

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO 151 OF 2020

IN THE MATTER OF DEFENCE OF THE CONSTITUTION UNDER ARTICLES 3, 10,  
19, 20, 22, AND 258 OF THE CONSTITUTION OF KENYA

AND

IN THE MATTER OF ALLEGED VIOLATION OF ARTICLES 19, 21, 28, 29, 31, 39,  
43, 47, 51, AND 53 OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF ALLEGED VIOLATION OF SECTION 8(6) OF THE PUBLIC  
ORDER ACT, CAP 56 OF THE LAWS OF KENYA

AND

IN THE MATTER OF ALLEGED VIOLATION OF SECTION 4 AND 5 OF THE  
ACCESS TO INFORMATION ACT, NO. 31 OF 2016

AND

IN THE MATTER OF SECTIONS 4 AND 5 OF THE FAIR ADMINISTRATIVE  
ACTION ACT NO. 4 OF 2015

AND

IN THE MATTER OF CONTRAVENTION OF THE PUBLIC HEALTH (COVID 19  
RESTRICTION OF MOVEMENT OF PERSONS AND OTHER RELATED  
MEASURES) RULES, 2010 AND PUBLIC HEALTH ACT (PREVENTION, CONTROL  
AND SUPPRESSION OF COVID 19) REGULATIONS, 2020

BETWEEN

C. M. (Suing on her on behalf and on behalf of

PM (Minor) as parent)..... 1<sup>st</sup> PETITIONER

M.O.A.....2<sup>nd</sup> PETITIONER  
M. O .....3<sup>rd</sup> PETITIONER  
M. W. M.....4<sup>th</sup> PETITIONER  
K. F .....5<sup>th</sup> PETITIONER  
F. A .....6<sup>th</sup> PETITIONER  
K. B .....7<sup>th</sup> PETITIONER  
KENYA LEGAL & ETHICAL ISSUES  
NETWORK ON HIV & AIDS (KELIN).....8<sup>th</sup> PETITIONER  
KATIBA INSTITUTE.....9<sup>th</sup> PETITIONER

-VERSUS-

HON. ATTORNEY GENERAL.....1<sup>ST</sup> RESPONDENT  
THE CABINET SECRETARY, HEALTH.....2<sup>ND</sup> RESPONDENT  
THE CABINET SECRETARY, INTERIOR AND  
COORDINATION OF NATIONAL GOVERNMENT.....3<sup>RD</sup> RESPONDENT

AND

M/S INDEPENDENT MEDICO-LEGAL UNIT (IMLU).....1<sup>ST</sup> INTERESTED PARTY  
DR. MARGARET OTHIENO MAKAYIENGO .....1<sup>ST</sup> AMICUS CURIAE  
INTERNATION COMMISSION OF JURISTS  
(ICJ, KENYA).....2<sup>ND</sup> AMICUS CURIAE

**IN COURT ON 22<sup>ND</sup> OCTOBER, 2020 (ELECTRONICALLY)**

**BEFORE HON. MR. JUSTICE J. A. MAKAU**

**ORDER**

**THIS MATTER** coming up for delivery of Ruling on 22<sup>nd</sup> October, 2020 before Hon. Mr. Justice J. A. Makau-Electronically, in the presence of Counsel for the 1<sup>st</sup> – 8<sup>th</sup> Petitioners, Counsel for the 9<sup>th</sup> Petitioner, Counsel for the 1<sup>st</sup> Amicus Curiae and Counsel for the 2<sup>nd</sup> Amicus Curiae:

**IT IS HEREBY ORDERED:**

1. **THAT** the application by Independent Medico-Legal Unit (IMLU) to be granted leave to be enjoined as an Interested Party dated 11<sup>th</sup> May 2020 be and is hereby allowed; and IMLU is joined as 1<sup>st</sup> Interested Party in these proceedings.
2. **THAT** the 1<sup>st</sup> Interested Party to file and serve response to the Petition within 15 days from the date of this Ruling.
3. **THAT** the Applications by the Intended Amicus Curiae dated 11<sup>th</sup> May 2020, and 22<sup>nd</sup> May 2020 be and are hereby respectively allowed. Dr. Margaret Othieno Makanyengo (Dr. Makanyengo) be and is hereby enjoined to the proceedings as the 1<sup>st</sup> Amicus Curiae, whereas ICJ-Kenya is hereby enjoined in these proceedings as the 2<sup>nd</sup> Amicus Curiae in these proceedings.
4. **THAT** the 1<sup>st</sup> and 2<sup>nd</sup> Amicus Curiae shall restrict their participation to the role of Amicus Curiae as set out in the Supreme Court Petition No. 12 of 2013 Trusted Society of Human Rights Alliance vs. Mumo Matemu & 5 others Supreme Court Petition No. 12 of 2013(2015) eKLR.

5. THAT the 1<sup>st</sup> and 2<sup>nd</sup> Amicus Curiae shall limit their submission on points of law, on issues which are alive in the Petitioner's pleadings, and shall not introduce extraneous matters.
6. THAT the 1<sup>st</sup> and 2<sup>nd</sup> Amicus Curiae shall make their written and oral submissions through their respective counsel.
7. THAT the parties herein shall bear their own respective costs in respect to the applications herein.

**IT IS FURTHER ORDERED**

8. THAT mention on 30<sup>th</sup> November, 2020 to confirm compliance.

GIVEN under my Hand and the Seal of this Honourable Court this 22<sup>nd</sup> day of October, 2020.

Dated at Nairobi this ..... 26<sup>th</sup> ..... day of ..... October ..... 2020.

  
DEPUTY REGISTRAR

HIGH COURT OF KENYA, NAIROBI

- Petition  
151/2020

DEPUTY REGISTRAR  
HIGH COURT OF KENYA  
MILIMANI - NAIROBI