

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL & HUMAN RIGHTS DIVISION
CONSTITUTIONAL PETITION NO.....OF 2025

IN THE MATTER OF: THE CONSTITUTION OF THE REPUBLIC OF KENYA -
AND-

IN THE MATTER OF: ENFORCEMENT AND INTERPRETATION OF THE
CONSTITUTION

-AND-

IN THE MATTER OF: ALLEGED VIOLATION OF ARTICLES 1, 2, 3, 8, 10, 27, 32,
43,60,62, 73 AND 75 OF THE CONSTITUTION OF KENYA

-AND-

IN THE MATTER OF: ALLEGED VIOLATION OF SECTIONS 10,11,12,13 OF THE
LEADERSHIP AND INTEGRITY ACT

-AND-

IN THE MATTER OF: THE CONSTITUTIONAL LAW DOCTRINE OF
SEPARATION OF STATE AND RELIGION.

-AND-

IN THE MATTER OF: THE BREACH OF NATIONAL VALUES AND PRINCIPLES
OF GOVERNANCE, LEADERSHIP AND INTEGRITY, ABUSE OF OFFICE,
MISUSE OF PUBLIC PROPERTY, AND DISCRIMINATION ARISING FROM THE
CONSTRUCTION OF A CHURCH WITHIN STATE HOUSE PREMISES

-AND-

IN THE MATTER OF: THE CONSTITUTION OF KENYA (PROTECTION OF
RIGHTS AND FUNDAMENTAL FREEDOMS) PRACTICE AND PROCEDURE
RULES, 2013

-BETWEEN-

TRANSPARENCY INTERNATIONAL KENYA.....1ST PETITIONER

KENYA HUMAN RIGHTS COMMISSION.....2ND PETITIONER

INUKA KENYA NI SISI.....3RD PETITIONER

THE INSTITUTE OF SOCIAL ACCOUNTABILITY4TH PETITIONER

- VERSUS -

THE ATTORNEY GENERALRESPONDENT

-AND-

LAW SOCIETY OF KENYA (LSK).....1ST INTERESTED PARTY

KATIBA INSTITUTE.....2ND INTERESTED PARTY

CERTIFICATE OF URGENCY

I, **LEMPAA SUYIANKA** Advocate for the Petitioners who have the conduct of this matter do certify that the Application and the Petition filed herewith are utmost urgency n requiring to be placed before the Honourable Vacation Judge at the earliest possible moment for the reason;

1. The President of the Republic of Kenya has publicly confirmed the ongoing construction of a church within the precincts of State House Nairobi, which is public land and a national symbol of state neutrality and unity.
2. The said construction, regardless of the claimed source of funding, is taking place on public property in violation of several provisions of the Constitution including Articles 60, 61 and 62.
3. The construction of a Christian church within a public institution associated with the Office of the President directly contravenes Article 8 of the Constitution, which declares that there shall be no State religion. By privileging Christianity through such state-linked infrastructure, the government risks entrenching religious favoritism, marginalizing other faiths or non-believers, and undermining the constitutional principle of religious neutrality.
4. The continued construction risks rendering the Petition nugatory, as further progress will deepen the constitutional breach, normalize religious partiality by the State, and irreversibly affect public land and resources.
5. The Application and the Petition in its entirety is brought in the public interest and for the preservation of constitutional integrity.
6. It is in the interest of justice that the instant application be certified urgent and orders sought herein be granted at the earliest instance.

DATED THIS 20TH DAY OF AUGUST 2025

MUGERIA, LEMPAA & KARIUKI ADVOCATES
ADVOCATES FOR THE PETITIONERS

DRAWN AND FILED BY: -

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NOTICE OF MOTION

(Under Articles 20, 22, 23(3), 159(2)(d), 165(3), and 258 of the Constitution of Kenya 2010, Rules 4, 19, and 23 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules 2013, and all other enabling provisions of the Law)

LET ALL PARTIES CONCERNED attend the Honourable Judge in Chambers on the _____ day of _____, 2025, at 9.00 O'clock in the forenoon or as soon thereafter for hearing of an Application by the Applicants/Petitioners for ORDERS:

1. **THAT** this Application be certified urgent and service thereof be dispensed with in the first instance.
2. **That this honorable court be pleased to place the file before the Hon Vacation Judge at the earliest time possible for the expeditious and judicious determination of the dispute**
3. **THAT** a conservatory order be issued restraining the President of the Republic of Kenya, whether by himself, his officers, agents, servants, or any public official acting under his authority, from further continuing with or supporting in any manner, directly or indirectly, the construction, development, or facilitation of the church within State House Nairobi pending the hearing and determination of this Application.
4. **THAT** a conservatory order be issued restraining the President of the Republic of Kenya, whether by himself, his officers, agents, servants, or any public official acting under his authority, from further continuing with or supporting in any manner, directly or indirectly,

the construction, development, or facilitation of the church within State House Nairobi pending the hearing and determination of this Petition.

5. **THAT** the costs of this Application be provided for.

THIS APPLICATION is based on the grounds THAT:

1. The President of the Republic of Kenya has, through public statements and government action, confirmed his direct involvement in the construction of a church within State House Nairobi, a public institution and symbol of the Kenyan State.
2. The said project, even if allegedly funded through private contributions, involves the use of public land, facilities, and personnel and was undertaken without public participation or parliamentary oversight.
3. The construction of a religious institution within public premises associated with the Head of State violates the principle of State neutrality in religious matters as set out in Article 8 of the Constitution.
4. The Petitioners have demonstrated a prima facie case with a likelihood of success and have shown that unless conservatory orders are issued, the ongoing construction will render the Petition nugatory and cause further constitutional violations.
5. It is in the public interest and in furtherance of constitutional governance that the court issues the conservatory orders to prevent continued abuse of office, misuse of public resources, and erosion of public trust.
6. Unless this Honorable Court grants the conservatory orders sought, the Petitioners and the general public will continue to suffer irreparable harm and violation of constitutional rights and values.

AND FURTHER SUPPORTED by the affidavit of SHEILA MASINDE and other grounds and reasons to be adduced at the hearing hereof.

DATED THIS 20TH DAY OF AUGUST 2025

MUGERIA, LEMPAA & KARIUKI ADVOCATES
ADVOCATES FOR THE PETITIONERS

DRAWN AND FILED BY: -

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TO: THE HIGH COURT OF KENYA

CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

MILIMANI LAW COURTS

NAIROBI

PETITIONERS

1. The 1st Petitioner is Transparency International Kenya (TI-Kenya). TI-Kenya is a not-for-profit organization founded in 1999 in Kenya with the aim of developing a transparent and corruption free society through good governance and social justice initiatives, towards establishing a corruption-free world through inter alia advocacy, strategic litigation, research and civic engagements. The address of service for purposes of this petition shall be care of **TRANSPARENCY INTERNATIONAL KENYA** of **Bishop Magua Building, Ground Floor, Wing B, George Padmore Lane, off Ngong Road P. O. Box 198-00200, Nairobi** and of email address litigation@tikenya.org.
2. The 2nd Petitioner is the Kenya Human Rights Commission (KHRC). KHRC was founded in 1992 and registered in Kenya in 1994 as a national non-governmental organisation. Its

mandate is to enhance human rights-centred governance at all levels. The address of service for the purpose of this petition is care of the 1st Petitioner's office.

3. The 3rd Petitioner is INUKA Kenya Ni Sisi. INUKA is a Kenyan grassroots movement founded in 2009 that seeks to unite Kenyans to forge a collective identity, drive transformation amongst citizens and in leadership to improve the lives of all Kenyans. The address of service for the purpose of this petition is care of the 1st Petitioner's office.
4. The 4th Petitioner is the Institute for Social Accountability (TISA). TISA is a movement that seeks to promote citizen empowerment and government accountability in Kenya with the aim of helping Kenyans fulfil the promise of constitutional reform. The address of service for the purpose of this petition is care of the 1st Petitioner's office.
5. The Petitioners are members of a National Integrity Alliance coalition which is a citizen-centered integrity and anti-corruption coalition that seeks to breathe life into the constitutional promise on Integrity by catalysing frontline ethics and anti-corruption institutions, and active citizens to detect, deter, disrupt and defeat corruption at all levels of society.

RESPONDENT

6. The Respondent is a public office established under Article 156 of the Constitution of Kenya, 2010 and is sued in this Petition in its capacity as the principal legal advisor and representative of the government in all proceedings other than criminal proceedings. Its address of service for purposes of this Petition shall be Office of the Attorney General and Department of Justice, (For purposes of this suit service upon the Respondent shall be effected through the 1st Petitioner's office.)

INTERESTED PARTIES

7. The 1st Interested Party is a statutory body established by the Law Society of Kenya Act, 2014 with a statutory mandate under section 4 to assist the Government and the courts in matters relating to legislation, the administration of justice and the practice of law in Kenya; uphold the Constitution of Kenya and advance the rule of law and the administration of justice; and to protect and assist the members of the public in Kenya in matters relating to or ancillary or incidental to the law.
8. The 2nd Interested party is a Kenyan non-governmental, not-for-profit organization established as a company limited by guarantee and whose mandate is to instil a culture of constitutionalism in Kenya and the East African region.

B. STATEMENT OF STANDING AND JURISDICTION

9. Transparency International Kenya and the co-petitioners have standing to bring this petition under Articles 22(1) & (2) and 258(1) & (2) of the Constitution. Article 22(1) states, 'Every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened'.
10. Articles 22(2)(a)-(c) authorise Transparency International Kenya to file this petition on behalf of another person who cannot act in their own name, in the interest of a group or class of people, and in the public interest.
11. On 4th July 2025, the Daily Nation, a publication of the Nation Media Group, published an article disclosing that the President of the Republic of Kenya, His Excellency Dr. William Samoei Ruto, had clandestinely initiated and was personally supervising the construction of a church within the precincts of State House Nairobi, at an estimated cost of Kenya Shillings One Billion Two Hundred Million (Kshs. 1,200,000,000.00)
12. That the aforesaid publication further revealed that the reporters had accessed and reviewed detailed architectural plans and drawings of the said structure, disclosing specific particulars, including a proposed seating capacity of approximately 8,000 persons and the architectural design which the ongoing construction is ultimately intended to assume.
13. That the above was further cemented in a letter from the State House dated 11th July 2025 addressed to the 2nd Petitioner in response to the 2nd Petitioner's letter dated 4th July 2025 seeking clarification on the alleged construction of the church within Statehouse grounds stipulating that;

"The project will be funded **through private donations** from well-wishers **led by His Excellency the President**. No public funds have been allocated to it. The decision on this type of funding is in appreciation that committing public funds to the project may inadvertently be interpreted as the State's preference of one religion over others."
14. That following the said confirmation, the commencement and continuation of such a project on public land, without any form of public participation and in blatant disregard of fundamental constitutional provisions, constitutes a grave violation of the Constitution. Consequently, the people of Kenya are justifiably aggrieved and deeply frustrated by the

government's actions which undermine principles of transparency, accountability, and public involvement as enshrined in the Constitution.

15. That the use or purported use of private funds to undertake a personal or religious project within State House, a public property held in trust for the people of Kenya, raises profound constitutional and ethical concerns. Regardless of the source of funding, the utilization of public land for private purposes without public participation contravenes the principles of responsible stewardship of public resources. Such conduct is inconsistent with the values espoused in Chapter Six of the Constitution, particularly Article 73, which requires that authority assigned to a state officer be exercised in a manner that demonstrates respect for the people, brings honour to the nation and dignity to the office, and promotes public confidence in the integrity of the office.

D. PARTICULARS OF CONTRAVENED CONSTITUTIONAL PROVISIONS

***i.* Article 8 of the Constitution of Kenya provides that there shall be no State religion.**

16. The Petitioners contends that the alleged support, facilitation, or endorsement of the construction of a church within the precincts of State House Nairobi amounts to the unconstitutional promotion of a particular religion by the State. Such conduct undermines the foundational principle of religious neutrality expected of government institutions and officeholders. By permitting or overseeing the development of a religious facility on public land associated with the presidency, the Government of Kenya, through the Office of the President, has effectively breached the constitutional prohibition against the establishment of any State religion.

***ii.* Article 10(2) of the Constitution mandates that the national values and principles of governance include participation of the people in the exercise of the powers of the State and in making decisions that affect them.**

17. The Petitioners assert that the reported construction of a religious facility within State House, a public property held in trust by the President, was carried out without any form of public participation or consultation. This omission violates the constitutional principle of participatory governance.

***iii.* Article 27 of the Constitution guarantees every person equality and freedom from discrimination.**

18. The Petitioners aver that the preferential treatment afforded to a particular faith through the construction of a church within State House violates this constitutional prohibition. Such discrimination threatens the rights of minority religious groups and individuals who do not adhere to any religion, thereby infringing their constitutional rights to freedom of conscience, belief, and equal treatment before the law.
19. Furthermore, the act of establishing religious spaces within state facilities sets a dangerous precedent of institutionalizing religion in public institutions. This practice is discriminatory in violation of Article 27 of the Constitution, which guarantees equality and prohibits discrimination on any grounds, including religion.

***iv.* Article 32 of the Constitution guarantees every person the right to freedom of conscience, religion, belief, and opinion.**

20. The Petitioners aver that the establishment of a religious structure within State House, an institution symbolizing the unity of the Republic, has the effect of privileging one faith over others.
21. This act infringes upon the rights of Kenyans who profess different religious beliefs or none at all, by signalling a form of state preference or alignment with a specific religion. Such a precedent risks marginalizing non-adherents and violates the spirit of pluralism and equality enshrined in the Constitution.

***v.* Article 75(1) of the Constitution provides that a State officer shall conduct themselves, whether in public or official life, in private life, or in association with other persons, in a manner that avoids: (a) any conflict between personal interests and public or official duties; (b) compromising any public or official interest in favour of a personal interest; or (c) demeaning the office the officer holds.**

22. The Petitioners contend that the President's decision to initiate, fund, or support the construction of a religious facility within the grounds of State House, whether personally financed or not, constitutes conduct that brings personal religious interests into conflict with public duty. By repurposing a public facility for sectarian use, the President has compromised public interest in favour of private religious affiliation, thereby creating an appearance of partiality and misuse of a national institution.
23. The Petitioners contend that such actions not only demean the dignity and neutrality of the Office of the President, but also violate the ethical expectations imposed by Article 75(1) and further erode public trust in state leadership.

vi. Articles 73(1)(a), 75(1)(c) of the Constitution impose obligations on State officers to exercise authority as a public trust with integrity.

24. The Petitioners state that, irrespective of whether the construction of the church is funded "through private donations from well-wishers", the decision to erect such a structure within the State House premises constitutes a manifest abuse of public office and state resources. The use of public land for a private or sectarian purpose, without transparent public participation or lawful authority, violates the constitutional principles of leadership and integrity as well as the prudent management of public finances.
25. State House is a public institution owned and maintained by the people of Kenya through taxpayer funds. It serves as the official residence of the sitting President and is not the private or permanent property of the incumbent.
26. Accordingly, the conversion of any part of State House into a venue for religious worship or faith-based activities, irrespective of the source of funding, constitutes an improper use of public property for personal or sectarian purposes. Such use threatens the constitutional principle of state neutrality in religious matters and amounts to unconstitutional favoritism towards a particular religion. This is in direct contravention of Article 8 of the Constitution, which affirms the secular nature of the Republic of Kenya.
27. Moreover, it constitutes a breach of the ethical standards of leadership and integrity enshrined in Chapter Six of the Constitution. By allowing public spaces to be privatized or converted to accommodate the personal religious or ideological preferences of officeholders, the Government demeans constitutional values and the public trust vested in state officers, thereby contravening the principles of good governance and accountability.

E. PARTICULARS OF CONTRAVENED STATUTORY PROVISIONS

i. Section 10 of the Leadership and Integrity Act mandates that every State officer shall carry out their duties in a transparent and accountable manner.

28. The Petitioners aver that the President as a State officer involved in the construction of the church within State House has acted contrary to this requirement by failing to disclose details of the project to the public, withholding vital information, and proceeding without any form of public participation or transparency. This conduct threatens the constitutional values of openness and accountability.

ii. **Section 11 of the Leadership and Integrity Act requires that a State officer perform their duties in a manner that upholds public confidence in the integrity of their office.**

29. The Petitioners contend that by initiating and overseeing a costly religious project on public land without public consultation noting the Statehouse is a public property, the President has breached this duty. Such actions erode public confidence in the integrity of the presidency and compromise the dignity of the office.

iii. **Section 12 of the Leadership and Integrity Act expressly prohibits a State officer from using their office to unlawfully or wrongfully enrich themselves or others.**

30. The Petitioners aver that the facilitation or support of the church project, which appears to confer undue benefit on a particular religious group, amounts to a wrongful use of office, contrary to this statutory provision.

iv. **Section 13 of the Leadership and Integrity Act imposes a moral and ethical duty on public officers to represent information to the public accurately and honestly.**

31. The Petitioners state that the failure by the President to openly, truthfully and willfully communicate the nature, funding, and progress of the church project violates this duty. Such misinformation or nondisclosure further compounds the breach of public trust and integrity.

THE PETITIONER THEREFORE PRAYS FOR:-

- a. **A declaration** that the construction of a church within the precincts of State House Nairobi, a public institution and symbol of state unity, constitutes a violation of Article 8 of the Constitution of Kenya, which prohibits the establishment of any state religion and mandates religious neutrality by the State.
- b. **A declaration** that the use of public land, facilities, or State House premises, whether funded publicly or privately, for sectarian religious purposes amounts to a breach of the Constitution, specifically Articles 10, 27, 32, 73, and 75, and is inconsistent with the principles of non-discrimination, public participation, accountability, and responsible use of public office and property.
- c. **A declaration** that the President's actions in initiating, supporting, or facilitating the construction of a religious structure at State House Nairobi, without public consultation, amounts to abuse of office, conflict of interest, and a violation of the Leadership and Integrity Act, particularly Sections 10, 11, 12, and 13.

- d. **A declaration** that the continued development of a church within State House sets a dangerous and unconstitutional precedent of religious preference by the State, undermining the rights to equality and freedom of religion under Articles 27 and 32 of the Constitution.
- e. **A declaration** that State House Nairobi, as public land held in trust for all Kenyans, cannot lawfully be used or repurposed for private religious infrastructure or sectarian benefit, and any such conversion is unconstitutional.
- f. Any other orders this Court considers appropriate to protect the Constitution and the interests of justice.

DATED THIS 20TH DAY OF AUGUST 2025

MUGERIA, LEMPAA & KARIUKI ADVOCATES
ADVOCATES FOR THE PETITIONERS

DRAWN AND FILED BY: -

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AFFIDAVIT IN SUPPORT OF THE PETITION AND THE NOTICE OF MOTION
APPLICATION

I, Sheila Masinde, of care of Post Office Box 198-00200, Nairobi in the Republic of Kenya, and make oath and state as follows:

1. **That** I am an adult of sound mind, and the Executive Director at Transparency International Kenya, the 1st Petitioner, competent to swear this affidavit.
2. **That**, I am familiar with the facts in this issue.
3. **That**, I swear this affidavit on behalf of the 2nd, 3rd, and 4th Petitioners having been authorized to do so. *Annexed is a letter of authorization marked as SM-1*
4. **That** on 4th July 2025, the Daily Nation, a publication of the Nation Media Group, published an article disclosing that the President of the Republic of Kenya, His Excellency Dr. William Samoei Ruto, had clandestinely initiated and was personally supervising the construction of a church within the precincts of State House Nairobi, at an estimated cost of Kenya Shillings One Billion Two Hundred Million (Kshs. 1,200,000,000.00). *Annexed is a copy of the Daily Nation Newspaper article marked SM-2.*
5. **That** the aforesaid publication further revealed that the reporters had accessed and reviewed detailed architectural plans and drawings of the said structure, disclosing specific particulars, including a proposed seating capacity of approximately 8,000 persons and the architectural design which the ongoing construction is ultimately intended to assume.
6. **That** following the above publication, the 2nd Petitioner wrote a letter addressed to State House seeking clarification on the alleged construction of the church within State house grounds. *Annexed herein is a copy of the letter dated 4th July 2025 marked as SM-3.*

7. **That** in response, in a letter from the State House dated 11th July 2025 addressed to the 2nd Petitioner (*Annexed herein is a copy of the letter dated 11th July 2025 marked as SM-4*) confirmed the construction of a church within the Statehouse grounds and further confirming as follows;

“The project will be funded **through private donations** from well-wishers **led by His Excellency the President**. No public funds have been allocated to it. The decision on this type of funding is in appreciation that committing public funds to the project may inadvertently be interpreted as the State's preference of one religion over others.”

8. That while State House was approached for a comment on the same and they declined to respond, the President, William Ruto, in his speech on the 4th June 2025 to a delegation of leaders from Embu, confirmed that indeed he is building a church in State House. The link of the President's utterances in Embu is found below;

“Mimi ni mtu anaamini Mungu. I have no apologies to make, kwa kujenga kanisa? I have no apologies

“I am a believer. I have no apologies to make, for building a church? I have no apologies to make. Do
y
o
u”

9. **That** following the said confirmation, the commencement and continuation of such a project on public land, without any form of public participation and in blatant disregard of fundamental constitutional provisions, constitutes a grave violation of the Constitution. Consequently, the people of Kenya are justifiably aggrieved and deeply frustrated by the government's actions which undermine principles of transparency, accountability, and public involvement as enshrined in the Constitution.

10. **That** the use or purported use of private funds to undertake a personal or religious project within State House, a public property held in trust for the people of Kenya, raises profound Constitutional and ethical concerns. Regardless of the source of funding, the utilization of public land for private purposes without public participation contravenes the principles of responsible stewardship of public resources.


11. **That** such conduct is inconsistent with the values espoused in Chapter Six of the Constitution, particularly Article 73, which requires that authority assigned to a state officer be exercised in a manner that demonstrates respect for the people, brings honour to the

nation and dignity to the office, and promotes public confidence in the integrity of the office.

12. **That** irrespective of whether the construction of the church is funded "through private donations from well-wishers", the decision to erect such a structure within the State House premises constitutes a manifest abuse of public office and state resources. The use of public land for a private or sectarian purpose, without transparent public participation or lawful authority, violates the constitutional principles of leadership and integrity as well as the prudent management of public finances.
13. **That, the** State House is a public institution owned and maintained by the people of Kenya through taxpayer funds. It serves as the official residence of the sitting President and is not the private or permanent property of the incumbent.
14. **That accordingly,** the conversion of any part of State House into a venue for religious worship or faith-based activities, irrespective of the source of funding, constitutes an improper use of public property for personal or sectarian purposes. Such use threatens the constitutional principle of state neutrality in religious matters and amounts to unconstitutional favouritism towards a particular religion. This is in direct contravention of Article 8 of the Constitution, which affirms the secular nature of the Republic of Kenya.
15. **That, moreover,** it constitutes a breach of the ethical standards of leadership and integrity enshrined in Chapter Six of the Constitution. By allowing public spaces to be privatized or converted to accommodate the personal religious or ideological preferences of officeholders, the Government demeans constitutional values and the public trust vested in state officers, thereby contravening the principles of good governance and accountability.
16. **That,** what I have deponed to in this affidavit in support of the Application and the Petition is based on facts within my knowledge and belief and in accordance with the Oaths and Statutory Declarations Act, Cap 20.

Sworn at Nairobi by the said Sheila Masinde
this **21st** of **August** 2025 in Nairobi
BEFORE ME:

COMMISSIONER OF OATHS

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} Deponent
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}

DRAWN AND FILED BY: -

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