



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL & JUDICIAL REVIEW DIVISION
CONSOLIDATED PETITIONS NO. 56, 58 & 59 OF 2019

BETWEEN

NUBIAN RIGHTS FORUM1ST PETITIONER
KENYA HUMAN RIGHTS COMMISSION2ND PETITIONER
KENYA NATIONAL COMMISSION ON
HUMAN RIGHTS3RD PETITIONER

AND

THE HON. ATTORNEY-GENERAL1ST RESPONDENT
THE CABINET SECRETARY, MINISTRY OF
INTERIOR & CO-ORDINATION OF
NATIONAL GOVERNMENT2ND RESPONDENT
THE PRINCIPAL SECRETARY, MINISTRY
OF INTERIOR & CO-ORDINATION OF
NATIONAL GOVERNMENT..... 3RD RESPONDENT
THE DIRECTOR, NATIONAL
REGISTRATION BUREAU.....4TH RESPONDENT
THE CABINET SECRETARY, MINISTRY
OF INFORMATION,
COMMUNICATION & TECHNOLOGY5TH RESPONDENT

THE SPEAKER, NATIONAL ASSEMBLY6TH RESPONDENT
KENYA LAW REFORM COMMISSION7TH RESPONDENT

AND

CHILD WELFARE SOCIETY1ST INTERESTED PARTY
AJIBIKA SOCIETY2ND INTERESTED PARTY
MUSLIMS FOR HUMAN RIGHTS
INITIATIVE3RD INTERESTED PARTY
HAKI CENTRE4TH INTERESTED PARTY
LAW SOCIETY OF KENYA5TH INTERESTED PARTY
INFORM ACTION6TH INTERESTED PARTY
BUNGE LA WANAINCHI7TH INTERESTED PARTY
INTERNATIONAL POLICY GROUP8TH INTERESTED PARTY
TERROR VICTIMS SUPPORT
INITIATIVE9TH INTERESTED PARTY

ORDERS

- I. *A declaration that the collection of DNA and GPS co-ordinates for purposes of identification is intrusive and unnecessary, and to the extent that it is not authorised and specifically anchored in empowering legislation, it is unconstitutional and a violation of Article 31 of the Constitution.*
- II. *Consequently, in so far as section 5(1)(g) and 5(1)(ha) of the Registration of Persons Act requires the collection of Global Positioning Systems coordinates and DNA, the said subsections are in conflict with Article 31 of the Constitution and are to that extent unconstitutional, null and void.*
- III. *The Respondents are at liberty to proceed with the implementation of the National Integrated Identity Management System (NIIMS) and to*

process and utilize the data collected in NIIMS, only on condition that an appropriate and comprehensive regulatory framework on the implementation of NIIMS, that is compliant with the applicable constitutional requirements identified in this judgment, is first enacted.

IV. Each party shall bear its own costs of the consolidated Petitions

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 30TH DAY
OF JANUARY 2020**

**P. NYAMWEYA
JUDGE**

**MUMBI NGUGI
JUDGE**

**W. KORIR
JUDGE**

I CERTIFY THIS IS TRUE
COPY OF THE ORIGINAL.
DATED, 31/1/2020
.....
CONJUGATED PET. NO. 56, 58, 159 OF 2019
DEPUTY REGISTRAR
HIGH COURT OF KENYA
NAIROBI



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
PETITION NO. 163 OF 2019
(FORMERLY MACHAKOS PETITION 7 OF 2019)

BETWEEN

OKIYA OMTATATH OKOITI1ST PETITIONER
NYAKINA WYCLIFF GISEBE2ND PETITIONER
CHARLES OMBOKO3RD PETITIONER
DAVID MUNYAO MWANZIA.....4TH PETITIONER
VINCENT MUILI MUINDI.....5TH PETITIONER

VERSUS

THE HON. ATTORNEY-GENERAL1ST RESPONDENT
KENYA LAW REFORM COMMISSION2ND RESPONDENT
THE NATIONAL ASSEMBLY3RD RESPONDENT
THE HON. JUSTIN BEDAN NJOKA MUTURI4TH RESPONDENT
THE HON. KENNETH MAKELO LUSAKA.....5TH RESPONDENT
CABINET SECRETARY, MINISTRY OF INFORMATION
COMMUNICATION AND TECHNOLOGY.....6TH RESPONDENT

AND

THE COUNCIL OF GOVERNORS1ST INTERESTED PARTY
THE KATIBA INSTITUTE2ND INTERESTED PARTY
THE LAW SOCIETY OF KENYA3RD INTERESTED PARTY
CHILD WELFARE SOCIETY OF KENYA.....4TH INTERESTED PARTY
COMMUNICATION AUTHORITY OF KENYA...5TH INTERESTED PARTY

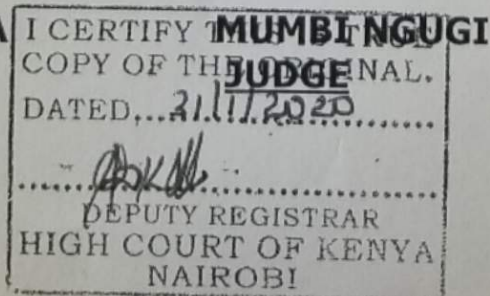
ORDERS

- I. A declaration that section 6 of the Kenya Information and Communication Act 1998 as amended by Statute Law (Miscellaneous Amendment) Act No. 18 of 2018 is unconstitutional, null and void.*

- II. *A declaration that the amendments to section 24 of the Public Finance Management Act introducing sub-section 2A therein made by Statute Law (Miscellaneous Amendment) Act No. 18 of 2018 is unconstitutional, null and void.*
- III. *A declaration that the collection of DNA and GPS co-ordinates for purposes of identification is intrusive and unnecessary, and to the extent that it is not authorised and specifically anchored in empowering legislation, it is unconstitutional and a violation of Article 31 of the Constitution.*
- IV. *Consequently, in so far as section 5(1)(g) and 5(1)(ha) of the Registration of Persons Act requires the collection of Global Positioning Systems coordinates and DNA, the said subsections are in conflict with Article 31 of the Constitution and are to that extent unconstitutional, null and void.*
- V. *The Respondents are at liberty to proceed with the implementation of the National Integrated Identity Management System (NIIMS) and to process and utilize the data collected in NIIMS, only on condition that an appropriate and comprehensive regulatory framework on the implementation of NIIMS, that is compliant with the applicable constitutional requirements identified in this judgment, is first enacted.*
- VI. *Each party shall bear its own costs of the Petition.*

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 30TH DAY
OF JANUARY 2020**

P. NYAMWEYA
JUDGE



W. KORIR
JUDGE