

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CONSTITUTIONAL AND HUMAN RIGHTS DIVISION**  
**CONSTITUTIONAL PETITION NO. OF 2024**

**IN THE MATTER OF: APPOINTMENT OF CABINET SECRETARIES**

**AND**

**IN THE MATTER OF: ARTICLE 132(2)(a) OF THE CONSTITUTION OF KENYA  
2010**

**AND**

**IN THE MATTER OF: ARTICLES 1, 2, 3, 10, 23, 27, 28, 41, 73, 75, 152, 159, 201, 232, 258,**

**AND**

**259 OF THE CONSTITUTION OF KENYA (2010).**

**IN THE MATTER OF: THE LEADERSHIP & INTEGRITY ACT**

**IN THE MATTER OF: THE PUBLIC OFFICERS ETHICS ACT**

**BETWEEN**

**KENYA HUMAN RIGHTS COMMISSION..... 1<sup>st</sup> PETITIONER**

**WANJIRU GIKONYO.....2<sup>nd</sup> PETITIONER**

**-VERSUS-**

**THE ATTORNEY GENERAL ..... 1<sup>st</sup> RESPONDENT**

**THE NATIONAL ASSEMBLY .....2<sup>nd</sup> RESPONDENT**

**LAW SOCIETY OF KENYA.....1<sup>st</sup> INTERESTED PARTY**

**TRANSPARENCY INTERNATIONAL KENYA.....2<sup>nd</sup> INTERESTED PARTY**

**ADEN DUALE.....3<sup>rd</sup> INTERESTED PARTY**

**DAVIS CHIRCHIR..... 4<sup>th</sup> INTERESTED PARTY**

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**REBECCA MIANO..... 6<sup>th</sup> INTERESTED PARTY**

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ALICE WAHOME.....	8 <sup>th</sup> INTERESTED PARTY
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JULIUS MIGOSI OGAMBA.....	12 <sup>th</sup> INTERESTED PARTY
MARGARET NYAMBURA NDUNG'U.....	13 <sup>th</sup> INTERESTED PARTY
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WYCLIFFE OPARANYA.....	20 <sup>TH</sup> INTERESTED PARTY
JUSTIN MUTURI.....	21 <sup>ST</sup> INTERESTED PARTY
INUKA KENYA NI SISI.....	22 <sup>ND</sup> INTERESTED PARTY

## **PETITION**

### **TO THE HIGH COURT OF KENYA**

#### **Introduction:**

1. Constitutional and democratic governance are foundational principles for the effective and just administration of a state. These principles ensure that power is exercised in accordance with established laws and that the government is accountable to the people.
2. Article 1 of the Constitution of Kenya 2010 is fundamental as it establishes the sovereignty of the people and the foundation of all governmental authority.
3. Article 1 of the Constitution of Kenya 2010 establishes that all sovereign power resides with the people and outlines how this power is exercised and delegated within the framework of the Constitution. It emphasizes democratic governance, the rule of law, and the division of power among various state organs, ensuring that governance remains accountable and representative of

the people's will. This article is foundational, setting the tone for the entire Constitution and the governance of Kenya.

**Clause 1- Sovereignty of the People:** "All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution."

This clause underscores that all power within the state is derived from the people. The authority to govern and make laws comes from the citizens, who are the ultimate source of all political power. This power is not arbitrary but must be exercised as per the Constitution, ensuring that governance adheres to the established legal framework.

**Clause 2- Exercise of Sovereign Power:** "The people may exercise their sovereign power either directly or through their democratically elected representatives."

Explanation: Sovereign power can be exercised in two ways:

- a. Directly: Through mechanisms such as referenda and submission of memoranda to the legislature, where citizens directly participate in decision-making processes.
- b. Indirectly: Through elected officials who represent the people in various governmental bodies, including the National Assembly, Senate, and county assemblies. This ensures that the governance structure remains democratic and participatory. Equally, citizens can submit Petitions to their representatives

Citizen petitions to representatives are a vital aspect of indirect sovereignty. They empower individuals to engage with their elected officials, influence decision-making, enhance accountability, and strengthen democratic governance by ensuring that the voices of the people are heard and considered in the political process.

In the context of indirect sovereignty, the ability for citizens to submit petitions to their representatives is a key mechanism for exercising democratic control and influence over governance.

**Indirect Sovereignty** refers to the principle that while citizens do not directly govern themselves, they exercise their sovereignty through elected representatives and institutions. This form of sovereignty operates on the understanding that the power of governance is delegated to elected officials who act on behalf of the people. Here's how citizen petitions fit into this framework:

- i. **Empowering Representation:** By submitting petitions to their representatives, citizens exercise their indirect sovereignty. They use this tool to communicate their concerns, preferences, and demands directly to those who have been elected to make decisions on their

behalf. This process reinforces the idea that elected officials are accountable to the people they represent.

- ii. **Influencing Decision-Making:** Petitions serve as a way for citizens to influence the decisions and actions of their representatives. Through petitions, individuals can highlight issues, propose changes, or express dissatisfaction with policies or appointments. This feedback mechanism helps ensure that representatives consider the views and needs of their constituents when making decisions.
- iii. **Enhancing Accountability:** The ability to petition representatives ensures that there is a channel for holding elected officials accountable. If a representative consistently ignores the petitions and concerns of their constituents, it reflects a potential disconnect between the people's interests and the representative's actions. This can prompt electoral challenges or calls for greater responsiveness.
- iv. **Strengthening Democratic Processes:** Citizen petitions contribute to a more participatory democratic process. They allow for broader engagement and ensure that governance is not solely the domain of elected officials and bureaucrats. This engagement helps maintain the democratic principle that power ultimately resides with the people, even when exercised indirectly through their representatives.
- v. **Promoting Transparency:** Petitions can bring issues to the public's attention, promoting transparency in government actions and decisions. When citizens petition their representatives, it often leads to public discourse and scrutiny, which can reveal important information and ensure that governance processes are more open and transparent.

**Clause 3- Delegation of Sovereign Power:** "Sovereign power under this Constitution is delegated to the following State organs, which shall perform their functions in accordance with this Constitution— a. Parliament and the legislative assemblies in the county governments; b. the national executive and the executive structures in the county governments; and c. the judiciary and independent tribunals."

**Explanation:** This clause specifies the delegation of sovereign power to distinct branches and levels of government:

- a. **Parliament and County Assemblies:** Responsible for making laws and providing legislative oversight.
- b. **National Executive and County Executives:** Tasked with implementing laws and policies.

- c. **Judiciary and Independent Tribunals:** Charged with interpreting laws and administering justice. This delegation ensures a balanced distribution of power and functions, preventing concentration in any single organ.

**Clause 4- Supremacy of the Constitution:** "The sovereign power of the people is exercised at: a. the national level; and b. the county level."

**Explanation:** This clause highlights the dual structure of governance in Kenya, emphasizing that sovereign power is exercised at both the national and county levels. This duality supports the principle of devolution, aiming to bring governance closer to the people and enhancing local participation in decision-making processes.

4. In a Gazette Notice dated August 7, 2024, the President of the Republic, Dr. William Ruto, appointed the 3rd to the 21st interested parties as Cabinet Secretaries.
5. The appointment was preceded by a vetting exercise conducted by the Parliamentary Committee on Appointments from August 1 to August 4, 2024.
6. The Committee on Appointments issued a report dated August 7, 2024, detailing the sequence of events.
7. The Appointments Committee's report indicates that they received a total of 813 memoranda from the public regarding the suitability of the nominees, which were either physically submitted or sent via email.
8. According to the committee, out of the 813 memoranda received by Parliament, 656 were rejected because they were not sworn under oath, as required by Section 6(9) of the Public Appointments (Parliamentary Approval) Act.
9. This petition, representing the interests of the Kenyan public, highlights issues with the recent processes of nomination, vetting, and appointment conducted by the President and the National Assembly. The concerns are centered around a lack of accountability, inadequate or superficial public participation, and questions of integrity on some of the nominees.

### **The Parties.**

10. The 1<sup>st</sup> Petitioner, Kenya Human Rights Commission is a non-governmental organization established under the Laws of Kenya and whose mandate is to uphold the Constitution of Kenya and advance the rule of law and the administration of justice; and to protect and assist the members of the public in Kenya in matters relating to or ancillary or incidental to the law. The address of

service for the purpose of this petition is care of **Evans Ogada, Advocate <sup>c/o</sup> PROF. MIGAI AKECH & COMPANY ADVOCATES** HURLINGHAM OFFICE PARK, HOUSE A6, ARGWINGS KODHEK ROAD P.O BOX 12285-00100 **NAIROBI**. EMAIL: [ogadae@yahoo.com](mailto:ogadae@yahoo.com) TELEPHONE NO: 0721 285076

11. The 2<sup>nd</sup> Petitioner is a Kenyan national and a public spirited citizen, who lives and works for gain in Nairobi, Kenya. The address of service for the purpose of this petition is care of **PROF. MIGAI AKECH & COMPANY ADVOCATES** HURLINGHAM OFFICE PARK, HOUSE A6, ARGWINGS KODHEK ROAD P.O BOX 12285-00100 **NAIROBI**.
12. The 1<sup>st</sup> RESPONDENT is a public office established under Article 156 of the *Constitution of Kenya, 2010* and is sued in this Petition in its capacity as the principal legal advisor and representative of the government in all proceedings other than criminal proceedings. Its address of service for purposes of this Petition shall be **OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE**, (*For purposes of this suit service upon the Respondent shall be effected through the Petitioner's Advocates office.*)
13. The 2<sup>nd</sup> RESPONDENT is an institution created under Article 93 of the constitution of Kenya and whose roles are spelt out at Article 95 of the Constitution.
14. The 1<sup>st</sup> INTERESTED PARTY is a statutory body established by the Law Society of Kenya Act, 2014 with a statutory mandate under section 4 to assist the Government and the courts in matters relating to legislation, the administration of justice and the practice of law in Kenya; uphold the Constitution of Kenya and advance the rule of law and the administration of justice; and to protect and assist the members of the public in Kenya in matters relating to or ancillary or incidental to the law.
15. The 2<sup>nd</sup> INTERESTED PARTY is a non-profit organization dedicated to fostering transparency and combating corruption through good governance and social justice initiatives. As a chapter of the global Transparency International movement, TI-Kenya aligns with a shared vision of a corruption-free world and benefits from a global platform for knowledge exchange and strategic development. With over 20 years of experience, TI-Kenya engages in advocacy, partnerships, strategic litigation, research, capacity building, and civic engagement to enhance legal, policy, and legislative frameworks and promote national values of transparency and accountability.
16. The 3<sup>rd</sup> to the 21<sup>st</sup> INTERESTED PARTIES are appointees to the offices of Cabinet Secretaries.
17. The 22<sup>nd</sup> INTERESTED PARTY is a Kenyan grassroots movement founded in 2009 that seeks to unite Kenyans to forge a collective identity, drive transformation amongst citizens and in leadership to improve the lives of all Kenyans.

## **LEGAL FOUNDATIONS OF THE PETITION**

1. This Honourable Court is jurisdictionally empowered by the Constitution to hear any question with respect to whether anything said to be done under the authority of the Constitution or whether any law is inconsistent with or in contravention of the Constitution at article 165(3) (d).
2. Additionally, this Court is empowered under the Constitution to hear and determine any Applications relating to the denial, violation, infringement and/or threat to any rights in accordance with article 23(1) of the Constitution.
3. This Honourable Court equally has the jurisdictional authority to grant reliefs including a declaration of rights, a conservatory order, an injunction, a declaration of invalidity of a law, an order for compensation and an order for judicial review in accordance with article 23(3) of the Constitution.
4. This Honourable Court has at its disposal a number of constitutional tools to rectify actions complained of by the Petitioner with regards to the impugned nomination, vetting and appointment process.

### **The Petition is anchored further on the following provisions:**

5. Article 1 of the Constitution which confers all sovereign power on the people of Kenya and mandates that the exercise of sovereign authority must be in accordance with the Constitution (*The Sovereignty Clause*).
6. Article 2(1) of the Constitution which declares the supremacy of the Constitution and binds all persons (*The Supremacy Clause*).
7. Article 3(1) of the Constitution which imposes an obligation on every person to respect, uphold and defend the Constitution (*The Defence Clause*).
8. Article 10 of the Constitution which enumerates the national values and principles such as to include the rule of law, participation of the people and democracy, social justice, good governance, integrity, transparency and accountability.
9. Article 20 of the Constitution which provides that the Bill of Rights applies to all law and binds all state organs and all persons.
10. Article 22 of the Constitution which grants the Petitioner herein the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.
11. Article 23 of the Constitution which confers upon the High Court, jurisdiction 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.

12. Article 73 of the Constitution which demands that authority assigned to a state officer be exercised in a manner consistent with the purposes and objects of the Constitution.
13. Article 94 of the Constitution stipulates the role of Parliament generally, signifying specifically that legislative authority derives from the people.
14. Article 95 of the Constitution enumerates the constitutional authority assigned to the National Assembly.
15. Article 118 of the Constitution of Kenya deals with the right to access information and public participation in parliamentary proceedings.
16. Article 129 of the Constitution of Kenya addresses the principles of executive authority.
17. Article 130 of the Constitution, which establishes the national executive of the Republic, comprising of the President, the Deputy President and the rest of the Cabinet.
18. Article 131 of the Constitution outlines the President's authority, which includes exercising executive power on behalf of the people of Kenya. This role is carried out with the support of the Deputy President and Cabinet Secretaries. In performing these duties, the President is required to act in accordance with the Constitution.
19. Article 132 of the Constitution of Kenya outlines the functions of the President, including appointing key government officials, including the Cabinet Secretaries and heads of various commissions, subject to approval by the National Assembly.
20. Article 152 of the Constitution of Kenya deals with the appointment, tenure, and removal of Cabinet Secretaries.
21. Article 165 which confers upon the High Court the jurisdiction to hear any question respecting the interpretation of the Constitution including the determination of the question whether anything done or said to be done under the authority of the Constitution or of any law is inconsistent with, or in contravention of, the Constitution.
22. Article 258 of the Constitution which grants the Petitioner and every person the right to institute court proceedings, claiming that the Constitution has been contravened, or is threatened with contravention.
23. Article 259 of the Constitution which commands that the Constitution shall be interpreted in a manner that promotes its values, purposes 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.



## **Statutory Provisions**

24. Section 10 of the Leadership and Integrity Act requires that any state officer carry out the duties in a transparent and accountable manner.
25. Section 11 of the Leadership and Integrity Act requires that a State officer must perform their duties in a way that upholds public trust in the integrity of their position.
26. Section 12 of the Leadership and Integrity Act states that a State officer shall not use the office to unlawfully or wrongfully enrich himself or herself or any other person.
27. Section 13 of the Leadership and Integrity Act addresses the moral and ethical responsibilities of public officers, including accurately and honestly representing information to the public.

## **Grounds for the Petition:**

1. **Lack of Parliamentary Accountability:** Parliament received memoranda that were never disclosed to the public in advance, and the criteria for their acceptance or rejection were determined in secrecy, without public accountability. Regarding the rejected memoranda, Parliament did not give the affected individuals an opportunity to address any concerns. Instead, it prioritized procedural technicalities over the substance of the submissions.
2. **Insufficient or piecemeal Public Participation:** The period allocated for public participation was brief, hampering meaningful appreciation and civic engagement. The reasons regarding the memoranda were communicated to the public on August 7, 2024, with the swearing-in occurring the following day on August 8, 2024. This timeline effectively prevented the public from thoroughly examining the Appointments Committee Report and exercising their civic rights if they disagreed with its findings.

Equally, and as a capacity of public participation, the criteria for selecting candidates were not provided to the public beforehand, leaving the public unaware of the factors that guided the decisions of the National Assembly's Appointments Committee.

3. **Integrity Concerns:** Article 79 of the Constitution, in conjunction with the Ethics and Anti-Corruption Commission Act, establishes the Ethics and Anti-Corruption Commission(EACC) as the authority responsible for ensuring compliance with Chapter 6 of the Constitution. Through a letter dated 31<sup>st</sup> July 2024 to the Director of Public Prosecutions, the EACC Chief Executive Officer raised integrity concerns about the 20<sup>th</sup> Interested Party.
4. The mandate of the EACC, outlined in Article 79, is safeguarded by Article 249 in terms of functional importance and cannot be wished away. Given ongoing concerns about the integrity of

the 20th interested person, he did not meet the standards set by Chapter 6 of the Constitution and as such, he should not have been considered for nomination, vetting and/or appointment by the President and the National Assembly respectively.

5. **Lack of Proper Vetting.** There was lack of proper vetting. Vetting refers to a situation where the process of evaluating and approving candidates for public office is conducted thoroughly, transparently, in accordance with established procedures. It also entails the giving of intelligible reasons for decisions taken by the legislature and its committees. Proper vetting is crucial to ensure that individuals appointed to significant positions, such as Cabinet Secretaries, meet the necessary qualifications, integrity standards, and legal requirements.

In the context of the impugned appointments, the vetting is faulted for the following reasons:

- a. **Incomplete Evaluation:** The vetting process failed to assess all relevant aspects of a candidate's background, qualifications, and suitability for the role. This led to the appointment of individuals who, for example, were not subjected to full financial probity.
- b. **Failure to Address Integrity Concerns:** Proper vetting should include a thorough review of a candidate's ethical conduct and integrity. These aspects were not adequately considered and hence individuals with potential conflicts of interest or questionable ethics were appointed, which can compromise the effectiveness and credibility of the office.
- c. **Inadequate Public Participation:** Effective vetting often involves public input, allowing citizens to provide feedback or raise concerns about the candidates. A lack of proper public engagement in the vetting process can prevent important perspectives from being considered.

A lack of proper vetting undermines the integrity of the appointment process, potentially leading to the selection of unqualified or unsuitable individuals for key positions, eroding public trust and compromising good governance.

**AND WHICH PETITION** is supported by the annexed AFFIDAVIT of **DAVIS MALOMBE** and by such other grounds, reasons and arguments as shall be adduced at the hearing hereof

**Reliefs Sought:**

**REASONS WHEREFORE, YOUR PETITIONER HUMBLY PRAYS FOR ORDERS FOR:**

- a. **A DECLARATION** that the conduct of public participation by the National Assembly during the vetting process of the Cabinet secretary nominees fell short of the requirements of the Constitution and the law.
- b. **A DECLARATION** that the concerns on integrity raised by the Ethics and Anti-Corruption Commission enjoy normative and consequential importance with regards to any nomination or appointment exercise and as such, cannot be ignored by any decision maker.
- c. **A DECLARATION** that any of the Cabinet Secretaries appointed contrary to the advice of the Ethics and Anti-Corruption Commission are unfit to hold office and as such, any such appointments are unconstitutional and illegal.
- d. **A DECLARATION** that the National Assembly acted in contravention of the Constitution by not providing to the public beforehand, the criteria that was to be used for the assessment of the candidature of the Cabinet Secretary nominees.
- e. **A DECLARATION** that the unilateral rejection of memoranda by the National Assembly without informing the concerned, and in any case without affording the concerned the opportunity to remedy the National Assembly may have had with the petitions is illegal and unconstitutional
- f. **A DECLARATION** that the National Assembly and its respective committees did not conduct proper vetting as required under the Constitution and the law.
- g. **A DECLARATION** that the appointments of the 3<sup>rd</sup> to 21<sup>st</sup> Interested Parties are illegal and unconstitutional.
- h. **AN ORDER** for the revocation of the appointments.
- i. **AN ORDER** for mandamus directing the President to initiate a fresh appointment process in compliance with the Constitution.
- j. Any other relief deemed fit by the court to uphold the rule of law and constitutionalism.

**DATED AT NAIROBI THIS        8<sup>th</sup>        DAY OF        AUGUST        2024.**

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**EVANS OGADA  
ADVOCATE**

**DRAWN AND FILED BY:**

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INUKA KENYA NI SISI.....22<sup>ND</sup> INTERESTED PARTY

#### **AFFIDAVIT IN SUPPORT OF THE APPLICATION AND PETITION**

I, **DAVIS MALOMBE**, an adult person of sound mind, a citizen of the Republic of Kenya of P.O. Box 41079-00100, NAIROBI do solemnly make oath and state as follows:

1. **THAT**, I am the Secretary to the Applicant's Council and its Chief Executive Officer and as such, duly authorized and competent to swear this affidavit.
2. **THAT**, I am familiar with the facts in issue in this matter.
3. **THAT**, the Applicant is a body established by the Law, *and is actively involved in the administration of justice uphold the Constitution of Kenya and advancement the rule of law and the administration of justice; by protecting and assisting the members of the public in Kenya in matters relating to or ancillary or incidental to the rule of law and human rights.*
4. **THAT**, I swear this affidavit on behalf of the 1<sup>st</sup> Petitioner and 2<sup>nd</sup> Petitioner, having been authorized to do so.

5. **THAT**, on August 7, 2024, President William Ruto issued a Gazette Notice officially appointing the individuals listed as the 3rd to the 21st interested parties to the positions of Cabinet Secretaries.
6. **THAT**, prior to their appointment, a vetting exercise was conducted by the Parliamentary Committee on Appointments. This vetting process took place from August 1 to August 4, 2024.
7. **THAT**, The Committee on Appointments released a report dated August 7, 2024, detailing the events and outcomes of the vetting process. This report highlighted that a total of 813 memoranda concerning the suitability of the nominees were received from the public and that these memoranda were submitted both physically and via email.
8. **THAT**, Of the 813 memoranda received, the Committee stated that 656 were rejected on the grounds, inter-alia, that they were not sworn under oath as required by the law.
9. **THAT**, despite the vetting process having been initiated by the National Assembly, the parameters for selecting candidates were not made available to the public in advance. Consequently, the public did not have insight into the criteria that were to inform the decisions of the National Assembly's Appointments Committee.
10. **THAT**, although the reasons for the concerns raised in the memoranda were communicated to the public on August 7, 2024, the swearing-in of the appointed Cabinet Secretaries occurred on August 8, 2024, leaving a short timeframe limited for the public to interact and appreciate the report.
11. **THAT**, the public's ability to thoroughly interrogate the Appointments Committee Report and thereby exercise their civic rights if they disagreed with the report was greatly hampered by the short timelines between the release of the report and the swearing in of the Cabinet Secretary nominees, and in that manner hampering Public Participation.
12. **THAT**, the entire process of public participation empowers citizens to engage in and influence the vetting and appointment of their leaders.
13. **THAT**, Public participation is a fundamental expression of popular sovereignty, where the power and authority of governance are rooted in the will of the people. It reflects the principle that the government derives its legitimacy from the consent of the governed. By actively involving citizens in decision-making processes, especially in matters such as the vetting and appointment of public officials, public participation ensures that the voices and interests of the populace are heard and considered.
14. **THAT**, the Public Participation process not only strengthens the connection between the government and its citizens but also fosters transparency, accountability, and trust in

- public institutions. When citizens have the opportunity to contribute to and influence decisions that affect their lives, it upholds the democratic principle that power ultimately rests with the people, reinforcing the idea that the government serves the interests of the entire society rather than a select few.
15. **THAT**, with regards to certain nominees, for example the 20<sup>th</sup> Interested Party herein, the Ethics and Anti-Corruption Commission raised concerns about ethics and integrity
  16. **THAT**, the mandate of the EACC, established by Article 79 of the Constitution and protected by Article 249, ensures compliance with Chapter 6 of the Constitution.
  17. **THAT**, in light of the lingering concerns about the integrity of the 20th interested person, it is evident that this individual did not meet the standards of Chapter 6 and as such, he should not have been considered for nomination, vetting and/or appointment by the President and the National Assembly respectively
  20. **THAT**, it therefore undermines the intent, morality, and ethics of Chapter 6 if individuals with unresolved concerns who have not yet been cleared by the Ethics and Anti-Corruption Commission are appointed to public office.
  21. **THAT** for avoidance of doubt, we will elaborate some critical constitutional and legal provisions to guide your vetting process.
  22. **THAT**, article 10 of the Constitution provides for National Values and Principles of Governance which bind all state organs [and] state officers whenever any of them...makes or implements public policy decisions. The national values and principles include patriotism, the rule of law, human dignity, non-discrimination, good governance, integrity, transparency and accountability, for example and that upholding these values is crucial in ensuring respect for human rights, fundamental freedoms and good governance.
  23. **THAT** was therefore imperative that the National Assembly and the President should have rigorously applied the principles set out in Chapter Six of the Constitution and the law when vetting and appointing Cabinet Secretaries, so as to ensure that only those who respect human rights standards and meet the highest standards of leadership and integrity are appointed.
  24. **THAT**, the processes of nomination, vetting, and appointment have not met the legal and constitutional standards set forth. These exercises are intended to ensure that public officials are selected based on merit, transparency, and adherence to established criteria. However, if the processes are conducted in a manner that lacks transparency, fails to involve adequate public participation, or disregards necessary legal and ethical requirements, they fall short of the law and the Constitution.



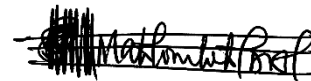
25. **THAT**, when these processes do not adhere to the prescribed standards, they undermine the principles of accountability and fairness that are central to good governance. This can result in the appointment of individuals who may not fully meet the constitutional or legal requirements, eroding public trust and confidence in the integrity of the government. Therefore, any deficiencies in these processes reflect a failure to uphold the rule of law and constitutional principles that guide the appointment of public officials.

26. **THAT**, what I have deponed to in this affidavit in support of the Application is based on facts within my knowledge and belief and in accordance with the Oaths and Statutory Declarations Act, Cap 20.

27.

Sworn at Nairobi by **DAVIS MALOMBE**

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this 8<sup>th</sup> day of AUGUST 2024

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Deponent

BEFORE ME

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)

COMMISSIONER FOR OATHS

)

**DRAWN AND FILED BY:**

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