



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**  
**CRIMINAL CASE NO. 16 OF 2010**

REPUBLIC.....  
.....PROSECUTOR

**VERSUS**

VINCENT KIPKURUI KOECH.....1<sup>ST</sup>  
ACCUSED

DENNIS KIPCHIRCHIR KOECH.....2<sup>ND</sup>  
ACCUSED

**SENTENCE**

Section 204 of the Penal Code (*Cap. 63, Laws of Kenya*) provides that any person convicted of murder shall be sentenced to death.

In the case of **REPUBLIC VS. JOHN KIMITA MWANIKI** (*Nakuru Criminal Case No. 116 of 2007*) I argued that Article 26(3) of the Constitution is inconsistent with Article 26(1) of the Constitution which guarantees the right to life.

Looking again at Article 26(3) of the Constitution, it is quite clear that it does not in any of its subsequent provisions authorize the taking away of life intentionally. For that reason, I gave a sentence of 30 years, without an option of parole for the first 20 years.

The accused in that case was part of a gang of raiders. He was young and may well have been influenced by his peers who were never caught. In this case the accused acted in concert with their brother Kiprono who was subject of mob rule and was killed in revenge attacks. It was the quick action of the Police, that saved the accused from suffering a similar fate. It is only a year after the events in question. The anger and tension is still there, particularly among the relatives of the victim of their vicious attack and slaying.

It was quite senseless attack, and the accused were not remorseful at all, even after their conviction, they still denied involvement in death of the deceased, Kelvin Kibiwott Ngetich.

For those reasons, I would sentence each of the accused to 50 years imprisonment with no option of parole for the first 30 years.

There shall be orders accordingly.

**Dated, delivered and signed at Nakuru 24<sup>th</sup> day of June, 2011**

**M. J. ANYARA EMUKULE**  
**JUDGE**