



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIRST SESSION – 2022


DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

.....

REPORT ON THE APPROVAL HEARINGS OF:

1. MR. PHILLIP KELLO HARSAMA, NOMINEE FOR APPOINTMENT AS PRINCIPAL SECRETARY, STATE DEPARTMENT FOR CROP DEVELOPMENT; AND
2. MR. HARRY KIMTAI KACHUWAI, CBS, NOMINEE FOR APPOINTMENT AS PRINCIPAL SECRETARY, STATE DEPARTMENT FOR LIVESTOCK DEVELOPMENT

 THE NATIONAL ASSEMBLY PARLIAMENT BUILDINGS NAIROBI		
DATE:	01 DEC 2022	DAY: THURSDAY
TABLED BY:	CHAIR DC - AGRICULTURE & LIVESTOCK HON. J. J. KAGAME G. G. KAGOMBE MP HON. M. M. MURONGI M. M. MURONGI MP	
CLERK AT THE TABLE:	Benson Inzofu	

CLERK'S CHAMBERS

DIRECTORATE OF DEPARTMENTAL COMMITTEES

PARLIAMENT BUILDINGS

NAIROBI

NOVEMBER 2022

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LIST OF ABBREVIATIONS AND ACRONYMS

H.E.	-	His Excellency
KRA	-	Kenya Revenue Authority
EACC	-	Ethics and Anti-Corruption Commission
DCI	-	Directorate of Criminal Investigations
HELB	-	Higher Education Loans Board
ORPP	-	Office of the Registrar of Political Parties
PAPAA	-	Public Appointments (Parliamentary Approval) Act
CBS	-	Chief of the Burning Spear
UDA	-	United Democratic Alliance
ODM	-	Orange Democratic Movement
NOPEU	-	National Ordinary People Empowerment Union
DAP-K	-	Democratic Action Party - Kenya
PS	-	Principal Secretary
GMO	-	Genetically Modified Organisms
AFA	-	Agriculture and Food Authority
ASAL	-	Arid and Semi Arid Land
SFRTF	-	Strategic Food Reserve Trust Fund
PSC	-	Public Service Commission
NCPB	-	National Cereals and Produce Board

ANNEXURES

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- Annexure 7: Letters from the Clerk of the National Assembly to KRA, EACC, DCI, HELB and ORPP requesting for information on the nominees
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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Agriculture and Livestock during the approval hearings of Mr. Phillip Kello Harsama, nominee for appointment as the Principal Secretary, State Department for Crop Development and Mr. Harry Kimtai Kachuwai, CBS, nominee for appointment as the Principal Secretary, State Department for Livestock Development as requested by H.E. the President and communicated to the House by the Speaker on Thursday, 3rd November 2022.

Pursuant to Article 155(3)(b) of the Constitution, Section 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) and Standing Order 45(1), H.E. the President notified the National Assembly of the nomination of fifty-one (51) Principal Secretaries to various State Departments vide a letter dated 2nd November 2022. The Hon Speaker vide a communication made on Thursday, 3rd November 2022 conveyed to the House the Message from H.E. the President and subsequently referred the names of the nominees, their curricula vitae, and the report of the Public Service Commission on their recruitment to Departmental Committees for approval hearings. While referring the matter to the Committees, the Speaker directed that the Committees undertake the vetting exercise within twenty-eight (28) days pursuant to Section 8 of the Public Appointments Parliamentary Approval Act (No. 33 of 2011). The Speaker further directed the Clerk of the National Assembly to notify the nominees and the general public by placing adverts in two newspapers of nationwide circulation and the Parliamentary Website of the time and place of holding the approval hearings by Friday, 4th November 2022.

In compliance with Article 118 (b) of the Constitution and section 6 (4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Clerk of the National Assembly placed an advertisement in the print media on Friday, 4th November 2022 informing the public of the nomination, date, time and place of the approval hearing. He also invited the public to submit memoranda by way of written statements on oath (*affidavit*) on the suitability of the nominees in conformity with section 6 (9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). The memoranda were to be received on or before Friday, 11th November 2022 at 5.00 p.m. (East African Time). At the close of the submission deadline, the Committee had not received any memorandum for or against the nominee's suitability.

The Clerk of the National Assembly also wrote to Kenya Revenue Authority (KRA), Ethics and Anti-Corruption Commission (EACC), Directorate of Criminal Investigations (DCI), Higher Education Loans Board (HELB) and Office of the Registrar of Political Parties (ORPP) seeking references and background checks relating to the suitability of the nominee.

The nominees appeared before the Committee on Monday, 14th November 2022 for vetting. The Committee examined their suitability based on the criteria set out in Section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). In addition, the Committee examined their academic credentials, relevant experience, knowledge of sector issues and on leadership and integrity. The Committee paid due regard to the procedure used to arrive at the nominees; any constitutional or statutory requirements relating to the office in question and suitability of the nominees for the appointment proposed having regard to whether the nominees' abilities, experience and qualities meet the needs of the State Departments.

Committee Recommendation

The Committee having held approval hearings of the nominees regarding their suitability, observed that due process was followed on the recruitment process as provided for under Article 155(3) (b) of the Constitution and section 8(2) of the Public Appointments (Parliamentary Approval Act) (No. 33 of 2011). The Committee therefore recommends that the National Assembly **APPROVES** the nomination of Mr. Phillip Kello Harsama for appointment as Principal Secretary, State Department for Crop Development and Mr. Harry Kimtai Kachuwai, CBS for appointment as Principal Secretary, State Department for Livestock Development.

Acknowledgements

The Committee registers its appreciation to the Offices of the Speaker, Office of the Clerk of the National Assembly, Office of the Director, Departmental Committees and the Committee Secretariat for the logistical support extended during the vetting process.

In addition, the Committee thanks the nominees for their cooperation during the vetting process. Finally, the Committee appreciates KRA, EACC, DCI, HELB and ORPP for providing references and background checks relating to the suitability of the nominees.

I acknowledge and appreciate Members of the Committee for their patience, sacrifice and commitment which enabled the Committee to complete the task within the required timelines.

On behalf of the Departmental Committee on Agriculture and livestock, and pursuant to Article 155(3)(b) of the Constitution and Section 8 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) and provisions of Standing Orders 45(4) and 199(6), it is my pleasant duty to present the Report of the Committee on the approval hearings of Mr. Phillip Kello Harsama, nominee for appointment as Principal Secretary for the State Department of Crop Development and Mr. Harry Kimtai Kachuwai, CBS, nominee for appointment as Principal Secretary for the State Department of Livestock Development for debate and adoption by the House.

Hon. (Dr.) John Kanyuithia Mutunga, MP.
Chairperson, Departmental Committee on Agriculture and Livestock

CHAPTER ONE

1 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Departmental Committee on Agriculture and Livestock is one of the fifteen Departmental Committees of the National Assembly established under **Standing Order 216** whose mandates pursuant to the **Standing Order 216 (5)** are 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. 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 recommendation 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 Subjects under the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider agriculture, livestock, food production and marketing.
3. In executing its mandate, the Committee oversees the Ministry of Agriculture and Livestock Development.

1.3 Committee Membership

4. The Departmental Committee on Agriculture and Livestock was constituted by the House on 27th October 2022 and comprises of the following Members:

Chairperson

Hon. (Dr.) John Kanyuithia Mutunga, MP
Tigania West Constituency

UDA Party

Vice-Chairperson

Hon. Brighton Leonard Yegon, MP
Konoin Constituency

UDA Party

Members

Hon. Sabina Wanjiru Chege, CBS, MP
Nominated Member

Jubilee Party

Hon. Ferdinand Kevin Wanyonyi, MP
Kwanza Constituency

Ford Kenya Party

Hon. Geoffrey Makokha Odanga, MP
Matayos Constituency

ODM Party

Hon. Justice Kipsang Kemei, MP
Sigowet/Soin Constituency

UDA Party

Hon. Jared Okello Odoyo, MP
Nyando Constituency

ODM Party

Hon. Lawrence Mpuru Aburi, MP
Tigania East Constituency

NOPEU Party

Hon. David Kiplagat, MP
Soy Constituency

UDA Party

Hon. Gabriel Gathuka Kagombe, MP
Gatundu South Constituency

UDA Party

Hon. Monicah Muthoni Marubu, MP
Lamu County

Independent Member

Hon. (Dr.) Pamela Njoki Njeru, MP
Embu County

UDA Party

Hon. Patrick Kibagendi Osero, MP
Borabu Constituency

ODM Party

Hon. Peter Kalerwa Salasya
Mumias East Constituency

DAP-K Party

Hon. Yussuf Mohamed Farah, MP
Wajir West Constituency

ODM Party

1.4 Committee Secretariat

5. The Committee is facilitated by the following staff:

Ms. Lauren O. Wesonga
Clerk Assistant II/Head of Secretariat

Mr. Ahmednoor Hassan
Clerk Assistant III

Mr. Victor Kilimo
Clerk Assistant III

Ms. Brigitta Mati
Legal Counsel I

Mr. David Ng'eno
Research Officer II

CPA. Robert Ng'etich
Fiscal Analyst II

Ms. Sheila Chebotibin
Senior Serjeant-At-Arms

Mr. Richard Sang
Serjeant-At-Arms

Ms. Noelle Chelagat
Media Relations Officer II

Mr. Gerald Kadede
Legal Counsel II

Mr. Ahmed Shillow
Research Officer III

Mr. Collins Lokitela
Fiscal Analyst III

Mr. Kelvin Sakani
Audio Recording Officer

CHAPTER TWO

2 BACKGROUND INFORMATION

2.1 Legal Framework

6. The office of the Principal Secretary is established pursuant to Article 155 of the Constitution. It provides that:

155. (1) There is established the office of Principal Secretary, which is an office in the public service.

(2) Each State department shall be under the administration of a Principal Secretary.

(3) The President shall—

(a) nominate a person for appointment as Principal Secretary from among persons recommended by the Public Service Commission; and

(b) with the approval of the National Assembly, appoint Principal Secretaries.

(4) The President may re-assign a Principal Secretary.

(5) A Principal Secretary may resign from office by giving notice, in writing, to the President.

7. In light of this, H.E. the President nominated fifty-one (51) persons for appointment as Principal Secretaries to various State Departments. The President nominated the following persons for appointment as Principal Secretaries for Crop Development and Livestock Development:

i. Mr. Phillip Kellow Harsama: Nominee for appointment as Principal Secretary, Crop Development; and

ii. Mr. Harry Kimtai: Nominee for appointment as Principal Secretary, Livestock Development

8. The Departmental Committee on Agriculture and Livestock was assigned the role of conducting the vetting of the aforesaid nominees.

9. The following Articles of the Constitution and statutes/provisions will be paramount to the Committee as it executes this mandate:

i. The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011);

ii. The Public Service Commission Act (No. 10 of 2017) on recommendation for appointment of Principal Secretaries;

iii. Article 10 of the Constitution on the national values and principles of governance;

iv. Chapter 6 of the Constitution on leadership and integrity;

v. Article 77 of the Constitution on restriction on activities of State Officers;

vi. Article 78 of the Constitution on dual citizenship;

vii. Article 118 of the Constitution on public participation;

viii. Article 232 of the Constitution on values and principles of public service;

ix. The Leadership and Integrity Act (Cap. 182);

x. The Public Service (Values and Principles) Act (No. 1A of 2015); and

xi. The Public Officer Ethics Act (Cap. 183).

The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011)

10. Section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), provides for issues which the relevant House of Parliament (in this case, the National Assembly) is supposed to consider in relation to any nomination. These issues include:

i. the procedure used to arrive at the nominee;

ii. any constitutional or statutory requirements relating to the office in question; and

iii. 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.

11. During the approval hearing, section 6 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) provides important points, viz:
- i. An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background (section 6(7), PAPAA);
 - ii. The criteria specified in the Schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate (section 6(8), PAPAA);
 - iii. Any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated (section 6(9), PAPAA); and
 - iv. A candidate may, at any time, by notice in writing addressed to the Clerk, withdraw from the approval process and the candidate's nomination shall end (section 6(10), PAPAA).

The Public Service Commission Act (No. 10 of 2017)

12. Section 47 (2) of the Public Service Commission Act (No. 10 of 2017) provides qualifications that one must have so as to be eligible for appointment as a Principal Secretary. These are:
- i. be a citizen of Kenya;
 - ii. hold a degree from a university recognised in Kenya;
 - iii. has at least ten (10) years relevant professional experience, five (5) years of which should have been in a leadership position or at a top management level in the public service or private sector;
 - iv. possess general knowledge of the organisation and functions of Government;
 - v. demonstrates an understanding of the goals, policies and developmental objectives of the nation;
 - vi. has demonstrable leadership and management capacity including knowledge of financial management and strategic people management; and
 - vii. meets requirements of Chapter Six of the Constitution.

Article 10(2) of the Constitution on national values and principles of governance

13. Article 10(2) of the Constitution provides for the national values and principles of governance which 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 marginalised; good governance, integrity, transparency and accountability; and sustainable development.

Chapter 6 of the Constitution (Leadership and Integrity)

14. There are important provisions in Chapter 6 of the Constitution worth pointing out. Article 73 of the Constitution provides that the authority assigned to a State officer (a Principal Secretary being a state officer under Article 260 of the Constitution) is a public trust to be exercised in accordance to the Constitution, demonstrate respect for the people, bring honour to the nation and dignity to the office and promote public confidence in the integrity of the office. Also, the State officer shall have the responsibility to serve the people, rather than the power to rule them.
15. The guiding principles of leadership and integrity are listed as selection based on personal integrity, competence and suitability, objectivity and impartiality in decision making, selfless service based solely on the public interest, accountability and discipline and commitment in service to the people.

Article 77 of the Constitution (Restriction on activities of State officers)

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

Article 78 of the Constitution on citizenship and leadership

17. Article 78 of the Constitution states that a person is not eligible for election or appointment to a State office unless the person is a citizen of Kenya. It also provides that a State officer or a member of the defence forces shall not hold dual citizenship.

Article 118 of the Constitution on public access and participation

18. Article 118 of the Constitution provides that:
1. *Parliament shall:*
 - a) *conduct its business in an open manner, and its sittings and those of its committees shall be in public; and*
 - b) *facilitate public participation and involvement in the legislative and other business of Parliament and its committees.*
 2. *Parliament may not exclude the public, or any media, from any sitting unless in exceptional circumstances the relevant Speaker has determined that there are justifiable reasons for the exclusion.*

Article 232 of the Constitution on Values and Principles of Public Service

19. Article 232 of the Constitution provides for the values and principles of public service which include 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; the members of all ethnic groups; and persons with disabilities.

The Leadership and Integrity Act (Cap. 182)

20. The Leadership and Integrity Act provides a number of obligations to a State officer. These are, among others: to respect and abide by the Constitution and the law, public trust, performance of duties in an honest and accountable manner, professionalism, financial integrity, not to engage in activities that amount to abuse of office, not misuse public resources, accepting gifts that may compromise the officer's duties, wrongful or unlawful acquisition of property, conflict of interest e.t.c.

The Public Service (Values and Principles) Act

21. Section 5 of the Public Service (Values and Principles) Act provides that a public officer shall maintain high standards of professional ethics, including, being honest; displaying high standards of integrity, transparency, accountability, respect to others, objectivity, patriotism, observance of rule of law. (Applies in future upon appointment)

The Public Officer Ethics Act (Cap. 183)

22. The Public Officer Ethics Act provides for obligations to be carried out by a public officer. These include professionalism, carrying out duties in accordance with the law, prohibition from unjust enrichment, avoiding conflict of interest, not using office as a venue for soliciting or collecting harambees; not acting for foreigners; care of property; political neutrality, not practicing nepotism

or favouritism, giving impartial advice, conducting private affairs in a way that maintains public confidence, bar from sexual harassment, submission of declaration of income, assets and liabilities once every two years (section 26). (Applies in future after appointment)

2.2 Qualifications for appointment as Principal Secretary

23. In conducting the approval hearings, the Committee was guided by Article 155 (3) (b) of the Constitution, section 47 (2) of the Public Service Commission Act and the provisions of Section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011).

2.3 Message from H.E. the President

24. H.E. the President on **2nd November 2022** communicated the names of the nominees for appointment to the positions of Principal Secretary Crop Development and Livestock Development to the Speaker for approval by the National Assembly pursuant to Article 155 (3). The Speaker in his communication from the Chair issued on **Tuesday, 3rd November 2022** and pursuant to Standing Order No. 42 referred the names to the Departmental Committee on Agriculture and Livestock to conduct approval hearings and report within twenty-eight (28) days.

2.4 Speaker's Communication and Committal to the Committee

25. Pursuant to the provisions of Standing Order No. 42, the Speaker of the National Assembly on **Tuesday, 3rd November 2022** communicated to the House the message from H.E. the President regarding the nominees for appointment as Principal Secretaries for various State Departments. The Speaker informed the House that H.E. the President was seeking approval of the National Assembly on the said nominations before the nominees' appointment.

26. In accordance with Standing Order 45(1), the Speaker read the Message from H.E. the President and referred the names of the nominees, their curricula vitae and report of the Public Service Commission on the recruitment process to the Departmental Committee on Agriculture and Livestock to conduct approval hearings.

27. While referring the matter to the Committee, the Speaker directed that the Committee undertakes the vetting exercise within twenty-eight (28) days pursuant to Section 8 of the Public Appointments Parliamentary Approval Act (No. 33 of 2011). The Speaker further directed the Clerk of the National Assembly to notify the nominees and the general public by placing adverts in two newspapers of nationwide circulation and the Parliamentary Website of the time and place of holding the approval hearings by Friday, 4th November 2022.

28. In addition, the Speaker directed that approval hearings should commence on Monday, 14th November 2022 and end on Friday, 18th November 2022. Thereafter, the reports should be tabled in the House not later than Tuesday, 22nd November 2022 so as to enable the House to consider the reports within the statutory timelines.

2.5 Notification to the Public

29. Section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), provides that *“any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated”*.
30. The Clerk of the National Assembly on **Friday, 4th November 2022** placed a notification in the print media informing the general public of the intention of the Committee to conduct approval hearings, as provided for by Article 118 (1) (a) (b) and (2) of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), which allows public participation in committee proceedings. The notification gave provision for the submission of memoranda, by way of written statements on oath (*affidavit*) on the suitability or otherwise of the nominees, by **Friday, 11th November 2022 at 5.00 pm (East African Time)**. At the close of the submission deadline, the Committee had not received any memorandum for or against the suitability of the nominees.

2.6 Notification to the Nominee

31. The Clerk of the National Assembly vide an advert placed in the print media on Friday, 4th November 2022 and letters Ref. NA/DDC/A&L/VETT/2022/001 and Ref. NA/DDC/A&L/VETT/2022/002 informed the nominees of the nomination by H.E. the President and requested them to appear for vetting by the Departmental Committee on Agriculture and Livestock on **Monday, 14th November 2022** in Committee Room 9, Main Parliament Building. The Clerk of the National Assembly further requested the nominees to bring with them their clearance certificates from the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), Ethics and Anti-Corruption Commission (EACC), Directorate of Criminal Investigations (DCI) and Office of the Registrar of Political Parties (ORPP).

2.7 Clearance Requirements

32. The Clerk of the National Assembly wrote to the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), Ethics and Anti-Corruption Commission (EACC), Office of the Registrar of Political Parties (ORPP) and Directorate of Criminal Investigations (DCI) requesting for tax, education loans, integrity, affiliation to political parties and criminal record status of the nominees. The following institutions wrote back to the National Assembly clearing the nominees, KRA (letter Ref. KRA/5/1002/5(8179) dated 14th November 2022); DCI (letter Ref. DCI/CRO/SEC/6/7/2/A/VOL.XI/208 dated 10th November 2022); EACC (letter Ref. EACC.7/10/5 VOL XXI (70) dated 11th November 2022); HELB (letter Ref. HELB/RR/112009/190 dated 10th November 2022); and ORPP (letter Ref: RPP/ORG/34 VOL. VI (41) dated 10th November 2022).

2.8 Report of the Public Service Commission on the Nomination of Principal Secretaries

33. Pursuant to Article 155 (3) (a) of the Constitution, the Public Service Commission invited applications from suitably qualified persons for the position of Principal Secretary. The advertisement was published in the print media, Kenya Gazette No. 10536 and on the Commission's Website on 7th September 2022 with a closing date of 20th October 2022.

34. On 20th September 2022, the Commission extended the advertisement period by seven (7) days. The advertisement period lapsed on 27th September 2022 with a total of nine thousand one hundred and fifty-four (9,154) persons submitting applications for consideration.
35. Four hundred and seventy-seven (477) candidates were shortlisted from 3rd to 6th October 2022 and a further review done on 7th October 2022 to bring the shortlist to five hundred and eighty-five (585) candidates so as to cater for gender, marginalised/minority groups and PWDs pursuant to Article 232 (1) (h) of the Constitution. Interviews for the shortlisted persons were conducted from 12th to 22nd October 2022.
36. Mr. Phillip Kello Harsama was number four hundred and fifty-eight (458) on the published list of shortlisted candidates and he was interviewed by the Public Service Commission on 21st October 2022 at 3.00 p.m.
37. Mr. Harry Kimtai Kachuwai was number two hundred and fourteen (214) on the published list of shortlisted candidates and he was interviewed by the Public Service Commission on 21st October 2022 at 9.00 a.m.
38. The Public Service Commission adhered to all provisions of the Constitution in the process of advertising, shortlisting and interviewing the candidates including, merit, gender, ethnic and regional balance.

2.9 Committee proceedings

39. The Committee having received the names of the nominees was obligated to conduct approval hearings and make determination of the nominees' suitability or otherwise within twenty-eight (28) days as provided for in section 8 (1) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011).
40. The Committee held three (3) sittings during which it examined and reviewed the nominees' certificates, testimonials as well as conducted approval hearings.

CHAPTER THREE

3 APPROVAL HEARINGS

41. The Committee conducted approval hearings for the nominees on **Monday, 14th November 2022**. In conducting the vetting exercise, the Committee was guided by, among other documents, the Constitution, the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Public Service Act and the Standing Orders.
42. The Committee examined the nominees using the guidelines in the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). The Committee also considered the following in vetting the nominees:
- a. Academic qualifications
 - b. Employment record and work experience
 - c. Professional association
 - d. Public office, political activities and affiliations
 - e. Potential conflict of interest
 - f. Suitability to the position
 - g. Tax compliance
 - h. Vision and leadership
 - i. Integrity
 - j. Expectations and Key priorities

3.1 MR. PHILLIP KELLO HARSAMA

Mr. Harsama was orally interviewed by the Committee and responded to questions during vetting as follows:

3.1.1 Personal Background

43. Mr. Harsama is a Kenyan citizen of identity card number 9558417 and was born in Marsabit County in 1969.

3.1.2 Educational Background

44. Mr. Phillip Harsama holds a Master Degree in Public Administration and Policy from Tsinghua University in Beijing China (2009) and a Bachelor of Education Degree from Moi University.
45. He sat for his 'A' level examinations at Garbatula High School in 1989 and his 'O' level examinations at Marsabit Boys High School in 1987.

3.1.3 Work experience/career progression

46. Mr. Harsama has worked in the public sector all his career life in the following capacities:
- i. Acting Director General, Agriculture and Food Authority (AFA) from March 2021 to February 2022;
 - ii. Secretary Administration, State Department for Crops Development in the Ministry of Agriculture, Livestock, Fisheries and Irrigation from 2018 to February 2021;
 - iii. County Commissioner, Kajiado County from 2014 to 2018;
 - iv. District Commissioner in Kajiado and Loitokitok from 2009 to 2014; and

- v. District Officer (in Meru, Makueni, Narok, Laikipia, Uasin Gishu, West Pokot and Baringo) from 1996 to 2009.

3.1.4 Networth

47. Mr. Harsama informed the Committee that he was worth KSh. 100 million. The source of his wealth was a hotel and rentals which he had put up through loans some of which he was still repaying.

3.1.5 Clearance Requirements

48. The Committee confirmed that the nominee had been cleared by KRA, ORPP, DCI, EACC and HELB, having obtained clearance certificates to that effect.

3.1.6 Other issues under consideration

To examine suitability or otherwise of the nominee, the Committee posed questions to the nominee in the following thematic areas:

49. On removal of road blocks from the Kitengela-Namanga Highway when he served as County Commissioner for Kajiado County

Mr. Harsama stated that his decision to remove road blocks was informed by members of the public who complained that they were being harrassed on the road blocks. Additionally, there were eleven (11) road blocks between Kitengela and Namanga which to him were too many. Only two road blocks were allowed on the road to control movement of contraband goods.

He averred that contrary to reports that went round during that time, he did not benefit from removal of the roadblocks.

50. On whether he was demoted when he moved from the position of Secretary Administration in the State Department of Crops Development to the position of Acting Director General Agriculture and Food Authority (AFA)

He stated that both positions are in Job Group T but in his opinion it was a promotion because he was selected as one of the best performing officers to solve the issues that AFA was faced with at that time.

51. On achievements as the acting Director General for AFA

He submitted that when he joined AFA, the processing of documents was slow. He computerised the import and export documents and this reduced the processing time.

In 2021, Mr. Harsama stopped the importation of maize from Uganda and Tanzania when he realised that they were contaminated with aflatoxins. After diplomatic intervention by former President Uhuru Kenyatta and Tanzania's President, the borders were opened but lab officials were stationed there so as to ensure that maize allowed into the country had passed the aflatoxin test.

During his tenure, AFA collected samples of vegetables in supermarkets and tested them for chemicals in order to ensure that they were safe for consumption.

52. On food safety in the country

Mr. Harsama averred that he is determined to tackle the issue of food safety in the country. He will empower the Pest Control Board to effectively discharge their mandate.

53. On Genetically Modified Organisms (GMO)

Mr. Harsama informed the Committee that GMO crops do not cause cancer contrary to the misconception that has been propagated mainly by multinationals selling pesticides because GMO foods are resistant to pests and will reduce demand for pesticides.

54. On aflatoxins

He submitted that the Government is committed to dealing with the issue of aflatoxins in the country. He however noted that management of cereal stores was a function of county governments and it was underfunded by the National Treasury. He undertook to champion for increased funding for storage and aggregation of cereals to ensure that post harvest losses are minimised. Further, the State Department of Crop Development will train the county agriculture staff on ways of dealing with aflatoxins and they will pass the information to farmers.

55. On extension services

Mr. Harsama observed that extension services are a function of county governments as provided for in the Fourth Schedule of the Constitution. He stated that agriculture in the country cannot grow without extension services. He undertook to handle the issue through intergovernmental meetings with county governments.

56. On involvement of MPs in the State Department's activities

Mr. Harsama assured Members that if appointed as PS, he will ensure that MPs are appraised on all ongoing and future donor funded projects, Ministry initiated projects and county government projects in order to ensure that objectives of the projects are met.

57. On the maize subsidy

If given the job as PS, Mr. Harsama will reach out to the Presidency with regards to maize subsidies with the aim of finding the best way of reducing maize prices in the country.

58. On importing food that can be manufactured locally

To address this, Mr. Harsama informed the Committee that he will come up with policies that will give incentives to farmers so as to encourage farming in the country.

59. On how he will deal with cartels in the State Department

If appointed as PS, Mr. Harsama promised the Committee that he will not allow cartels in the State Department.

60. On the illegal Gazettement of the Crops Coffee (General Amendment) Regulations, 2022

Mr. Harsama assured the Committee that if the Regulations are illegal, he will advise H.E. the President through the Cabinet to order for the de-gazettement of the same. He promised to ensure that all regulations gazetted by the Ministry will follow the due process.

61. Regarding the Strategic Food Reserve Trust Fund (SFRTF)

Mr. Harsama stated that the Fund was proposed to be moved to NCPB. However, the Regulations to actualise this were not gazetted. The Fund had KSh. 10 billion in its account when the proposal to move it to NCPB was made. The money was used by the Ministry of Agriculture, Livestock, Fisheries and Cooperatives to offset pending bills. The Fund is now domiciled under the Kenya National Trading Corporation.

62. On enhancement of crop cultivation in ASAL areas

Mr. Harsama observed that there is a lot of agricultural potential in the ASAL areas. If appointed as PS, he will advise the Government to invest heavily in ASAL regions. He stated that the Government had plans to irrigate 1.5 million hectares of land in Kenya most of which will be in ASAL areas. Most of the one-hundred (100) dams in the Government's plan will be dug in these areas.

63. On the low uptake of agricultural loans in Muslim counties

To address this, Mr. Harsama submitted that he will organise consultative forums for religious leaders to come up with the best way forward in order to ensure that Muslims benefit from the loans within one-hundred (100) days of his appointment.

64. Regarding marketing of crop products

The Agricultural Sector Transformation and Growth Strategy provides for agroprocessing zones in different parts of the country which will add value to better market agricultural produce found in the areas.

65. On earning of bonuses by 'miraa' farmers

Mr. Harsama submitted that unlike tea and coffee, 'miraa' does not have an agency responsible for marketing and selling it hence it is not possible to pay bonuses on it. He added that plans are underway to widen the market for 'miraa' in countries like Congo, Sierra Leone, Mozambique, Democratic Republic of Congo, Israel, Germany among others. Value addition for 'miraa' and 'muguka' is also in the plans of the State Department.

66. Regarding policies in the State Department

Mr. Harsama stated that he will adopt policies in the State Department that have worked. He averred that farmers need to shift from rain fed agriculture to irrigated agriculture in order to deal with the issue of climate change.

67. On mechanisation of farming

If confirmed to the Office, Mr. Harsama will encourage farmers to form co-operative societies or cluster themselves into groups and bring on board financial institutions that will provide low cost machinery required for farming where farmers will pay for the machines within an agreed period of time.

68. Regarding the sugar sector

Mr. Harsama averred that the sugar sector in the country had been mismanaged. He stated that there were plans to privatise sugar companies in order to make them profitable. This may however be delayed by the eight (8) cases that were pending in court. He further stated that sugarcane prices will be increased so as to increase sugarcane plantations.

69. On the Galana Kulalu Project

Mr. Harsama informed the Committee that there has been a lot of misinformation on the Project. He undertook to make plans for the Committee to carry out a field visit of the Project in order to ascertain the true position if appointed as PS.

70. On how he will work with his counterpart with regards to research given that it is under his docket

Mr. Harsama submitted that he will follow the thematic and institutional outlay in order to harmonise research services in the Ministry.

71. On staff succession in the State Department for Crop Development

He stated that the Human Resource Department in the State Department was working with the PSC on matters staffing with an aim of ensuring that the issue of succession is properly handled in the State Department.

3.2 MR. HARRY KIMTAI KACHUWAI, CBS

Mr. Harry Kachuwai was orally interviewed by the Committee and responded to questions during vetting as follows:

3.2.1 Personal Background

72. Mr. Harry Kachuwai is a Kenyan citizen of identity card number 99021254 and was born in Bungoma County in 1968.

3.2.2 Educational Background

73. Mr. Kachuwai holds a Master of Philosophy in Economics (Regional Planning & Economic Development) Degree (1995), Master of Arts Degree (Economics) (1994) and a Bachelor of Arts Degree (Economics) (1992) from Bhopal University in India.

74. He sat for his 'A' level examinations at Kitale High School in 1987, his 'O' level examinations at Chesamisi High School in 1985 and his Certificate of Primary Education at Kaptama Primary School.

3.2.3 Work experience/career progression

75. Mr. Kachuwai is currently the Principal Secretary, State Department for Livestock Development, a position he has held since March 2018.

76. Mr. Kachuwai has also worked in the following capacities:

- i. Director, Capital Markets Authority from May, 2016 to May 2017;
- ii. General Manager, Branded Fine Foods Limited from January 2008 to 2014;
- iii. Principal Revenue Officer, Kenya Revenue Authority from January 2003 to December 2006;
- iv. Senior Revenue Officer, Kenya Revenue Authority from July 1999 to December 2002;
- v. Revenue Officer II, Kenya Revenue Authority from June 1998 to June 1999;
- vi. Management Trainee, Kenya Revenue Authority from 1996 to 1998; and
- vii. Employed by the Teachers Service Commission as a teacher from 1988 to 1989.

3.2.4 Networth

77. Mr. Kachuwai stated that he was worth KSh. 200 million. He had accrued his wealth from farming (farms in Mt. Elgon and Trans Nzoia), transport business, consultancy in clearing & forwarding and tax matters, real estate and land.

3.2.5 Honors and Awards

78. Mr. Kachuwai was awarded Chief of the Burning Spear (CBS), Government of Kenya (GoK) in December 2019.

3.2.6 Clearance Requirements

79. The Committee confirmed that the nominee had been cleared by KRA, ORPP, DCI, EACC and HELB, having obtained clearance certificates to that effect.

3.2.7 Other issues under consideration

To examine suitability or otherwise of the nominee, the Committee posed questions to the nominee in the following thematic areas:

80. On land grabbing case in Mt. Elgon

On the allegation that Mr. Kachuwai had grabbed a piece of land in Mt. Elgon resulting in the death of one person, Mr. Kachuwai explained that the piece of land in question had been hired by his brother. The person who hired out the land was killed by his siblings due to family disputes when planting was taking place in the land. He made it clear that neither him nor his brother were involved in the death of the said person.

81. On achievements realised as PS, Livestock Development

When he was appointed as PS Livestock Development, Mr. Kachuwai carried out an evaluation of the staff establishment where he found out that there were issues of staff stagnation. In conjunction with the PSC, Mr. Kachuwai ensured that the staff establishment was revised and staff were promoted.

He oversaw successful initiation and completion of programmes and projects in the State Department e.g. the Small Holder Dairy Commercialisation Programme, Livestock Value Chain Support Programme, the Livestock Offtake Programme among others.

He pushed for the amendment and initiation of laws and policies in the State Department including, the Livestock and Veterinary Policy, Food Coordination Bill, the on-going Livestock Masterplan among others.

82. On policies in the State Department

Mr. Kachuwai informed the Committee that he will champion the implementation of the Livestock Marketing Board Policy that was signed by former President Uhuru Kenyatta in 2016 but is yet to be implemented.

Mr. Kachuwai stated that most laws in the livestock sector are old and need to be amended. He requested the Committee to fast-track consideration of Bills, regulations and policies in this area. He cited the Livestock Bill which if enacted will cater for all livestock in the country.

83. On the Milk Coolers Project

Regarding audit queries that had been raised on the Milk Coolers Project, Mr. Kachuwai stated that the State Department had responded to the audit queries and all the three hundred and fifty (350) milk coolers had been delivered.

He submitted that the State Department was working on a strategy to ensure that all challenges on the project were addressed. He undertook to work with Parliament in the approval of the budget for milk coolers.

84. On the Livestock Masterplan

Mr. Kachuwai informed the Committee that the Livestock Masterplan will be based on livestock census and progressive appraisals. A baseline survey will be conducted where details of livestock will be captured from the county, sub-county, ward and village level.

85. On the funding for Muslim Livestock Farmers

Mr. Kachuwai submitted that the Kenya Development Corporation De-risking Inclusion Value Enhancement for Pastoral Economies Horn of Africa Initiative was being implemented by the Kenya Development Corporation. The Corporation will develop sharia compliant products for livestock farmers who profess the Islamic faith.

86. On agricultural research

He observed that agricultural research in Kenya is conducted by KALRO which is domiciled in the State Department for Crop Development. He undertook to work with the PS, Crop Development in order to set up the agenda in both State Departments.

87. On export of milk powder

Mr. Kachuwai informed the Committee that milk production in the country had gone down and therefore most of the milk was consumed locally. The low productivity had necessitated importation of milk to cover the deficit. He stated that the State Department was working with county governments to mop up milk in the country in order to increase the marketed quantity.

88. On the high cost of animal feeds

Mr. Kachuwai submitted that lifting of the ban on GMO will allow cheaper GMO ingredients to be imported into the country and this is expected to reduce the cost of feeds. Additionally, the Ministry is engaging with millers to reduce the price of by products of milling which are used as animal feeds. Further, the Government is intensifying pasture production through the private sector.

89. On biogas production

He stated that the State Department is working on improving biogas production in the country. There is no budgetary allocation for this but the State Department has identified a development partner to fund the project.

90. On food security

Mr. Kachuwai will engage counties in order to ensure that they take up their mandate with regards to agriculture as provided for in the Constitution so as to increase food production in the country.

91. On agrovets that were operating illegally

If appointed as PS, Mr. Kachuwai will ensure that inspection visits are done across the country in order to make sure that all agrovets are licensed and operate within the law.

92. On the Livestock Offtake Programme

Mr. Kachuwai informed the Committee that the Livestock Offtake Programme was implemented through the Kenya Meat Commission. The Programme had a budgetary allocation of KSh. 950 million in the Financial Year 2021/22 where KSh. 500 million was spent on ground slaughter and KSh. 450 million was spent on commercial offtake. The following counties benefitted from the Programme last financial year Garissa, Wajir, Marsabit, Isiolo, Turkana, Tana River, Samburu, Kitui, Mandera, Kilifi, Laikipia and Kajiado.

In the Financial Year 2022/23, the Programme has a budgetary allocation of KSh. 350 million. Livestock purchases are on-going.

CHAPTER FOUR

4 OBSERVATIONS AND FINDINGS

93. The Committee observations were guided by Article 155 of the Constitution, section 47 of the Public Service Commission Act and section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) in terms of issues for consideration as follows:
- i. the procedure used to arrive at the nominees;
 - ii. any constitutional or statutory requirements relating to the office in question; and
 - iii. suitability of the nominees for the appointment proposed having regard to whether the nominees' abilities, experience and qualities meet the needs of the body to which the nomination is made.
94. The Committee made the following general observations on the nominees:
- i. Both nominees are Kenyans and are not citizens of any other country. They therefore meet the requirements of Article 78 of the Constitution;
 - ii. The Public Service Commission submitted the report of the recruitment of principal secretaries to the National Assembly hence the Committee was able to ascertain that the interview process was competitive and that the nominees were in the shortlist as required by Article 155(3) of the Constitution;
 - iii. The nominees were cleared by KRA on tax compliance, HELB on the payment of their education loans, EACC on integrity, DCI on their criminal status and ORPP on membership to political parties; and
 - iv. The Clerk of the National Assembly invited members of the public to submit memoranda on the nominees pursuant to section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011. The Committee did not receive any memoranda in support or contesting the suitability of any of the nominees.

4.1 Mr. Phillip Kello Harsama

95. The Committee observed that:
- i. Mr. Harsama holds a Bachelor of Education Degree from Moi University and therefore meets the requirements of Section 47(2) (ii) of the Public Service Commission Act, 2017;
 - ii. He began his career as a District Officer in 1996 and therefore has professional experience of at least ten (10) years. Additionally, he worked as County Commissioner; Secretary Administration in the State Department for Crops Development; and acting Director General, AFA between 2014 and 2022. He therefore has been in leadership positions for more than five (5) years as required by section 47(2) (iii) of the Public Service Act, 2017;
 - iii. The nominee, during the approval hearing demonstrated that he had good understanding of the plans and policies of the State Department for Crop Development and those of the Ministry of Agriculture and Livestock and how they fit into the government's plans as required by Section 47(2) (v) of the Public Service Commission Act, 2017;

- iv. According to the information and records presented to the Committee, Mr. Harsama had never been implicated in any issues that may lead to lack of integrity on his part and therefore meets the requirements of Chapter Six of the Constitution.
- v. Mr. Harsama demonstrated knowledge and understanding of the workings of the State Department for Crops Development. He had previously worked in the State Department as Secretary Administration and acting Director General, AFA.

4.2 Mr. Harry Kimtai Kachuwai, CBS

96. The Committee observed that:

- i. Mr. Kachuwai holds a Bachelor of Arts Degree (Economics) from Bhopal University in India and therefore meets the requirements of Section 47(2) (ii) of the Public Service Commission Act, 2017;
- ii. He began his career as a teacher in 1988 and therefore has professional experience of at least ten (10) years. Additionally, he worked as General Manager, Branded Fine Foods Limited; Director, Capital Markets Authority; and Principal Secretary for Livestock Development between 2008 and 2022. He therefore has been in leadership positions for more than five (5) years as required by Section 47(2) (iii) of the Public Service Commission Act, 2017;
- iii. The nominee, during the approval hearing demonstrated that he had good understanding of the plans and policies of the State Department for Livestock Development and those of the Ministry of Agriculture and Livestock and how they fit into the government's policies as required by Section 47(2) (v) of the Public Service Commission Act, 2017;
- iv. According to the information and records presented to the Committee, Mr. Kachuwai had never been implicated in any issues that may lead to lack of integrity on his part and therefore meets the requirements of Chapter Six of the Constitution.
- v. Mr. Kachuwai demonstrated knowledge of policies, programmes and projects in the State Department for Livestock Development having worked as PS in the State Department from 2018 to date.

CHAPTER FIVE

RECOMMENDATION

97. Having considered the suitability, capacity and integrity of the nominees, and pursuant to Article 155(3)(b) of the Constitution and Section 8(2) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee recommends that the National Assembly:

- i. **APPROVES** the appointment of Mr. Phillip Kello Harsama to the position of Principal Secretary, State Department for Crop Development; and
- ii. **APPROVES** the appointment of Mr. Harry Kimtai Kachuwai, CBS to the position of Principal Secretary for Livestock Development.

SIGNED *for*  DATE *30/11/22*
HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK





REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FIRST SESSION - 2022

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

ADOPTION SCHEDULE FOR THE REPORT ON THE APPROVAL HEARINGS OF MR. PHILLIP KELLO HARSAMA AND MR. HARRY KIMTAI KACHUWAI, CBS, NOMINEES FOR APPOINTMENT AS PRINCIPAL SECRETARIES FOR THE STATE DEPARTMENTS OF CROP DEVELOPMENT AND LIVESTOCK DEVELOPMENT RESPECTIVELY

DATE: 30TH NOVEMBER 2022

NAME	SIGNATURE
1. HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP - CHAIRPERSON	Virtual
2. HON. BRIGHTON LEONARD YEGON, MP - VICE- CHAIRPERSON	virtual
3. HON. SABINA WANJIRU CHEGE, CBS, MP	virtual
4. HON. FERDINAND KEVIN WANYONYI, MP	Virtual
5. HON. GEOFFREY MAKOKHA ODANGA, MP	Geoffrey Makokha Odanga
6. HON. JUSTICE KIPSANG KEMEL, MP	(B) Kemel
7. HON. JARED OKELLO ODOYO, MP	virtual
8. HON. LAWRENCE MPURU ABURI, MP	Lawrence Mpuru Aburi
9. HON. DAVID KIPLAGAT, MP	Virtual
10. HON. GABRIEL GATHUKA KAGOMBE, MP	Gabriel Gathuka Kagombe
11. HON. MONICAH MUTHONI MARUBU, MP	Monicah Muthoni Marubu
12. HON. PAMELA NJOKI NJERU, MP	Pamela Njoki Njeru
13. HON. PATRICK KIBAGENDI OSERO, MP	virtual
14. HON. PETER KALERWA SALASYA, MP	virtual
15. HON. YUSSUF MOHAMED FARAH, MP	Yussuf Mohamed Farah

