

REPUBLIC OF KENYA



*Approved*  
*SNA*  
*26/11/24*

THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT - THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES


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DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

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REPORT ON-

THE APPROVAL HEARINGS OF MR. CHARLES ORINDA DULO, HON.  
CHARLES NJAGUA KANYI AND MS. DOROTHY JEMATOR KIMENGECH FOR  
APPOINTMENT AS CHAIRPERSON AND TWO MEMBERS OF THE COMMISSION  
ON ADMINISTRATIVE JUSTICE (CAJ)

	
THE NATIONAL ASSEMBLY	
CLERK'S CHAMBERS	
DIRECTORATE OF DEPARTMENTAL COMMITTEES	
PARLIAMENT BUILDINGS	
NAIROBI	
TABLED BY:	CHAIRPERSON DEPARTMENTAL COMMITTEE ON JUSTICE & LEGAL AFFAIRS
CLERK AT THE TABLE:	MERCY CHUMO

NATIONAL ASSEMBLY  
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26 NOV 2024  
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DATE LAID  
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## LIST OF ABBREVIATIONS AND ACRONYMS

BBI	Building Bridges Initiative
CAJ	Commission on Administrative Justice
CUE	Commission for University Education
CV	Curriculum Vitae
DCI	Directorate of Criminal Investigations
EACC	Ethics and Anti-Corruption Commission
EALS	East African Law Society
EQUINET	Regional Network on Equity in Health in East and Southern Africa
FIDA-K	International Federation of Women Lawyers in Kenya
H.E.	His Excellency
HELB	Higher Education Loans Board
Hon	Honourable
ICT	Information Communication and Technology
KRA	Kenya Revenue Authority
LLB	Bachelor of Laws
LLM	Master of Laws
LSK	Law Society of Kenya
MCCP	Maendeleo Chap Chap Party
MP	Member of Parliament
NACADA	National Authority for the Campaign Against Alcohol and Drug Abuse
ODM	Orange Democratic Movement
ODPP	Office of the Director of Public Prosecutions
ORPP	Office of the Registrar of Political Parties
SACCO	Savings and Credit Cooperative Organization
UDA	United Democratic Alliance
WDM	Wiper Democratic Movement

## ANNEXURES

- Annexure 1: Adoption Schedule
- Annexure 2: Minutes
- Annexure 3: Report of the Selection Panel for the Recruitment of Nominees for Appointment as the Chairperson and two Members of the CAJ
- Annexure 4: Transmittal Letter
- Annexure 5: Message from H.E. the President appointing the nominees, Mr. Charles Orinda Dulo, Hon. Charles Njagua Kanyi and Ms. Dorothy Jemator Kimengech as Chairperson and Members of the CAJ
- Annexure 6: Advertisements notifying the public of the approval hearings
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- Annexure 9: Letters of clearance from DCI, HELB, EACC, KRA and ORPP
- Annexure 10: *Curriculum Vitae* of the nominees, Certificates and Testimonials



## FOREWORD

This report contains proceedings of the Departmental Committee on Justice and Legal Affairs during the approval hearings of persons nominated for appointment as the Chairperson and two (2) Members of the CAJ as forwarded by H.E. the President and communicated to the House by the Speaker of the National Assembly on Wednesday, 13<sup>th</sup> November 2024.

On 28<sup>th</sup> August 2024, vide Gazette Notice No. 10889 and in accordance with section 11(1) of the CAJ Act, Cap 7J, H.E. the President appointed a selection panel for the recruitment of nominees for appointment as the Chairperson and two (2) Members of the CAJ. Guided by section 11(3), (4) and (5) of the CAJ Act, Cap 7J, the selection panel invited applications from the public, conducted interviews and shortlisted at least three (3) and six (6) persons qualified for appointment as Chairperson and Members of the CAJ, respectively. 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) of the Constitution and section 11(6) of the CAJ Act, Cap 7J as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, Cap 7F, H.E. the President nominated **Mr. Charles Orinda Dulo, Hon. Charles Njagua Kanyi** and **Ms. Dorothy Jemator Kimengech** as Chairperson and two Members of the CAJ, respectively.

The Rt. Honourable Speaker vide Communication No. 009 of 2024 made on Wednesday 13<sup>th</sup> November 2024 read to the House the Message from H.E. the President and subsequently referred it and the curricula vitae of the nominees to the Committee for approval hearings in accordance with section 4 of the Public Appointments (Parliamentary Approval) Act, Cap 7F and Standing Order 42(3)(c) of the National Assembly Standing Orders. While referring the matter to the Committee, the Speaker directed that the Committee undertakes the vetting exercise and table its report on or before 26<sup>th</sup> November 2024 in accordance with section 8 of the Public Appointments (Parliamentary Approval) Act, Cap 7F. The Rt. Hon Speaker further directed the Clerk of the National Assembly to notify the nominees and the general public of the time and place of holding the approval hearings.

In fulfilment of the provisions of Article 118 of the Constitution, Section 6(3) and (4) of the Public Appointments (Parliamentary Approval) Act, Cap 7F and Standing Order 45(3) of the National Assembly Standing Orders, the Clerk of the National Assembly wrote to the nominees and placed an advertisement in the print media on Thursday 14<sup>th</sup> and Saturday 16<sup>th</sup> November 2024 informing the nominees and the general public that the Departmental Committee on Justice and Legal Affairs would conduct the approval hearings on Monday 25<sup>th</sup> November 2024 in the Committee Room 19, 3<sup>rd</sup> Floor, Bunge Tower, Parliament Buildings.

Additionally, and pursuant to section 6(9) of the Public Appointments (Parliamentary Approval) Act, Cap 7F, the Clerk of the National Assembly placed two advertisements in the print media on Thursday, 14<sup>th</sup> November 2024 inviting the public to submit memoranda by way of written statements on oath (affidavit) on the suitability or otherwise of each of the nominees. The advertisements indicated that the submissions were to be received by Thursday, 21<sup>st</sup> November 2024 at 5.00 pm. By close of the submission deadline, the Committee had not received any memoranda on the suitability or otherwise of the nominees for appointment.

The Clerk of the National Assembly also wrote to the DCI, HELB, EACC, ODPP, KRA, ORPP and CUE seeking references and background checks relating to the suitability of the nominees.

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The nominees appeared before the Committee on Monday, 25<sup>th</sup> November 2024 as scheduled and the Committee examined their 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 nominees, the constitutional and statutory requirements relating to the offices in question and suitability of the nominees for the appointments proposed, having regard to whether the nominees' abilities, experience and qualities meet the needs of the office in question. Furthermore, the Committee examined the nominees' 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, having held the approval hearings for the nominees regarding their suitability, observed that the nominees met the integrity threshold; demonstrated knowledge of topical, administrative and technical issues of the positions to which they had been nominated; and had the requisite abilities, academic qualifications and professional experience to be approved for appointment.

**The Committee therefore recommends that this House approves Mr. Charles Orinda Dulo, Hon. Charles Njagua Kanyi and Ms. Dorothy Jemator Kimengech for appointment as the Chairperson and two Members of the Commission on Administrative Justice, respectively.**

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 nominees for their cooperation during the parliamentary approval process. The Committee also appreciates the DCI, HELB, EACC, KRA and ORPP for providing references and background checks relating to the suitability of the nominee. Finally, I acknowledge and appreciate the Honourable Members of the Committee who sat for long hours and made useful contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to Article 124(4)(b) of the Constitution, section 8(1) of the Public Appointments (Parliamentary Approval) Act, Cap 7F and the provisions of Standing Order 199(6) of the National Assembly Standing Orders, it is now my duty and privilege to present to the House the Report of the Departmental Committee on Justice and Legal Affairs on the Approval Hearings of Nominees for Appointment as Chairperson and Members of the Commission on Administrative Justice.



**Hon. George Gitonga Mursugara, CBS, MP**

**Chairperson, Departmental Committee on Justice and Legal Affairs**

## CHAPTER ONE

### 1 PREFACE

#### 1.1 Establishment and Mandate of the Committee

1. The Departmental Committee on Justice and Legal Affairs is one of twenty departmental committees of the National Assembly established under Standing Order 216 of the National Assembly Standing Orders whose mandate pursuant to the **Standing Order 216 (5)** is as follows—

- i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
- iii. *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. *To study and review all legislation referred to it;*
- v. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
- viii. *To examine treaties, agreements and conventions;*
- ix. *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
- x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. *To examine any questions raised by Members on a matter within its mandate.*

#### 1.2 Mandate of the Committee

2. In accordance with the Second Schedule of the National Assembly Standing Orders, the Committee is mandated to consider matters regarding—

- a) The Judiciary;
- b) Tribunals;
- c) Access to Justice;
- d) Public prosecutions;
- e) Ethics, Integrity and Anti-corruption;
- f) Correctional services;
- g) Community service orders and witness protection;
- h) Constitutional Affairs;
- i) Sovereign immunity;
- j) Elections including referenda;
- k) Human rights;
- l) Political parties; and
- m) The State Law Office, including insolvency, law reform, public trusteeship, marriages and legal education.

3. In executing its mandate, the Committee oversees the following Ministries/Departments—
- a) State Department of Correctional Services;
  - b) State Law Office and Department of Justice;
  - c) The Judiciary;
  - d) Judicial Service Commission;
  - e) Office of the Director of Public Prosecutions;
  - f) Ethics and Anti-Corruption Commission;
  - g) Independent Electoral and Boundaries Commission;
  - h) Commission on Administrative Justice;
  - i) Office of the Registrar of Political Parties;
  - j) Witness Protection Agency;
  - k) Kenya National Commission on Human Rights;
  - l) Kenya Law Reform Commission; and
  - m) Council of Legal Education.

### 1.3 Committee Membership

4. The Departmental Committee on Justice and Legal Affairs was constituted by the House on 27<sup>th</sup> October 2022 and comprises the following Members:

#### **Chairperson**

Hon. Murugara George Gitonga, CBS, MP  
Tharaka Constituency

#### **UDA Party**

#### **Vice-Chairperson**

Hon. Mutuse Eckomas Mwengi, OGW, MP  
Kibwezi West Constituency

#### **MCCP Party**

#### **Members**

Hon. Maalim Farah, MP  
Dadaab Constituency

#### **WDM-Kenya**

Hon. Francis Kajwang' Tom Joseph, MP  
Ruaraka Constituency

#### **ODM Party**

Hon. Junet Mohamed, CBS, MP  
Suna East Constituency

#### **ODM Party**

Hon. (Dr.) Otiende Amollo, SC, MP  
Rarieda Constituency

#### **ODM Party**

Hon. Onyiego Silvanus Osoro, CBS, MP  
South Mugirango Constituency

#### **UDA Party**

Hon. Muchira Michael Mwangi, MP  
Ol Jorok Constituency

#### **UDA Party**

Hon. Makali John Okwisia, MP  
Kanduyi Constituency

#### **FORD-Kenya**

Hon. Muriu Wakili Edward, MP  
Gatanga Constituency

#### **UDA Party**

Hon. Maina Jane Njeri, MP  
Kirinyaga (CWR)

#### **UDA Party**

Hon. Gichohi Kaguchia John Philip, MP  
Mukurweini Constituency

#### **UDA Party**

Hon. Mogaka Stephen M, MP  
West Mugirango Constituency

#### **Jubilee Party**

Hon. Aden Daud, EBS, MP  
Wajir East Constituency

#### **Jubilee Party**

Hon. Siyad Amina Udgoon, MP  
Garissa Township (CWR)

#### **Jubilee Party**

#### **1.4 Committee Secretariat**

5. The Committee is well-resourced and facilitated by the following staff:

Mr. Ahmed Salim Abdalla  
**Clerk Assistant I / Head of Secretariat**

Mr. Ronald Walala  
**Senior Legal Counsel**

Mr. Abdikafar Abdi  
**Clerk Assistant III**

Ms. Jael Ayiego  
**Clerk Assistant III**

Mr. Isaac Nabiswa  
**Legal Counsel II**

Mr. Omar Abdirahim  
**Fiscal Analyst II**

Ms. Vivienne Ogega  
**Research Officer III**

Ms. Calvin Karungo  
**Media Relations Officer II**

Mr. John Nduaci  
**Serjeant-At-Arms**

Ms. Mary Kamande  
**Public Communication Officer III**

Mr. Meldrick K. Sakani  
**Audio Officer III**



## CHAPTER TWO

### 2 BACKGROUND INFORMATION

#### 2.1 Legal Framework

6. The Committee was guided by the following provisions of the Constitution and statutes in executing its mandate:

- 1) Article 10 of the constitution on the national values and principles of governance;
- 2) Chapter 6 of the Constitution on leadership and integrity;
- 3) Article 77 of the Constitution on restriction on activities of State Officers;
- 4) Article 78 of the Constitution on dual citizenship;
- 5) Article 118 of the Constitution on public participation;
- 6) Article 124(4) of the Constitution on consideration of persons for appointment to public office;
- 7) Article 232 of the Constitution on values and principles of public service;
- 8) Article 250(2) of the Constitution on the appointment process of the Chairperson and Members of a constitutional commission;
- 9) The Public Appointments (Parliamentary Approval) Act, Cap 7F;
- 10) The Commission on Administrative Justice, Cap 7J;
- 11) The Access to Information Act, Cap 7M;
- 12) The Leadership and Integrity Act, Cap 185C;
- 13) The Ethics and Anti-Corruption Commission Act, Cap 7H; and
- 14) The Public Officer Ethics Act, Cap 185B.

#### 2.2 Selection Process

7. In exercise of his powers in section 11(1) of the CAJ Act, Cap 7J, H.E. the President vide Gazette Notice No. 10889 dated 28<sup>th</sup> August 2024) appointed a selection panel for the recruitment of nominees for appointment as the Chairperson and two (2) Members of the CAJ in accordance with section 11(2) of the Act.

8. Guided by section 11(3), (4) and (5) of the CAJ Act, Cap 7J, the selection panel invited applications from the public, conducted interviews and shortlisted at least three and five persons qualified for appointment as Chairperson and Members of the CAJ, respectively. Consequently, and vide its report dated 28<sup>th</sup> October 2024 (*Annexure 3*), the selection panel forwarded the names of the selected candidates to the President for nomination.

9. To this end and in accordance with Article 250(2)(a) of the Constitution and section 11(6) of the CAJ Act, Cap 7J, H.E. the President nominated one person for appointment as the Chairperson and two persons for appointment as Members of the CAJ.

#### 2.3 Notification of Nominations

10. Sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, Cap 7F stipulate as follows—

***“3. Exercise of powers of appointment***

*An appointment under the Constitution or any other law for which the approval of Parliament is required shall not be made unless the appointment is approved or deemed to have been approved by Parliament in accordance with this Act.*

***5. Notification of nomination***

- (1) *An appointing authority shall, upon nominating a person for an appointment to which this Act applies, notify the relevant House of Parliament accordingly.*
- (2) *A notification under subsection (1) shall be —*
  - (a) *in writing;*
  - (b) *be lodged with the Clerk of the relevant House of Parliament.*
- (3) *A notification of appointment shall be accompanied by information concerning the nominee, having regard to the issues mentioned in section 7.*
- (4) *For purposes of this Act, a notification of nomination shall be deemed to be duly given on the day on which it complies fully with subsections (2) and (3)."*

11. Pursuant to section 11(6) of the CAJ Act, Cap 7J as read with the aforementioned provisions of law, H.E. the President, through the Head of Public Service, transmitted to the Speaker of the National Assembly the Presidential Nomination Certificate No. 8 of 2024, the Report of the Selection Panel and the nominee's curriculum vitae vide a letter referenced *EOP/CAB.26/4A VOL.V/(16)* dated 11<sup>th</sup> November 2024.

#### **2.4 Message from H.E. the President**

12. Vide letter referenced *EOP/CAB.26/4A VOL.V/(16)* dated 11<sup>th</sup> November 2024 (*Annexure 4*), H.E. the President communicated the nomination of Mr. Charles Orinda Dulo for appointment as the Chairperson and Hon. Charles Njagua Kanyi and Ms. Dorothy Jemator Kimengech for appointment as Members of the CAJ to the Speaker of the National Assembly for approval by the House pursuant to section 11(6) of the CAJ Act, Cap 7J.

#### **2.5 Notification to the House and Referral to the Departmental Committee on Justice and Legal Affairs**

13. Pursuant to the provisions of Standing Order 42(1) of the National Assembly Standing Orders, the Speaker, vide Communication No. 009 of 2024 dated Wednesday, 13<sup>th</sup> November 2024 (*Annexure 5*), read to the House the President's Message on nomination of persons for appointment as the Chairperson and two Members of the CAJ.

14. Pursuant to section 8(1) of the Public Appointments (Parliamentary Approval) Act, Cap 7F and Standing Order 42(3)(c) of the National Assembly Standing Orders, the names and curricula vitae of the nominees were referred to the Committee for approval hearings and reporting to the House within twenty-eight (28) days on or before 26<sup>th</sup> November 2024.

#### **2.6 Notification to the Public**

15. 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.

16. Section 6(4) of the Public Appointments (Parliamentary Approval) Act, Cap 7F further provides that the Clerk shall notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing.

17. Consequently, and in accordance with Article 118 of the Constitution, section 6(4) of the Public Appointments (Parliamentary Approval) Act, Cap 7F and Standing Order 45(3) of the National Assembly Standing Orders, the Clerk of the National Assembly placed an advertisement in the print media on Thursday 14<sup>th</sup> and Saturday 16<sup>th</sup> November 2024 informing the nominees and the general public that the Committee would conduct the

approval hearings on Monday 25<sup>th</sup> November 2024 (*Annexure 6*) notifying the public that the approval hearings of the nominees would be conducted on Monday 25<sup>th</sup> November 2024 in the Committee Room 19, 3<sup>rd</sup> Floor, Bunge Tower, Parliament Buildings.

18. Moreover, 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”.
19. 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 14<sup>th</sup> November 2024 inviting the public to submit memoranda by way of a 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, Cap 7F. The advertisement indicated that the submissions were to be received by Thursday 21<sup>st</sup> November 2024 at 5.00 pm, respectively. At the close of the submission deadlines, the Committee had not received any memoranda for or against the suitability of the nominee.

## **2.7 Notification to the Nominees**

20. The Clerk of the National Assembly vide letters dated 14<sup>th</sup> November 2024 referenced *NA/DDC/JLAC/VETT/2024 (001), (002) and (003) (Annexure 7)* invited the nominees for the approval hearings in accordance with section 6(3) of the Public Appointments (Parliamentary Approval) Act, Cap 7F.

## **2.8 Clearance and Compliance Requirements**

21. Vide letters dated 15<sup>th</sup> November 2024 and referenced *NA/DDC/CORR/2024/NOV (001), (002), (003), (004), (005), (006) and (007)*, the Clerk of the National Assembly wrote to the DCI, HELB, EACC, ODPP, KRA, ORPP and CUE (*Annexure 8*) requesting for reports with respect to the nominees on the following matters:
  - a) criminal records;
  - b) higher education loan repayment(s);
  - c) ethics and integrity;
  - d) active criminal court proceedings;
  - e) tax compliance;
  - f) political party affiliations; and
  - g) authenticity of academic certificates.
22. The following institutions wrote back to the National Assembly clearing the nominees: DCI vide letter *Ref No. DCI/CRO/SEC/6/7/2/A/VOL.XV/86* dated 20<sup>th</sup> November 2024; HELB vide letter *Ref No. HELB/RR/112009/V/339* dated 18<sup>th</sup> November 2024; EACC vide letter *Ref No. EACC.7/10/5 VOL XXIX (114)* dated 20<sup>th</sup> November 2024; KRA vide letter *Ref No. KRA/5/1002/5(11659)* dated 20<sup>th</sup> November 2024 and ORPP vide letter *Ref No. RPP/ORG/34 VOL VIII (37)* dated 18<sup>th</sup> November 2024. (*Annexure 9*).
23. As at the time of approval hearing, the ODPP and CUE had not responded.

## **2.9 Criteria for Consideration during the Approval Hearings**

24. Section 6(7) and (8) of the Public Appointments (Parliamentary Approval) Act, 2011 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”*

25. 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.*

26. While conducting the approval hearings, the Committee was guided by the provisions of section 6(7) and (8) and section 7 of the Public Appointments (Parliamentary Approval) Act, Cap 7F.

### **2.9.1 Procedure for Nomination**

27. Article 250(2) of the Constitution confers upon the President the power to appoint the chairperson and members of constitutional commissions with the approval of the National Assembly.

28. Section 11(1) of the CAJ Act, Cap 7J bestows upon the President the power to appoint a selection panel to undertake the recruitment of nominees for appointment as the Chairperson and two Members of the CAJ. Further, section 11(4) and (5) of the Act empowers the selection panel to invite applications from the public, conduct interviews and shortlist at least three and five persons for appointment as Chairperson and Members of the CAJ, respectively, from whom the President nominates for appointment.

29. Section 11(6) of the CAJ Act, Cap 7J as read section 5(1) of the Public Appointments (Parliamentary Approval) Act, Cap 7F further require the appointing authority, upon nominating any person for appointment, to notify the relevant House of Parliament.

30. Section 11(13) of the CAJ Act, Cap 7J provides for the shortlisting, nomination and appointment process to pay due regard to the principle of gender equity, and regional and ethnic balance.

31. To this end, the President notified the National Assembly of the nomination of persons for appointment as the Chairperson and two Members of the CAJ.

### **2.9.2 Constitutional and Statutory Requirements**

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

*i. National Values and Principles of Governance*

33. Article 10 of the Constitution provides for the national values and principles of governance which State officers must 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.

*ii. Conduct of State Officers*

34. 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. This 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.
35. 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.
36. 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.
37. 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.
38. The Public Officer Ethics Act, Cap 185B outlines the obligations of a public officer as: professionalism; carrying out duties in accordance with the law; prohibition from unjust enrichment; avoiding conflict of interest; not using the office as an avenue for soliciting or collecting *harambees*; not acting for foreigners; care of property; political neutrality, not practising nepotism or favouritism; giving impartial advice; conducting private affairs in a way that maintains public confidence; not engaging in sexual harassment; and submission of a declaration of income, assets and liabilities once every two years.

*iii. Qualifications for Appointment as Chairperson and Members of the CAJ*

39. Article 250(2)(a) of the Constitution contemplates that the CAJ Act, Cap 7J shall prescribe the manner in which its Chairperson and Members shall be appointed.
40. Section 10(1) of the CAJ Act, Cap 7J provides for the qualifications of Chairperson of the CAJ as follows:  
“A person shall be qualified for appointment as the Chairperson of the Commission if the person—

- (a) has knowledge and at least fifteen years' experience in matters relating to human rights, law, conflict resolution, arbitration or administrative justice;*
- (b) holds a degree from a university recognized in Kenya; and*
- (c) meets the requirements of Chapter Six of the Constitution."*

41. Section 10(2) of the Commission on Administrative Act, Cap 7J provides for the qualification of a members of the Commission as follows:

*"A person shall be qualified for appointment as a member of the Commission if the person—*

- (a) holds a degree from a university recognized in Kenya;*
- (b) has knowledge and at least ten years' experience in matters relating to any of the following fields—*
  - (i) law;*
  - (ii) public administration;*
  - (iii) economics or finance;*
  - (iv) gender and social development;*
  - (v) human rights;*
  - (vi) conflict resolution;*
  - (vii) management; or*
  - (viii) social sciences;*
- (c) has had a distinguished career in their respective fields; and*
- (d) meets the requirements of Chapter Six of the Constitution."*

#### ***iv. Leadership and Integrity***

42. The Committee, in determining the suitability of the nominees, 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.

43. 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."*



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

44. The suitability of the nominees was assessed after scrutiny of the nominees' academic credentials, professional training and experience, personal integrity, background and qualities as well as their performance during the approval hearings conducted on Monday 25<sup>th</sup> November 2024.

## CHAPTER THREE

### 3 APPROVAL HEARINGS OF NOMINEES

45. The Committee held a sitting on Monday, 25<sup>th</sup> November 2024 to deliberate on the approval hearings and noted the following—

- 1) The nominees 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) Article 27(8) of the Constitution as read with section 11(13) of the CAJ Act, Cap 7J provide for the principle of gender equity, that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. Out of the three nominees, one was women and two (2) men thereby in conformity with this provision.
- 3) The shortlisting and nomination process adhered to the requirement to take into account regional and ethnic balance as provided for in section 11(13) of the CAJ Act, Cap 7J.
- 4) The Committee would therefore proceed with the approval hearings on Monday 25<sup>th</sup> November 2024.
- 5) The Committee would examine the nominees against the criteria set out in section 7 of the Public Appointments (Parliamentary Approval) Act, Cap 7F.

#### 3.1 Mr. Charles Orinda Dulo – Nominee to the Office of Chairperson of CAJ

46. Mr. Charles Orinda Dulo appeared before the Committee on Monday 25<sup>th</sup> November 2024 at 8.30 am and was vetted under oath to examine his suitability or otherwise. The Committee noted the following:

##### *Date and place of Birth*

47. The nominee is a male Kenyan citizen of Identification Card Number 9497993 and does not hold any other citizenship. He was born on 18<sup>th</sup> May 1968 in Bungoma County.

##### *Academic and Professional Qualifications*

48. The nominee is an Advocate of the High Court of Kenya having been admitted to the bar on 3<sup>rd</sup> June 2004 and holds a Master of Laws from the University of Nairobi, a Postgraduate Diploma in Law from the Kenya School of Law and a Bachelor of Laws from the University of Nairobi.

##### *Work and Professional Experience*

49. The nominee has worked in the following capacities, as a –

- a) Chancellor in the Diocese of Maseno East from June 2016 to date;
- b) Senior Lecturer at Daystar University, Nairobi from January 2010 to 4<sup>th</sup> March 2024;
- c) Managing Partner, Dulo & Company Advocates from March 2007 to date;
- d) part-time lecturer, institute of Tropical Medicine (INTROMID) KEMRI, Jomo Kenyatta University of Agriculture and Technology;
- e) Managing Partner, Kaluma & Associates Advocates from 2003 to 2006;
- f) Senior Research Fellow, Le'twal International from November 2002 to September 2006; and
- g) Member, interim Management Committee (IMC) Agriculture Fisheries and Food Authority (AFFA).

50. The nominee also undertook the following Consultancies and Part-time Assignments, as a—

- a) Lead Legal Consultant at GIZ Somalia on the Public Finance Management Act, 2019 from February 2021 to March 2021;
- b) Lead Consultant at AFROPAC SUDAFRIKA Good Financial Governance (Africa Organization of Public Accounts Committee) from September 2020 to March 2021;
- c) Consultant, ECOHEALTH INTERNATIONAL in South Africa from September to October 2020;
- d) Consultant, East, Central and Southern Health Community from January to June 2020;
- e) Team Leader at Daystar University School of Law from January 2014 to July 2018;
- f) consultant at Regional Network for Equity in Health (EQUINET) and East and Southern Africa Health Community (ECSA-HC) from January 2013 to December 2014;
- g) Member at EQUINET team of consultants implementing the USAID funded Human Resources Alliance for Africa (HRAA) Project from June 2011 to September 2015; and
- h) Consultant at HENNET on comprehensive National Health Policy Framework (2011-2030) from March to October 2011.

***Income and Net Worth***

51. The nominee estimated his net worth to be Ksh. 384 million comprising immovable property, profit income from business, and interest income from money market fund. He indicated his current sources of income to include salary from employment, income from law firm, income from businesses and interest from money market fund.

***Professional Associations and Memberships***

52. The nominee indicated that he is a member of the Commonwealth Lawyers Association, East African Law Society (EALS), and the Law Society of Kenya (LSK).

53. The nominee also submitted that he is a member of EQUINET (Regional Network on Equity in Health in East and Southern Africa).

***Published Writings***

54. The nominee indicated that he has the following publications:

- a) LLM thesis themed ‘Telecommunication Regulation in Kenya’. A case for generic reforms due to convergence in ICT (Information Communication Technology);
- b) Mapping the constitutional provisions on the right to health and the mechanisms for implementation in Kenya. A Case Study Report. December 2018;
- c) Limits to diplomacy: Learning from the Implementation of the WHO Code of Practice on the International Recruitment of Health Personnel in East and Southern Africa. EQUINET DISCUSSION PAPER SERIES. EQUINET: Harare;
- d) The Engagement of East and Southern Africa Countries on the WHO Code of Practice on the International Recruitment of Health Personnel and its Implementation. EQUINET DISCUSSION PAPER SERIES 103. EQUINET: Harare;

- e) Literature Review on Code of Practice on International Recruitment of Health Professionals in Global Health Diplomacy. EQUINET DISCUSSION PAPER SERIES 07. EQUINET: Harare;
- f) Managing the Migration of Human Resources for Health in Kenya: The impact on Health Service Delivery. EQUINET DISCUSSION PAPER SERIES 55. EQUINET, IOM, Kenya Technical Working Group for Managing Migration of Health Workers, EAC and ECSA, HC. EQUINET: Harare;
- g) LLB Dissertation: Computer Crimes: A Case for Legislation in Kenya.

#### ***Potential Conflicts of Interest***

55. 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 the Chairperson of the CAJ.

#### ***Pro-bono/Charity Work***

56. The nominee is involved in charity work through pro bono legal services for the Diocese of Maseno East, Diocese of Kapenguria, and Diocese of Southern Nyanza.

#### ***Integrity***

57. The nominee demonstrated integrity. He has not been charged in a court of law or mentioned in any investigatory reports of Parliament or any Commission of Inquiry in the last three (3) years. Further, he has never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

### **3.1.1 General and Sector-Specific Questions to the Nominee**

58. The Committee posed several questions to the nominee on his suitability for appointment as Chairperson of the CAJ. The nominee responded as follows:

#### ***On fifteen years' experience in human rights***

59. The nominee stated that he started teaching Law, Ethics and Human Rights in Jomo Kenyatta University of Agriculture and Technology in 2005. He also added that, as an advocate of the High court of Kenya, he has handled land disputes and constitutional matters among others. It was his submission that these constitute human rights issues and he is competent to deal with matters relating to Office of the Ombudsman, if approved.

#### ***On restoring public confidence in the Office of the Ombudsman***

60. The nominee noted that there is limited access to the CAJ as there are only eight regional offices across the country. In his view, there is need to devolve the CAJ to all counties. He added that if approved, he would set up container offices in all the 47 counties with two officers at an estimated budget of Ksh. 50 million.
61. The nominee also indicated that he would champion public advocacy and awareness of the CAJ and its mandate through town hall meetings with the locals.

#### ***On his publications being predominantly on health issues***

62. The nominee stated that most of his publications were done between 2007 and 2010 during his time as a consultant in the health sector. He added that between 2010 and 2018, he was employed at Daystar University to set up the School of Law. Noting the complexities of setting up a School of law, most of his time was dedicated to that course and it was therefore difficult to simultaneously prepare publications.

63. In his view, health issues also amount to human rights hence make him competent for the role of Chairperson of the CAJ.

***On his current roles as a Managing Partner at Dulo and Co. Advocates and Chancellor of the Diocese of Maseno East***

64. The nominee submitted that he would resign from his current roles, if approved. It was his submission that the position of the Chairperson of the CAJ would require his full attention. He added he would let the staff in the law firm handle his pending matters. He also stated that his firm would not actively engage in government litigation to avoid any conflict of interest.

***On ensuring the effectiveness of CAJ in overseeing the public sector***

65. The nominee informed the Committee that he would use social media platforms to sensitize the public of the CAJ's mandate and its decisions. Furthermore, he stated that he would leverage technology to link the CAJ interface with other automated government systems for effective tracking and monitoring of service delivery.

***On whether the CAJ has jurisdiction over MPs and judges***

66. The nominee submitted that the Constitution provides for the Parliamentary Service Commission and the Judicial Service Commission to handle matters relating to MPs and judges, respectively. He would be guided by the law in the discharge of his duties as Chairperson of the CAJ without encroaching into the mandate of other constitutional commissions, if approved.

***On potential conflict of interest relating to government procurement and his business interests***

67. The nominee indicated that he would resign from the directorship of his companies and where any apparent conflict of interest would arise, he would declare it and recuse himself from the proceedings. He added that he would ensure that the CAJ conducts itself in a transparent manner and within the parameters of the law.

***On how he would deal with budget constraints, if approved***

68. Noting his experience in setting up a School of Law at Daystar University with limited resources, the nominee submitted that he has the requisite financial know-how in prudent use of resources. In addition, he stated that he would establish a robust system of monitoring and evaluation in the use of resources ensuring cost effective expenditure such as the construction of container offices. It was his submission that he would leverage strategic partnerships and support from donors in the justice sector to fund some of the CAJ's operations.

***On deferred income of legal fees to be paid in kind***

69. The nominee clarified that a community in the Coastal region had sought his legal services to register community land. He added that due to their inability to pay the legal fees in cash, they had offered to settle it in kind through 10,100 acres of land valued at Ksh. 303,000,000. He noted that he included that information in the questionnaire as the matter is still ongoing and it was his belief that he is rightfully entitled to payment for the legal services he was offering. Noting that the value of the parcel of land he would receive was below ten percent of the estimated legal fees, he informed the Committee that such payment would not offend

the Advocates Remuneration Order (ARO). He also stated that he would pay all his tax obligations arising out of the payment.

***On CAJ Desks at Huduma Centre***

70. The nominee confirmed the presence of CAJ desks at Huduma Centres. He, however, noted that there was need for separate CAJ offices to allow for privacy and confidentiality in lodging complaints. It was his view, that the CAJ Desks at Huduma Centre do not encourage reporting by the public as they do not promote confidentiality.

***On how he would leverage his background in ICT in investigation and liaising with the Office of the Data Protection Commissioner***

71. The nominee informed the Committee that he would leverage his background in Law, Science and Technology in the investigation, reporting and complaints handling functions of the CAJ. He would also use ICT to promote access to the CAJ services through the use of mobile phone applications.

72. Relating to coordination with the Office of the Data Protection Commissioner, the nominee noted that section 6 of the Access to Information Act, Cap 7M limits the right of access to information and as such he would adhere to the provisions of the law on disclosure of information whilst ensuring data protection.

***On unenforceability of the CAJ decisions as held by the Supreme Court***

73. The nominee was of the view that there is need to amend the CAJ Act, Cap 7J to give the Commission powers, similar to those of the High Court, to make binding decisions/recommendations.

**3.1.2 Committee Observations on the Suitability of the Nominee**

74. The Committee having considered the nominee's filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, Cap 7F and section 10 of the CAJ Act, Cap 7J, curriculum vitae and having heard his oral submission during the approval hearing, made the following observations on his suitability for appointment as Chairperson of the CAJ—

***Constitutional and Statutory Requirements***

- 1) 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.
- 2) The nominee holds a Bachelor of Laws from the University of Nairobi thereby meets the requirements of section 10(1)(b) of the CAJ Act, Cap. 7J.
- 3) The nominee has the requisite knowledge and over fifteen years' experience in matters relating to the law as is required of section 10(1)(a) of the CAJ Act, Cap.7J.
- 4) The nominee demonstrated an aspiration for integrity in public service and thus meets the requirements of Chapter Six of the Constitution on leadership and integrity.
- 5) The nominee, having been cleared by DCI, HELB, EACC, KRA and ORPP with regard to criminal records, higher education loan repayments, ethics and integrity, tax compliance and political party affiliations, has met the statutory requirements for appointment as the Chairperson of the CAJ.
- 6) The Clerk of the National Assembly invited members of the public to submit memoranda on the nominee pursuant to section 6(9) of the Public Appointments



(Parliamentary Approval) Act, Cap. 7F. The Committee did not receive any memoranda in support or contesting the suitability of the nominee.

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

- 7) The nominee possesses the relevant experience for the position of the Chairperson of the CAJ. The nominee has been an Advocate of the High Court with over twenty years' experience. A background in law is critical for any person discharging the role of Chairperson of the CAJ.
- 8) The nominee demonstrated a detailed understanding of the challenges affecting the Office of the Ombudsman. He highlighted some of the challenges to include limited knowledge and accessibility of the CAJ and its services. He was clear that he would leverage his background in ICT to ensure effective public awareness and improve accessibility of the CAJ.
- 9) The nominee appreciated the current financial constraints facing the country and exhibited good financial management skills vital to the position of Chairperson of the CAJ. His experience in setting up the School of Law at Daystar University with limited resources is an indication of his ability to ensure prudent use of public resources.

**3.2 Hon. Charles Njagua Kanyi – Nominee to the Office of Member of CAJ**

75. Hon. Charles Njagua Kanyi appeared before the Committee on Monday 25<sup>th</sup> November 2024 at 9.51 am and was vetted under oath to examine his suitability or otherwise. The Committee noted the following:

***Date and place of Birth***

76. The nominee is a male Kenyan citizen of Identification Card Number 22851722 and does not hold any other citizenship. He was born on 13<sup>th</sup> October 1981 in Nairobi County.

***Academic and Professional Qualifications***

77. The nominee holds a Bachelor of Peace Bodies and Conflict Resolution from Mt. Kenya University, Nairobi from 2015 to 2018 and a Kenya Certificate of Secondary Examination from Senior Chief Koinange Secondary School from 1997 to 2001.

***Work and Professional Experience***

78. The nominee has worked in the following capacities, as a—
- a) Member of Parliament for Starehe Constituency from 2017 to 2022;
  - b) Founder/Director in Jaguar Youth Empowerment Foundation from 2012 to date;
  - c) Director at NACADA from 2015 to 2017;
  - d) Patron at Main Switch Production from 2012 to date; and
  - e) Performing Artiste from 1999 to date.

***Income and Net Worth***

79. The nominee estimated his net worth to be Ksh. 283 million comprising music royalties, immovable property and motor vehicles. He indicated his current sources of income as music royalties and rental income.

***Professional Associations and Memberships***

80. The nominee indicated that he is a member of the United Democratic Alliance since August 2022 and has previously been a member of the Jubilee Party between August 2017 to August 2022.

***Potential Conflicts of Interest***

81. 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 Member of the CAJ.

***Pro-bono/Charity Work***

82. The nominee is a Founder and Director at Jaguar Youth Empowerment Foundation for the last fourteen years (14years).

***Integrity***

83. The nominee demonstrated integrity. He has not been charged in a court of law or mentioned in any investigatory reports of Parliament or any Commission of Inquiry in the last three (3) years. Further, he has never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

**3.2.1 General and Sector-Specific Questions to the Nominee**

84. The Committee posed several questions to the nominee on his suitability for appointment as a Member of the CAJ. The nominee responded as follows:

***On his suitability for the position in comparison to that of CAS***

85. The nominee submitted that he believed he is young, energetic and qualified to serve as Member of the CAJ having gained insightful knowledge and experience on corporate governance during his term as Director at the NACADA.

***On his vigour while serving in the Departmental Committee on Labour and Social Welfare during his term as MP for Starehe Constituency***

86. The nominee indicated that he is more energetic and dedicated to serving Kenyans with the same vigour as he did during his term as MP for Starehe Constituency, if approved.

***On whether he meets the qualifications for appointment as Member of the CAJ***

87. The nominee indicated that he has the requisite qualifications for appointment as Member of the CAJ having vast experience in corporate governance, public administration, gender and social development and conflict resolution from his time as a Director and in the Finance Committee at NACADA and as a Member of the Departmental Committee on Labour and Social Welfare during his term as a MP. It was his submission that he is a hard worker, quick learner and would uphold the independence of the CAJ.

***On potential conflict of interest having previously served in the public sector***

88. The nominee informed the Committee that despite having been a MP he would uphold the independence of the CAJ. He added that he is a public defender as demonstrated by his previous songs condemning maladministration.

***On deferred income from his business in music and production***

89. The nominee noted that he was willing to dedicate all his efforts and time to the CAJ noting that there are new artistes who can take up the music industry. He added that he would resign from his music and production business to be managed by the staff already there.

***On his close association with the Presidency versus his mandate, if approved***

90. The nominee indicated that he would remain objective in undertaking his mandate as Member of the CAJ. It was his submission that despite multiple arrests under the previous administration in which he was a member of the ruling party, he consistently defended what he believed to be right.

**3.2.2 Committee Observations on the Suitability of the Nominee**

91. The Committee having considered the nominee's filled questionnaire pursuant to Section 6(8) of the Public Appointments (Parliamentary Approval) Act, Cap 7F and section 10 of the CAJ Act, Cap 7J, curriculum vitae and having heard his oral submission during the approval hearing, made the following observations on his suitability for appointment as a Member of the CAJ—

***Constitutional and Statutory Requirements***

- 1) The nominee is a Kenyan citizen and does not hold any other citizenship in accordance with Article 78(1) of the Constitution.
- 2) The nominee holds a Bachelor of Arts in Peace Studies and Conflict Resolution from Mt. Kenya University thereby meets the requirements of section 10(2)(a) of the CAJ Act, Cap. 7J.
- 3) Section 10(2)(b) of the CAJ Act, Cap. 7J requires a person nominated for appointment as a member of the Commission to have knowledge and at least ten years' experience in matters relating to any of eight (8) listed fields.
  - (a) The knowledge and experience required under the section is cumulative and is not tied to the date of the award of the academic degree required under section 10(2)(a);
  - (b) The nominee possesses the requisite knowledge and more than ten years of cumulative experience by having engaged in—
    - (i) public events management since 1999 when he started his music career;
    - (ii) public administration and human rights work for the two and a half years that he served as a Director at NACADA and its various subcommittees; and
    - (iii) law-making, gender affairs and conflict resolution during the five years that he served as a Member of Parliament and as a member of the Labour and Social Welfare Committee and the Energy Committee in the 12<sup>th</sup> Parliament.
- 4) The nominee demonstrated his commitment to integrity in public service and thus meets the requirements of Chapter Six of the Constitution on leadership and integrity.
- 5) The nominee, having been cleared by DCI, HELB, EACC, KRA and ORPP with regard to criminal records, higher education loan repayments, ethics and integrity, tax compliance and political party affiliations, has met the statutory requirements for appointment as the Chairperson of the CAJ.

- 6) The Clerk of the National Assembly invited members of the public to submit memoranda on the nominee pursuant to section 6(9) of the Public Appointments (Parliamentary Approval) Act, Cap. 7F. The Committee did not receive any memoranda in support or contesting the suitability of the nominee.

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

- 1) The nominee demonstrated an understanding of the role of a Member of the CAJ. He indicated his deep commitment to upholding the independence of the Office of the Ombudsman.
- 2) The nominee exhibited a deep understanding of public administration, conflict resolution and social development. These are vital attributes for a Member of the CAJ seeking to discharge its roles such as complaints handling.
- 3) The nominee displayed a great sense of collaborative leadership, an attribute which is vital for a person discharging the role of a Member of the CAJ.

**3.3 Ms. Dorothy Jemator Kimengech – Nominee to the Office of Member of CAJ**

92. Ms. Dorothy Jemator Kimengech appeared before the Committee on Monday 25<sup>th</sup> November 2024 at 11.10 am and was vetted under oath to examine her suitability or otherwise. The Committee noted the following:

***Date and place of Birth***

93. The nominee is a female Kenyan citizen of Identification Card Number 22874157 and does not hold any other citizenship. She was born in 1983 at Nairobi County.

***Academic and Professional Qualifications***

94. The nominee is an Advocate of the High Court of Kenya having been admitted to the bar on 4<sup>th</sup> March 2010 and is currently pursuing a Master of Laws from the University of East London from December 2023 to date. She holds a Postgraduate Diploma in Law from the Kenya School of Law from January 2008 to December 2008, a Bachelor of Laws from Moi University from August 2003 to October 2007 and Kenya Certificate of Secondary Education from Moi Girls High School, Eldoret from 1998 to 2001.

***Work and Professional Experience***

95. The nominee has worked in the following capacities, as a—
  - a) Managing Partner, Chepkuto & Co. Advocates, Nairobi from January 2015 to date;
  - b) Member, Energy and Petroleum Tribunal from 2020 to 2023;
  - c) Part-time Technical Expert and Convenor, Policy Issues, BBI in 2020;
  - d) Member, HIV & AIDS Tribunal from 2019 to 2022;
  - e) Member, Energy Tribunal from 2015 to 2018;
  - f) Member, FKF Disciplinary Committee from 2019 to 2021;
  - g) Associate Partner at Mereka & Co. Advocates, Nairobi from June 2010 to October 2015;
  - h) Legal intern, Law Society of Kenya from September 2009 to April 2010; and
  - i) Pupil at Akide & Co. Advocates, Nairobi from January 2009 to September 2009.

***Honours and Awards***

96. The nominee received the following awards and honours—

- a) Appreciation Award of service from the Law Society of Kenya for serving as a Council Member 2016-2018; and
- b) Appreciation Award of service from the Pharmaceutical Society of Kenya for serving as the Chairperson Elections Board, 2021.

#### ***Income and Net Worth***

- 97. The nominee estimated her net worth to be Ksh. 150,629,000 comprising immovable property, motor vehicles, livestock, SACCO shares and interest income from MMFs. She indicated her current sources of income to include income from the law firm, livestock business and farming.
- 98. The nominee also indicated her deferred income to constitute unpaid legal fees from clients, horticultural farming, livestock business, money market funds, government bonds and savings.

#### ***Professional Associations and Memberships***

- 99. The nominee is a member of the LSK, EALS, Commonwealth Lawyers Association, Institute of Certified Secretaries and FIDA-K.
- 100. The nominee indicated that she has previously served as a dispute resolution member of TNA in 2017 and had offered dispute resolution legal services to the Jubilee Party in 2017 to 2022. She confirmed that she is not a member of any political party.

#### ***Published Writings***

- 101. The nominee has published the following writings—
  - a) Ruling in EPT No. E018 OF 2022;
  - b) Ruling in EPT No. E023 OF 2022;
  - c) Ruling in HAT CASE NO. 32 OF 2019;
  - d) Submissions in Election Petition Appeal Number 24 of 2018. Julius Malombe v IEBC and Others; and
  - e) Chapter on Policy Issues, Building Bridges Initiative.

#### ***Potential Conflicts of Interest***

- 102. The nominee stated that she does not have any family members or other persons, parties, categories of litigation or financial arrangements that are likely to present conflict of interest with the Commission on Administrative Justice.

#### ***Pro-bono/Charity Work***

- 103. The nominee is involved in the following charity work—
  - a) **Running Water International:** She is a director at Running Water International which is a duly registered non-governmental organization located at Chergeti Farm, Rongai Constituency, Nakuru County. She supports women and young farmers on the best farming practices in an environment that has limited water resources. She also supports needy students and educates the community on matters development. She has spent over Ksh. 500,000 in Running Water International and dedicates one day a month supporting Running Water International.
  - b) **Oak Welfare:** She is a co-founder of a group of over 847 lawyers drawn from the Rift Valley. The group supports needy students at the Kenya School of Law and other

tertiary institutions. She also offers pro bono services to the various communities. She spent over Ksh.100,000 in the welfare.

- c) **Moigee01 Foundation:** A group of twenty-six ladies from Moi Girls High School, Eldoret. They started a foundation to support needy girls in the school by paying school fees and other related expenses for one needy student from Form One to Four. She has spent over Ksh. 50,000 since the organization started.

### ***Integrity***

104. The nominee demonstrated integrity. She has not been charged in a court of law or mentioned in any investigatory reports of Parliament or any Commission of Inquiry in the last three (3) years. Further, she has never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

### **3.3.1 General and Sector-Specific Questions to the Nominee**

105. The Committee posed several questions to the nominee on her suitability for appointment as a Member of the CAJ. The nominee responded as follows:

#### ***On whether she has been previously nominated for a public appointment and vetting before Parliament***

106. The nominee confirmed that she has never been nominated for appointment to any position requiring approval from Parliament and that this was the first.

#### ***On serving in several tribunals***

107. The nominee submitted that she had served as a Council Member in LSK from 2016 to 2018 where she worked with various council members and members of the Judiciary. She clarified that tribunals have since transitioned to the Judiciary and do not form part of the Executive, hence was not in any way related to her political affiliation then.
108. Furthermore, she attributed her appointments to the several tribunals to her integrity, diligence, competence and courage to apply for the positions. It was her submission that she was appointed to the tribunals following a competitive recruitment process in which she was successful.

#### ***On her Master's Degree qualification***

109. The nominee confirmed that she was still pursuing a Master of Laws to build her academic knowledge as indicated in her CV. She added that she had just submitted her thesis and was due for graduation in 2025.

#### ***On her publications***

110. The nominee stated that she had indicated the rulings and submissions she had prepared during her time as members of the tribunals as her published writings to demonstrate her track record for the past nine years.

#### ***On revitalizing the Office of the Ombudsman***

111. The nominee stated that she would leverage the education and training received from the Judiciary, while serving at the respective tribunals, to understand the complexities of dealing with complaints and therefore improve the operations of the CAJ.



112. Having served as an active legal practitioner in procurement matters relating to maladministration, unfairness, delays and abuse of power, it was her submission that she had the requisite experience to serve as a Member of the CAJ. She also indicated that her experience as a LSK Council Member enabled her acquire the technical know-how in corporate governance. It was her submission that she would apply her vast experience to revitalize the CAJ.

***On her independence and objectivity considering her previous political affiliations***

113. The nominee indicated that she does not belong to any political party and had shed off all her political affiliations. She added that she understood the role of a Member of the CAJ and that she was committed to serving Kenyans in accordance with Article 249 of the Constitution.

***On ensuring accessibility of the CAJ services***

114. The nominee acknowledged lack of proper access as one the challenges of the Ombudsman and would be open to taking up public interest litigation matters to assist Kenyans advance their human rights. She added that, if approved, she would champion public sensitization engagements including public inquiries at the grassroots level, informative discussions via the media including vernacular TV and radio stations, stakeholder gatherings with various public entities and awareness forums in learning and religious institutions.

**3.3.2 Committee Observations on the Suitability of the Nominee**

115. The Committee having considered the nominee's filled questionnaire pursuant to Section 6(8) of the Public Appointments (Parliamentary Approval) Act, Cap 7F and section 10 of the CAJ Act, Cap 7J, curriculum vitae and having heard her oral submission during the approval hearing, made the following observations on her suitability for appointment as a Member of the CAJ –

***Constitutional and Statutory Requirements***

- 1) The nominee is a Kenyan citizen and does not hold any other citizenship as required under Article 78(1) of the Constitution.
- 2) The nominee holds a Bachelor of Laws from Moi University thereby meets the requirements of section 10(2)(a) of the CAJ Act, Cap. 7J.
- 3) The nominee has the requisite knowledge and over ten years' experience in matters relating to the law as is required of section 10(2)(b) of the CAJ Act, Cap. 7J.
- 4) The nominee demonstrated an aspiration for integrity in public service and thus meets the requirements of Chapter Six of the Constitution on leadership and integrity.
- 5) The nominee, having been cleared by DCI, HELB, EACC, KRA and ORPP with regard to criminal records, higher education loan repayments, ethics and integrity, tax compliance and political party affiliations, has met the statutory requirements for appointment as the Chairperson of the CAJ.
- 6) The Clerk of the National Assembly invited members of the public to submit memoranda on the nominee pursuant to section 6(9) of the Public Appointments (Parliamentary Approval) Act, Cap. 7F. The Committee did not receive any memoranda in support or contesting the suitability of the nominee.

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

- 7) The nominee demonstrated a clear understanding of the issues affecting the Office of the Ombudsman. This places her in a suitable position to handle matters relating to the administration of justice, access to information and awareness creation of the CAJ and its mandate.
- 8) The nominee exhibited zeal and passion for the administration of justice. She identified public inquiries at the grassroot level, informative discussions via the media including vernacular TV and radio stations as possible solutions to ensuring effective public sensitization of the Office of the Ombudsman.
- 9) The nominee has vast experience in matters relating to law, public administration and human rights having served as an Advocate of the High court in different capacities in the public sector.

## CHAPTER FOUR

### 4 COMMITTEE OBSERVATIONS

116. Pursuant to sections 6(7) and (8) and 7 of the Public Appointments (Parliamentary Approval) Act, Cap 7F, the Committee observed that—

#### *(a) Procedure for Nomination*

- 1) The nominees were selected in accordance with the provisions of Article 250(2) of the Constitution as read with section 11 of the CAJ Act, Cap. 7J.
- 2) While Section 11(5) of the CAJ Act, Cap. 7J provides as follows, the Selection Panel submitted a list of three persons qualified for appointment as Chairperson and six persons qualified for appointment as Members of the Commission –

*“The selection panel shall, within seven days of receipt of applications under subsection (4), consider the applications, interview and shortlist at least three persons qualified for appointment as Chairperson and five persons qualified for appointment as members of the Commission, and shall forward the names of the selected candidates to the President for nomination.”*

#### *(b) Constitutional and Statutory Requirements*

- 3) The nominees have satisfied all the following constitutional and statutory requirements including those on citizenship; leadership, ethics and integrity; tax compliance; and higher education loan repayments.  
the following nominees met the integrity threshold, demonstrated knowledge of topical, administrative and technical issues of the positions to which they had been nominated, and had the requisite abilities, academic qualification and professional experience to be approved for appointment

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

- 4) The nominees have demonstrated deep understanding of the affairs of the Office of the Ombudsman and their respective roles of Chairperson and two Members of the CAJ. They possess the requisite abilities, academic qualifications and professional experience required for persons nominated to serve as the Chairperson and Members of the CAJ.

## CHAPTER FIVE

### 5 COMMITTEE RECOMMENDATIONS

117. Having considered the approval hearings for the nominees pursuant to Article 250(2) of the Constitution, sections 10 and 11 of the CAJ Act, Cap 7J and sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, Cap 7H, the Committee recommends that the National Assembly—

- (a) **approves** the appointment of **Mr. Charles Orinda Dulo** to the Office of **Chairperson of the Commission on Administrative Justice**;
- (b) **approves** the appointment of **Hon. Charles Njagua Kanyi** to the position of **Member of the Commission on Administrative Justice**; and
- (c) **approves** the appointment of **Ms. Dorothy Jemator Kimengech** to the position of **Member of the Commission on Administrative Justice**.

Signed.....  Date 26.11.2024  
HON. GEORGE GITONGA MURUGARA, CBS, MP  
CHAIRPERSON  
DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

