constitution* the High Court would be required to deal expeditiously with the application, inter partes, and not ex parte and to set down the substantive motion for hearing within a week at most of the interim Conservatory Order. The substantive motion must be heard forthwith and the rights of the parties determined. In the event of an appeal priority must be given to the hearing of the appeal. I have suggested this formula because in my opinion the interpretation of the word in Section 14 (2) "subject to subsection (3) and the enactment of Section 14(3) in the 1976 Constitution must have ... the effect without a doubt of taking away from the individual the redress of injunction which was open to him under the 1962 Constitution. On the other hand, however, the state has its rights too ... The critical factor in cases of this kind is the exercise of the discretion of the judge who must "hold the scales of justice evenly not only between man and man but also between man and state."

22. In Centre for Human Rights and Democracy & Others v The Judges and Magistrates Vetting Board & Others Eldoret High Court Constitutional Petition No. 11 of 2012 the Court held by a majority that:

> "In our view where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any Constitutional or legal right or any burden is imposed in the contravention of any Constitutional or legal provision or without the authority of the law or any such legal wrong or injury is

threatened, the High Court has powers to grant appropriate reliefs so that the aggrieved party is not rendered, helpless or hapless in the eyes of the wrong visited or about to be visited upon him or her. This is meant to give an interim protection in order not to expose others to preventable perils or risks by inaction or omission. Our determination is not in any way a final definition or determination of the dispute. It is meant to give an interim protection as sought by the applicants."

23. Conservatory orders in my view are not ordinary civil law remedies but are remedies provided for under the *Constitution*, the Supreme law of the land. They are not remedies between one individual as against another but are meant to keep the subject matter of the dispute in situ. Therefore, such remedies are remedies in rem as opposed to remedies in personam. In other words, they are remedies in respect of a particular state of affairs as opposed to injunctive orders which may only attach to a particular person."

764. From the above decisions, it is clear to this Court that in the instant case, just as it was in the above cited cases, no party may benefit from their own wrongdoing and the court cannot fold its hands in the face of blatant disobedience whether deliberately or otherwise, on advice or lack of it, which is cloaked as mootness. The rule of law would collapse if court orders could be violated with impunity, only for the violator to plead that the issue is now academic.

765. Additionally, it matters not that the person alleged to have acted in disobedience of the conservatory order was unaware of the existence of the order or was not a party to proceedings. Whereas that person may escape conviction for contempt of a court order which the person was not aware of, the unawareness does not sanitise the illegal action which would still be null and void.

766. We reiterate that obedience of court orders is integral for upholding and maintaining the rule of law, judicial authority and the vitality of court proceedings.

767. The Orders of this Court issued on 29/05/2025 were contained in the Ruling dated and delivered on even date in the presence of all parties' counsel. Paragraph 191(a) of that Ruling concerning the Petitioners/Applicants' Notice of Motion Application dated 13/05/2025 seeking the grant of conservatory orders read as follows, verbatim: "

191. SUBPARa (a)

That pending the hearing and determination of this Petition, a Conservatory Order is hereby issued forbidding and/or preventing the gazettement, taking of oath or assuming office by the Interested Parties, namely: Erastus Edung Ethekon; Anne Njeri Nderitu; Moses Alutalala Mukhwana; Mary Karen Sorobit; Hassan Noor Hassan; Francis Odhiambo Aduol; Fahima Araphat Abdallah or any other person(s) as the Chairman or Commissioners of the Independent Electoral and Boundaries Commission. For avoidance of doubt, the Vetting and Approval Process in the National Assembly may proceed but subject to this order."

768. The two Gazette Notices were issued in violation of this Court's Orders contained in the cited Ruling of 29/05/2025.

The wording of Paragraph 19 1(a) of that Ruling is plain, clear and unambiguous that there was to be no gazettement of the 1st to 7th Interested Parties to their respective nominated positions, pending the hearing and determination of this Petition which, in our humble view, has been fast tracked. We

note that from the time we were empaneled, we have burnt the midnight oil to ensure that this petition is heard and determined expeditiously, in recognition of the importance of this matter to the people of Kenya.

769. We must distinguish from the onset that the question of whether there was knowledge or service of the Conservatory Order and whether there was, thereafter, wilful disobedience of that Court Order are relevant factors to contempt of court proceedings which we addressed in our ruling of 24th June 2025.

However, those are not the material factors to, whether an act taken in contravention of the express wording and intention of a Court and publicized to the whole world by our ever-informing media which has remained a pillar of transparency and open justice in this country, should be allowed to stand.

770. We have stated what other binding and or persuasive judicial pronouncements have said on this nerve rending issue. We reiterate that the authority and effectiveness of any judicial system rests upon uncompromising obedience to court orders and therefore, any person, whether a party or not a party to court proceedings, who knows of an order, whether in their most painstaking view, they consider that order to be worthless, regular or irregular, cannot be permitted to disobey it. The consequence of an action taken in contravention of a court order is that, the action is null and void ab initio.

771. We continue to cite more judicial pronouncements on this issue to demonstrate the importance of obeying court orders. In *Econet Wireless Kenya Ltd v Minister for Information & Communication of Kenya & Another* {2005} 1KLR 828 Ibrahim J (as he then was) opined that:

> "It is essential for the maintenance of the Rule of Law and order that the authority and the dignity of our Courts are upheld at all times.

It is the plain and unqualified obligation of every person against or in respect of whom, an order is made bya Court of competent jurisdiction, to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or void."

772. The dicta by Lord Denning in the seminal case of *Macfoy v United Africa Co. Ltd* [1961] 3 All E.R. 1 169 , is instructive on the fate of an action taken in violation of a court order. He stated:

> "If an act is void, then it is in law a nullity. It is not only bad, but incurably bad. There is no need for an order of the Court to set it aside. It is automatically null and void without more ado, though it is sometimes convenient to have the Court declare it to be so. And every proceeding which is founded on it is also bad and incurably bad. You cannot put something on nothing and expect it to stay there. It will collapse."

773. From the plethora of cases that we have cited, we have said enough that one of the most compelling aspects of a court order that safeguards its authority and vitality is the reality that, acting in contravention of the Court order, unless that order is set aside, varied or lapses by effluxion of time, the contravention whether brazen or not, renders the action so taken, null and void, and thus, to act in contravention of a court order is to act in vain.

774. Were the position to be otherwise, there would be no benefit to Court orders and the necessity to obeying them, since the orders in question would be mere suggestions.

775. The appointment of IEBC members is governed by Article 250(2)(b) of the *Constitution*, as read together with the *Independent Electoral and Boundaries Commission Act*. It is a constitutional process, not merely an administrative formality. The process involves multiple stages: declaration of the vacancies in the Commission, constitution of the Selection Panel, advertisements application,



interviewing, selection, nomination, vetting, approval, appointment by the President and the swearing-in by the Honourable Chief Justice before assuming office.

776. Members of the Commission are appointed by the President in accordance with Article 250 of the *Constitution*. However, before assuming office, acting in state office or performing any functions of a state office, Article 74 mandates that the members of the Commission, being state officers, as designated by Article 260, must take and subscribe to the oath or affirmation of office in the manner and form prescribed by the Third Schedule or under an Act of Parliament.

777. The relevant legislation implementing this constitutional procedure is the *IEBC Act.* Section 9 provides for oath of office and replicates Article 74.

> The Chairperson and Commissioners of the Commission, under the said section 9 of the *IEBC Act*, before assuming office, shall make and subscribe to the oath or affirmation of office prescribed in the Third Schedule to the IEBC Act. Each stage in the process of bringing on board the IEBC Commissioners must conform strictly to constitutional principles, particularly those of transparency, accountability, integrity and legality.

778. The interim Conservatory orders issued by this Court on 29th May, 2025 under Article 23(3)(c) and reinforced by Article 165 of the *Constitution* are binding. Their purpose was to preserve the subject matter of this constitutional litigation and to prevent irreversible harm to the rule of law. Once such orders were issued staying the appointment of commissioners, any further step toward formalizing the appointment, including swearing-in, was expressly prohibited.

779. Under Article 2(1) and (2), the *Constitution* is the supreme law of the Republic of Kenya and it binds all persons and state organs. No person may claim or exercise authority contrary to the *Constitution*. Proceeding with appointments or swearing-in of the appointee commissioners despite a court order violates Article 10 (respect for the rule of law), Article 73 (responsibilities of leadership) and Article 250, thereby eroding the legitimacy of the Commission itself. For avoidance of doubt, swearing in is a constitutional imperative, under Article 74 and not a mere statutory and procedural requirement.

780. Any action taken in disobedience of a valid court order is not only a legal wrong but a constitutional violation. As courts have repeatedly held, including in *Judicial Service Commission v Speaker of the National Assembly & Another* [2013] eKLR , acts done in defiance of court orders are null and of no legal effect.

781. Under the doctrine of legality, all public power must be exercised in accordance with the *Constitution* and the law. Appointments that violate express legal procedures, particularly where a court has intervened, are incurably defective. Indeed, the rule of law demands strict compliance with legal processes, especially in matters involving public institutions.

782. Therefore, one cannot take an oath based on a foundation of disobedience of court orders, for the reason that no legality can flow from an illegality. As a constitutional procedural act, the oath of office is contingent upon the legality of the appointment itself. An oath administered under a void appointment carries no legal weight and does not confer lawful authority to act in an office established under the Constitutional. Any subsequent decisions or actions by such Commissioners would be open to legal challenge and would in effect be ultra vires. This is because, the law does not recognize rights or legitimacy derived from acts done in defiance of judicial authority.

783. We conclude by stating emphatically, that any act of swearing-in of IEBC Commissioners in contravention of a court-issued conservatory order would be an unconstitutional act, undermining the rule of law and the integrity and constitutional legitimacy of the Commission.

784. For the above reasons, we entertain no doubt, that any person who proceeds to take the oath under such circumstances would do so under an illegitimate appointment, rendering them unlawful office holders with consequences that their purported service as commissioners would be open to judicial invalidation, not forgetting that their wrongful presence within the Independent Electoral and Boundaries Commission would compromise the credibility and legality of the electoral process.

785. These judicial pronouncements are in line with a hallowed principle of law that an act done in defiance of a court order is a nullity and of no legal effect, and a court may *suo motu* annul that act in order to uphold the rule of law and protect the dignity of judicial authority. Judicial authority, we have stated variously in this judgment, is derived from the people of Kenya and is exercised on their behalf by Courts and independent tribunals.

786. Thus, while the doctrine of separation of powers ensures the independence of the executive, legislature and judiciary, this doctrine must not be exploited by the executive, legislature or even the judiciary, as a shield to breach constitutional values and norms. Where such violations occur, the judiciary has both the authority and responsibility to intervene, not as an encroachment on the other branches, but as a guardian of the *Constitution* and the rule of law.

787. This has nothing to do with any perceived or imagined war between the judiciary and the Executive or any other arm of government or state office. All these institutions serve the people of Kenya and so, each one of them must just do things right.

788. As was further stated in the Ugandan Court of Appeal case of *Makula International Ltd v His Eminence Cardinal Nsubuga & Another* [1982] HCB 11, often cited by Courts in Kenya that:

> "...a court of law cannot sanction what is illegal and an illegality once brought to the attention of the Court, overrides all questions of pleadings including admissions made thereon."

789. In view of the foregoing, and in order to uphold the rule of law and preserve the constitutional legitimacy of the Independent Electoral and Boundaries Commission (IEBC), this Court reiterates the well-established principle that

illegality cannot be the foundation of legitimacy

, and that no public office may be lawfully assumed in defiance of a valid court order.

790. In view of the above, and as to what orders to make, this Court is compelled by the *Constitution* and binding judicial decisions to find and hold, which we hereby do, that Gazette Notices Nos. 7724 and 7725, both dated 10th June 2025 and published in the Kenya Gazette Vol. CXXVII – No. 122 of even date, purporting to appoint the 1st to 7th Interested Parties as members of the IEBC, were issued and published in direct contravention of the conservatory orders of this Court dated 29th May 2025.

791. Consequently, arising from the preceding finding and holding that the impugned Gazette Notices were issued and published in contravention of valid interim conservatory court orders issued on 29th May, 2025, we further find and hold that the appointments of the 1st to 7th interested parties as gazetted on 10th June, 2025 and which were done in violation of the said conservatory orders are unlawful, unconstitutional, null and void ab initio.

792. Accordingly, in the exercise of the judicial authority conferred upon this Court by Articles 1, 2, 3, 159 and 165 of the *Constitution*, this Court hereby issues an order of certiorari removing into this Court, for purposes of quashing, and we hereby quash the decision appointing the 1st to 7th interested parties

as Chairperson and Commissioners of the Independent Electoral and Boundaries Commission vide Gazette Notices Nos. 7724 and 7725, both dated 10th June 2025.

793. In conclusion, we affirm that in order to enable Wanjiku secure and determine the form of Governance of our beloved and only country Kenya, The IEBC Commissioners who will have the privilege of being appointed to assume office must earn the trust of Kenyans in their discharge of their constitutional mandates, ensuring that the forthcoming elections are conducted in a free, fair, credible and transparent manner. This is the bare minimum expected of them.

Whether the reliefs sought by the petitioners are available

794. In view of our findings and holdings in this judgment, we make the following final orders:

a) That the prayer for a declaration to the effect that the nomination and selection Of Erastus Edung Ethekon; Anne Njeri Nderitu; Moses Alutalala Mukhwana; Mary Karen Sorobit; Hassan Noor Hassan; Francis Odhiambo Aduol; Fahima Araphat Abdallah, is illegal, null and void and contrary to Articles 10, 232 and 250 (3) & (4) of the *Constitution* of Kenya, 2010 as read with the provisions of the *Independent Electoral and Boundaries Commission Act* is declined.

b) That the prayer for a Declaration That The Nomination Of Mr. Hassan Noor To the office of Commissioner of the Independent Electoral and Boundaries Commission (IEBC) is unconstitutional, illegal, and invalid for being in contravention of Article 88(2) as read with Article 250(4) of the *Constitution* of Kenya, 2010, and Section 6(1)(a) of the *Independent Electoral and Boundaries Commission Act*, 2011, by virtue of the fact that he contested for the position of Governor of Mandera County in the 2022 General Elections, thereby rendering him ineligible for appointment to the Commission having held political office within the prescribed disqualifying period of five years is declined;

c) The prayer for a Declaration That The Recommendation Of Ms. Mary Karen Sorobit For appointment as a member of the Independent Electoral and Boundaries Commission (IEBC) is unconstitutional, unlawful, and invalid for reason that she was, at the time of her nomination, a member and office bearer of the Jubilee Party, contrary to Article 88(2)(a) of the *Constitution* of Kenya, 2010, and is therefore conflicted and incapable of discharging her duties with the impartiality, independence, and integrity required of a commissioner under Articles 10, 73, and 232 of the *Constitution* is declined.

d) The prayer for the Declaration That The Recommendation Of Ms. Anne Njeri Nderitu For Appointment as a member of the Independent Electoral and Boundaries Commission (IEBC) is unconstitutional, unlawful, and invalid for reason that she was, at the time of her nomination, State Officer, contrary to Article 88(2)(b) of the *Constitution* of Kenya, 2010, and is therefore conflicted and incapable of discharging her dut

ies with the impartiality, independence, and integrity required of a commissioner under Articles 10, 73, and 232 of the *Constitution* is declined.

e) The prayer that an order of certiorari be issued to quash the decision and/or recommendation of the selection panel for the appointment of commissioners to the IEBC to nominate Ms. Mary Karen Sorobit for appointment to the said commission is declined.

f) The Prayer For A Declaration that the nomination of Erastus Edung Ethekon; Anne Njeri Nderitu; Moses Alutalala Mukhwana; Mary Karen Sorobit; Hassan Noor Hassan; Francis Odhiambo Aduol; Fahima Araphat Abdallah For appointment to the Independent Electoral

and Boundaries Commission (IEBC) by the Selection Panel is unconstitutional, unlawful, null and void for having been undertaken in a process that failed to comply with the requirements of Articles 10, 73(2)(a), 88(2)(a), and 232(1)(g) and (h) and 250 (3) & (4) of the *Constitution* of Kenya, 2010 is declined.

g) The prayer for an Order Of Certiorari to Issue Quashing The Decision Dated 8th May; 2025 Issued By The Head Of Public Service To The Effect Of Nominating Erastus Edung Ethekon; Anne Njeri Nderitu; Moses Alutalala Mukhwana; Mary Karen Sorobit; Hassan Noor Hassan; Francis Odhiambo Aduol; Fahima Araphat Abdallah as members of the Independent Electoral and Boundaries Commission is declined

h) The prayer for an Order Of Permanent Injunction Restraining Erastus Edung Ethekon; Anne Njeri Nderitu; Moses Alutalala Mukhwana; Mary Karen Sorobit; Hassan Noor Hassan; Francis Odhiambo Aduol; Fahima Araphat Abdallah nominated and/or recommended by the Selection Panel for appointment as Commissioners of the Independent Electoral and Boundaries Commission from assuming, occupying, or performing the functions of the office of Commissioner of the Independent Electoral and Boundaries Commission, on grounds of violation of the *Constitution*, including but not limited to breach of the principles of political neutrality, integrity, and fair administrative action as enshrined under Articles 10, 73, 88(2)(a), 232 and 250 (3) & (4) of the *Constitution* of Kenya, 2010 is declined.

i) The prayer for A Declaration that the Attorney General failed in their constitutional mandate under Article 156(4) of the *Constitution* of Kenya, 2010 by neglecting to provide independent, impartial, and sound legal advice to the Executive regarding the nomination of Erastus Edung Ethekon; Anne Njeri Nderitu; Moses Alutalala Mukhwana; Mary Karen Sorobit; Hassan Noor Hassan; Francis Odhiambo Aduol; Fahima Araphat Abdallah Commissioners of the Independent Electoral and Boundaries Commission (IEBC), thereby failing to protect the rule of law and the public interest, as mandated by the *Constitution* is declined.

j) That the petition dated 13th May, 2025 is hereby dismissed.

k) That this Court having found and held that Gazette Notices Nos. 7724 and 7725 published on 10th June, 2025 were issued and published in contravention of valid conservatory court orders dated 29th May, 2025; further having found and held that the appointments of the 1st to 7th interested parties as Chairman and Commissioners of the Independent Electoral and Boundaries Commission were done in violation of the said conservatory orders are null and void ab initio; this Court, now, in exercise of judicial authority conferred upon this Court by Articles 1, 2, 3, 159 and 165 of the *Constitution*, hereby issues an order of certiorari removing into this Court the decision appointing and publishing the appointment of the 1st to 7th interested parties as Chairman and Commissioners of IEBC respectively, for purposes of quashing, and we hereby quash the appointment of the 1st to 7th interested parties vide Gazette Notices Nos. 7724 and 7725 published in the Kenya Gazette Vol/ CXXVII – No. 122 of 10/06/2025.

l) The interim conservatory orders issued under paragraph 191(a) in the Ruling dated and delivered on 29th May, 2025 be and are hereby discharged.

m) On costs, this being a public interest litigation, we order that each party bear their own costs.

795. We so order.

796. The full judgment shall be uploaded on the case tracking system and a copy send to Kenya Law for publication.

797. This file is closed.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 10TH DAY OF JULY, 2025

R.E. ABURILI

JUDGE (PRESIDING)

J. CHIGITI J, SC

JUDGE

B. MWAMUYE

JUDGE

Annexure 13

Message dated 4th December 2014 from the Speaker

Departmental Committee on Labour Approval Hearing of Mr. Francis Meja, Nominee for Appointment as the Chairperson of the Public Service Commission (PSC)

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 4th December, 2014

The House met at 2.30 p.m.

[The Speaker (Hon. Muturi) in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

VACATION OF OFFICE BY MEMBER NOMINATED FOR CABINET SECRETARY POSITION

Hon. Speaker: Hon. Members, you will recall that yesterday, during the afternoon Sitting, the Member for Gem, hon. Jakoyo Midiwo, on a point of order, sought the guidance of the Speaker on the issue of whether the Member for Kajiado Central, hon. Joseph Nkaissery, ought to have resigned prior to the conveyance of the Message from His Excellency the President, nominating him for appointment as the Cabinet Secretary, Ministry of Interior and Coordination of National Government. Having perused through the Verbatim Report for the afternoon Sitting, I must thank the hon. Member for raising this matter, which has implications on the interpretation of the Constitution.

In summary, the hon. Member sought guidance on whether a person ceases to be a Member of the House upon being nominated for appointment as a Cabinet Secretary. To begin with, this is the first time this House is faced with a scenario where a sitting Member of Parliament has been nominated for appointment as a Cabinet Secretary, under the current Constitution. I note that the Constitution, in Article 103(1), provides as follows:-

"103(1) The office of a member of Parliament becomes vacant-

(a) if the member dies;

(b) if, during any session of Parliament, the member is absent from eight sittings of the relevant house without permission, in writing, from the Speaker and is unable to offer a satisfactory explanation for the absence to the relevant committee;

(c) if the member is otherwise removed from office under this Constitution or legislation enacted under Article 80;

(d) if the member resigns from Parliament in writing to the speaker;

(e) if, having been elected to parliament-

(i) as a member of a political party, the member resigns from that party or is deemed to have resigned from the party as determined in accordance with the legislation contemplated in Clause 2; or,

(ii) as an independent candidate, the member joins a political party;

(f) at the end of the term of the relevant house; or,

(g) if the member becomes disqualified for election to Parliament under Article 99(2), (d) to (h).

(3) Parliament shall enact legislation providing for the circumstances under which a member of a political party shall be deemed, for the purposes of Clause 1 (e), to have resigned from the party."

Hon. Members, a plain reading of the above provisions reveals that nomination for appointment as a Cabinet Secretary is not one of the matters contemplated under the Constitution as necessitating the vacation of the office of a Member of Parliament. As I noted yesterday, I am yet to receive a letter of resignation from the hon. Member for Kajiado Central. As per Article 152 of the Constitution, the position of the Member for Kajiado Central shall only become untenable if he elects to assume the office of a Cabinet Secretary in the event that this House approves his nomination. Article 152 (3) and (4) provide as follows:-

"152(3) A cabinet secretary shall not be a member of parliament;

(4) Each person appointed as a Cabinet Secretary-

(a) assumes office by swearing or affirming faithfulness to the people and the Republic of Kenya and obedience to this Constitution, before the President and in accordance with the Third Schedule; and,

(b) may resign by delivering a written statement of resignation to the president."

Hon. Members, you note that even after the vetting of a nominee for appointment as a Cabinet Secretary and, indeed, the appointment of a successful nominee as a Cabinet Secretary, the person must further assume the office of a Cabinet Secretary by taking the oath or affirming to the office as set out in the Third Schedule to the Constitution. Presently, the Member for Kajiado Central has only been nominated for appointment. He has not been approved for appointment or even subsequently appointed as a Cabinet Secretary. It is, therefore, clear that any debate as to his continued membership of this House is pre-emptive and premature.

Hon. Members, as you are aware, I committed the Message containing the notification of the nomination to the Committee on Appointments, which is to report back to the House on the approval or rejection of the nomination of the Member for Kajiado Central, as per our Standing Orders. Once the Report is tabled, Article 122 (3), of the Constitution shall operate to preclude the Member from participating in any voting on the issue of his own nomination. That is the same Article that bars the Speaker from voting, even if there is a tie.

I, therefore, rule that the Office of the Member of Parliament for Kajiado Central, or any Member, does not fall vacant on account of his nomination for appointment as a Cabinet Secretary. Such a Member will only be required to vacate office by tendering his resignation prior to assuming the office of a Cabinet Secretary, should the House approve his nomination and the President appoints him. The Member for Kajiado Central did not, therefore, cease to be a Member of this House upon being nominated for appointment as a Cabinet Secretary.

I urge hon. Members not to pre-empt the outcome of the vetting process but, instead, to await the Report to be submitted by the Committee on Appointments for debate by the House. Since this matter is already committed to the Committee, I will not allow any Member to comment or make reference to it until the Committee tables its Report in the House.

Thank you, hon. Members.