



**Kamau s/o Beasley Kogi & 2 others v Bungei, Commandant Nairobi
Region & 5 others (Petition E418 of 2024) [2025] KEHC 8856 (KLR)
(Constitutional and Human Rights) (19 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8856 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS**

PETITION E418 OF 2024

AB MWAMUYE, J

JUNE 19, 2025

BETWEEN

**BEATRICE MUTHONI KAMAU S/O BEASLEY KOGI 1ST PETITIONER
LAW SOCIETY OF KENYA 2ND PETITIONER
INDEPENDENT MEDICO – LEGAL UNIT 3RD PETITIONER**

AND

**ADAMSON BUNGEI, COMMANDANT NAIROBI REGION 1ST RESPONDENT
JAPHETH KOOME 2ND RESPONDENT
OFFICE OF THE INSPECTOR GENERAL 3RD RESPONDENT
OFFICE OF NAIROBI COUNTY COMMANDER 4TH RESPONDENT
ATTORNEY GENERAL 5TH RESPONDENT
NATIONAL POLICE SERVICE 6TH RESPONDENT**

JUDGMENT

1. By the Petition dated 14th August 2024, the Petitioners raised concerns on the unlawful killing of Beasley Kogi Kamau by Kenyan Police Officers on 25th June 2024, during protests against the Finance Bill.
2. The Petitioners argue that a post- mortem was conducted on the deceased and the report held that the cause of death as having been caused by blunt force trauma to the head and chest.



3. They further contend that the Respondents have not taken any actions against the officers who caused the death of Beasley Kogi Kamau and that failure to bring the perpetrators to book threatens further violation of the Constitution.
4. Vide the Petition, the Petitioners seeking the following reliefs:
 - a. A declaration does issue that the use of lethal force for law enforcement purposes is an extreme measure that should be resorted to only when strictly necessary to protect life or prevent serious injury from an imminent threat. The intentional taking of life by police officers is permissible only if it is strictly necessary to protect life from an imminent threat. Thus, the use of lethal force against Beasley Kogi was arbitrary, unproportioned, unlawful and unconstitutional.
 - b. A declaration does issue that the unlawful killing of Beasley Kogi by the Kenyan Police Officers on 25th June, 2024 in Nairobi CBD, violated his right to life under Article 26 of the Constitution; right to equal benefit and protection of the law under Article 27; right to dignity under Article 28; and right to security of the person under Article 29 of the Constitution.
 - c. A declaration does issue that the Petitioners are entitled to effective remedies as guaranteed by Article 23 of the Constitution; Article 2(3) of the ICCPR; Article 14 of CAT; and Article 7(1) of the Bajul Charter for the violations of Beasley Kogi's fundamental rights and freedoms through his unlawful killing at Nairobi CBD on 25th June 2024 during the protests against the Finance Bill.
 - d. A declaration that the failure to commence the prosecution of Beasley Kogi's killers further violates the positive obligation to investigate and prosecute violations of the Right to lie, torture, inhuman and degrading treatment under Article 21(1) of the Constitution; Article 6 and 7 of CAT; Article 2 and 7 of the ICCPR;
 - e. A declaration that Articles 244 (a) and 246 (3) commands the Respondents to punish and prosecute the police officers who killed Beasley Kogi. Consequently, a mandatory order does issue compelling the Respondents to conclude investigating, take disciplinary action, and charge in court the police officers who killed Beasley Kogi at Nairobi CBD on 25th June 2024 during the Anti-Government protest against the Finance Bill.
 - f. An order directing the Attorney General to issue a public apology, including an acknowledgement of the facts, and acceptance of responsibility to the family of Beasley Kogi within 7 days of this court's order.
 - g. Costs of this suit.
5. The Petition was accompanied by a Notice of Motion Application dated 14th August, 2024 and an Affidavit in support of even date sworn by Beatrice Muthoni Kamau, the deceased's sister on the grounds that on Tuesday 25th June 2024, Kenyan Police Officers killed Beasley Kogi Kamau in Nairobi CBD during the protests against the Finance Bill.
6. She avers that a post- mortem was conducted on the deceased and the report held that the cause of death as having been caused by blunt force trauma to the head and chest.
7. She further avers that the Respondents have not taken any actions against the officers who caused the death of Beasley Kogi Kamau and that failure to bring the perpetrators to book threatens further violation of the Constitution.



8. In response to the Petition, the Respondents filed a Replying Affidavit sworn by Elizabeth Marube and dated 13th November, 2024 to which she averred that the 3rd Respondent is an office established under Article 245 (1) of the *Constitution* with the mandate to exercise independent command over the National Police Service and perform other functions as prescribed by the *National Police Service Act*.
9. Further, that the 3rd Respondent through the Directorate of Criminal Investigations is mandated to collect and provide criminal intelligence, detect and prevent crime, apprehend offenders, investigate serious offences among other functions.
10. In addition, the 3rd Respondent, pursuant to Article 244 of the Constitution has ensured all police officers are well trained to the highest possible standards of competence, including techniques to diffuse tension and reduce the likelihood of the need to use force and firearms and if the same are used, to ensure firearms are used appropriately with the least risk of causing unnecessary harm.
11. According to the Respondents on 25th June, 2024 there were widespread protests in Nairobi and other parts of the country and about 10,000 protesters gathered within Nairobi CBD armed with stones and crude weapons where they overpowered the police and managed to destroy both private and public property, engaged in violence against the police officers and also in blatant looting.
12. The Respondents aver that on the same day, the police received reports of the death of a male adult who was fatally injured within CBD whose identity was later established as one Beasley Kogi Kamau, the deceased herein.
13. The Respondents further aver that upon receipt of the report, the Directorate of Criminal Investigations, Nairobi Central commenced investigations leading to the death through inquest no. 7/2024 and discovered that the cause of death of the deceased was severe head and chest injuries through blunt force.
14. According to the Respondents, the Investigating officer, PC Josephine Atieno recorded statements from police officers detailing the incident that took place on 25th June, 2024 however, the family of the deceased has declined to record any statements to aid in the investigations and identification of the perpetrators.
15. The Respondents state that on 11th October, 2024 the Inquest file was forwarded to the office of the Director of Public Prosecutions with recommendations that the matter be placed before a magistrate of competent jurisdiction for purposes of conducting a public inquest owing to the lack of eye witnesses and forensic evidence connecting any suspect to the death of the deceased.
16. They further contend that there is no evidence disclosed that prove the involvement of police officers in the death of the deceased and that although police officers are required to attempt to use non-violent means first, they are allowed to use force when the non-violent means are ineffective.
17. According to the Respondents, the police officers complied with all legal requirements by attending to public gatherings and assemblies and through provision of security and maintenance of law and order, removed those bent on disrupting the orderly conduct of the demonstrations.
18. The Respondents further argue that no police officer has been found culpable for any act or omission that resulted in the death of the deceased however, the petitioners are seeking to assign blame without a lawful criminal process which is contrary to the constitutional right to fair hearing which includes the right to be presumed innocent, the right to adduce and challenge evidence among others.
19. They further contend that the death of the deceased is currently under investigation by the Independent Police Oversight Authority and the Directorate of Criminal Investigations.



20. In addition, they state that the 1st and 2nd Respondents are shielded from personal liability by virtue of being public officers within the meaning of Article 236 of the Constitution which requires that they should not be victimized or discriminated against for having performed the functions of their office in accordance with the Constitution or any other law emanating from the Constitution. The 1st and 2nd Respondents should therefore be expunged from the Petition as they are shielded from personal liability in execution of their lawful duties.
21. In conclusion, while praying that the Petition be dismissed, the Respondents state that the Constitution bars any person from giving directions to the 3rd Respondent on the investigation of any particular offence or offences and therefore this court lacks jurisdiction to grant the orders sought directing the 3rd Respondent to take disciplinary action against police officers who have not been found culpable as it is tantamount to interference with the independence of the 3rd Respondent.
22. The Petitioners filed a supplementary affidavit sworn by Beatrice Muthoni dated 30th December 2024 which states that the seven attributes of circumstantial evidence corroborate each other and demonstrate that the deceased died in the hands of the police which includes res gestae and similar fact evidence of police conduct of violently dispersing protestors. She further alleges that she is aware that during the 2023 protests of the Finance Bill, police killed 175 youth and also killed 9 other youths in Nairobi CBD the same afternoon her brother died.
23. They aver that the government encourages or acquiesces in the violent break-up of peaceful protests and persistently fails to investigate or to prevent that type of violence thus there is an established culture of unprofessionalism, violence and impunity of Kenyan police officers.
24. They further averred that from June 2024, Kenyan police and security officials have habitually abducted, tortured, disappeared or killed protesting youth yet none of the deaths has been conclusively investigated and in fact the Respondents failed to investigate or make any inquiry into Beasley's killing strongly suggests their involvement in his death.
25. The Petitioners contend that a state organ, KNHCR, has admitted that the state violated the right to life during the anti-Finance Bill demonstrations between June and July 2024 where they documented 60 deaths perpetuated during the demonstrations in different reports. From all this together with the circumstantial evidence outlined above, this court should safely presume on a balance of probabilities, that Beasley died at the hands of or with the acquiescence of the Respondents within the framework of established state practice.
26. The petition was canvassed by way of written submissions, and in compliance both parties filed and served their submissions.

Petitioners' Submissions

27. In their written submissions dated 13th October 2024, the Petitioners assert that the use of lethal force for law enforcement purposes is an extreme measure that should be resorted to only when strictly necessary to protect the life or prevent serious injury from an imminent threat and thus the intentional taking of life by police officers is permissible only if it is strictly necessary to protect life from an imminent threat. Reliance was placed on the case of Javeria Siddique w/o Arshad Sharif & 2 others vs Attorney General & 4 others (2024) KEHC 9667 (KLR).
28. The Petitioners aver that the use of any force against an unarmed and peaceful protestor, like Beasley Kogi violates Article 37 and was not permissible or strictly necessary to protect any other life from an imminent threat.



29. They further submitted that the excessive, arbitrary, unreasonable and lethal use of force and unlawful killing of Beasley Kogi by Kenyan police officers violated Article 26 of the Constitution, Article 6 of the [ICCPR](#) and Article 4 of the Banjul Charter which protect the right to life and invasion of their bodily integrity. In addition, the excessive, arbitrary, unreasonable and lethal use of force and unlawful killing violated his right to equal benefit and protection of the law under Article 27 of the [Constitution](#), Article 2 of the [ICCPR](#) and Article 3 of the Banjul Charter together with his right to a fair trial and his right to dignity.
30. Further, the Petitioners submitted that unreasonably using force resulting in the death of Beasley Kogi and failing to investigate the killing a couple of weeks later violates Article 47 of the [Constitution](#) furthermore, IPOA, NPSC and the Inspector General have not taken any disciplinary action against the police officer who unlawfully killed the deceased which is in violation of Article 244(a) and 246(3) of the Constitution. They relied on Para 15 of the [Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#) which entitles victims to adequate, effective and prompt reparation promotes justice by redressing gross violations of international Human Rights Law. They equally relied on the case of [Utalii Transport Company Limited & 3 others vs NIC Bank Limited & Anor](#) [2014] eKLR.
31. On the appropriate reliefs, the Petitioners relied on the case of [E.W.A & 2 others v Director of Immigration and Registration of Persons & another](#) [2018] eKLR and submitted that courts have a particular responsibility and are obliged to forge new tools and shape innovative remedies if need be to ensure that the rights enshrined in the Constitution are protected and enforced.
32. The Petitioners equally filed further submission on causation dated 30th December, 2024 where they asserted that the right to life under Article 26 of the Constitution plays a fundamental role in the Constitution because it is essential in realizing other rights and in addition to that, the right to life is a supreme right from which no derogation is permitted even in times of public emergency which threatens the life of the nation. They relied on the General Comment No. 36 on Article 6: Right to Life.
33. They further submitted that there is sufficient circumstantial evidence, based on concrete elements to infer that Beasley Kogi died from police violence at the protest on 25th June 2024. Reliance was placed in the case of [Mutava v Tribunal Appointed to Investigate the Conduct of Justice Joseph Mbalu Mutava, Judge of the High Court of Kenya](#) [2019] KESC 49 (KLR) and [Republic v Mohammed & Another](#) [2019] KESC 48 (KLR).
34. The Petitioners aver that for all the Constitutional violations observed in the Petition, the 1st and 2nd Respondents are personally culpable under Article 21(1) not just as state officials but also given their personal involvement in the protests. According to the Petitioners, the 1st and 2nd Respondents were personally present directing violence against peaceful protesters like Beasley Kogi and even if this Court finds the Respondents not culpable y commission, they cannot entirely escape liability for omission. They cited the case of [Florence Amunga Omukanda v Attorney General](#) [2016] KEHC 3667 (KLR) in support.

Respondents' Submissions

35. In their written submissions dated 7th March, 2025 the Respondents stated that the Petitioners are unable to sufficiently prove the nature and manner in which the Respondents allegedly violated their rights or any of the provisions of the Constitution since the supporting affidavit of Beatrice Kamau does not in any way give evidence as to who used lethal force on the deceased. They state that due to



- the above reasons, the Petition does not meet the threshold laid down in the case of *Anarita Karimi Njeru v R* (No 1) 1979 KLR 154 and emphasized in the case of *Mumo Matemu v Trusted Society of Human Rights Alliance* [2014] eKLR.
36. They further argued that the 1st and 2nd Respondents are totally and wholly shielded from personal liability while in exercise of their mandate therefore, they cannot be cited for any liability as to the alleged violation of rights and fundamental freedoms since they are public officers and are thus guaranteed protection under Article 259 of the Constitution and Section 66 of the *National Police Service Act*. They relied on the case of *Dakianga Distributors (K) Ltd v Kenya Seed Company Limited* [2015] KECA 870 (KLR).
 37. The Respondents further asserted that the Petitioners have failed to discharge their burden of proof in alleging that the Respondents were responsible for the death of Beasley Kogi since the deceased died during protests and no specific person has been brought to account for the death and the mere mention that the deceased was killed by Kenyan Police Officers is not sufficient proof to accuse the Respondents for the death. Further, in the absence of conclusive investigations, no one can truly tell this Court what exactly happened to the deceased.
 38. They further argued that the questions before this court should then be who caused the injuries that led to the deceased's death? What weapon was used to cause the injuries? Is it possible that someone else other than the police caused the injuries? Are the police the only persons who carry a baton? Is a baton the only instrument that can cause blunt force trauma? If all these questions are yet to be answered is enough proof that there is no evidence for this court to make a just determination in this case.
 39. The Respondents aver that this Court can only make a finding that lethal force was used but cannot proceed to state that the circumstances under which the force was used or that the injuries and subsequent death of Beasley Kogi was caused by the Respondents and similarly, no evidence has been adduced to demonstrate that investigations to establish what happened to the deceased have not taken off.
 40. The Respondents submit that in their investigations recorded statements from police officers and attended the post mortem but it became apparent that the investigations could not proceed further thus the 3rd Respondent wrote a letter to the ODPP recommending that an inquest be carried out as provided under Section 386 of the *Criminal Procedure Code*.
 41. According to the Respondents they conducted preliminary investigations as expected of them by law and therefore cannot be faulted for not carrying out any investigations, arresting and prosecuting the culprits. Moreover, under Article 157 (6) of the *Constitution*, the Director of Public Prosecutions has powers to institute and conduct criminal proceedings which can only be done after investigations are concluded and suspects are identified. Arrest and prosecution cannot commence in the absence of suspects.
 42. The Respondents argue that in light of the fact that the investigations have not yet been concluded, the Petitioners asking this court to make declaration before investigations are concluded would be an academic exercise and that the Petition is premature in the sense that unless investigations are concluded the intervention of this court would amount to adjudicating to the dispute too early. Reliance was placed on the case of *Wanjiku Gikonyo & 2 others vs National Assembly of Kenya & 4 others* Nairobi Constitutional Petition No 453 of 2015 (2016) eKLR and *Sharma (Suing in her personal capacity, suing as the Administrator of the late Buntty Bharat Kumar Shah, suing as the next friend of YBS (minor) v Attorney General & 3 others* [2022] KEHC 15462(KLR).



43. Having carefully considered the Petition, the responses, the affidavits and submissions and authorities, which I have set out in brief above. From the pleadings and submissions, it is evident that the core issue before this court is: -
- a. Whether there was a violation of Beasley Kogi's Constitutional rights by the Respondents.
 - b. Whether the Respondents have delayed in investigating and prosecuting Beasley Kogi's case thus compounding the violation

Whether there was a Violation of Beasley Kogi's Constitutional rights by the Respondents

44. The Petitioner has sued the Respondents alleging violation of rights of the deceased as pleaded in the Petition. It is trite law that he who alleges must prove. The burden of proof lies on the Petitioners to prove that the Respondents violated the rights of the deceased.

45. Section 107 of the *Evidence Act* provides that:

1. Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.

46. The threshold to be met is well settled in law. A Petitioner approaching the court in a Constitutional Petition must plead his/her case with precision. The provisions of the Constitution alleged to have been violated must be specifically specified. The requirements are well set out in the case of *Anarita Karimi Njeru v Republic* [1979] KLR, where the court observed as follows:

“...if a person is seeking redress from the High Court on a matter which involves a reference to the Constitution, it is important (if only to ensure that justice is done to his case) that he should set out with a reasonable degree of precision that of which he complains, the provision said to be infringed, and the manner in which they are alleged to be infringed...”

47. In *Mumo Matemu v Trusted Society of Human Rights Alliance* [2013] eKLR the Court of Appeal observed as follows on the issue of pleading a constitutional petition with precision:

- (41) We cannot but emphasize the importance of precise claims in due process, substantive justice, and the exercise of jurisdiction by a court. In essence, due process, substantive justice and the exercise of jurisdiction are a function of precise legal and factual claims. However, we also note that precision is not coterminous with exactitude. Restated, although precision must remain a requirement as it is important, it demands neither formulaic prescription of the factual claims nor formalistic utterance of the constitutional provisions alleged to have been violated. We speak particularly knowing that the whole function of pleadings, hearings, submissions and the judicial decision is to define issues in litigation and adjudication, and to demand exactitude ex ante is to miss the point.

...The whole object of pleadings is to bring the parties to an issue, and the meaning of the rules... was to prevent the issue being enlarged, which would prevent either party from knowing when the cause came on for trial, what the real point to be discussed and decided was. In fact, the whole meaning of the system is to narrow the parties to define issues, and thereby diminish expense and delay, especially as regards the amount of testimony required on either side at the hearing...”

48. The legal burden of proof remains constant throughout the trial, and it is discharged when the party establishes through evidence, to the appropriate standard, that the fact he has asserted exists.



49. The production of evidence is the task of discharging the evidential burden. That means that when the Petitioner adduces evidence to try and meet its legal burden of proof, he would be discharging his evidential burden. Whilst the legal burden remains constant, the evidential burden may shift during the trial. Thus, if the Petitioner produces evidence, she will have discharged her evidential burden and at that juncture the evidential burden shifts to the Respondent.
50. It therefore follows that if the Petitioners produce evidence which did not prove all the facts or all the ingredients of the issue which they asserted, this court would hold that they have failed to discharge their legal burden of proof. I must therefore ascertain whether or not the petitioners discharged the legal burden of proof.
51. The Petitioners in this case allege that the deceased was unlawfully killed by the police on 25th June, 2024 during the protests against the finance bill and upon conduction of the post- mortem, the report ruled the death as having been caused by blunt force trauma to the chest and head.
52. In the 1st Petitioner's supplementary affidavit sworn by the sister to the deceased, Beatrice Muthoni, she alleges that she learnt from the deceased friends who fear for their lives and have therefore declined to swear affidavits, that they were together with the deceased at the protest and that they saw him twice that day. The friends allegedly last saw the deceased alive at around 1 p.m near I &M bank on Kenyatta Avenue and were later informed that his body was brought to the morgue at 8pm by police from Kamukunji Police Station.
53. It is prudent to note that the Petitioners seem to depend on circumstantial evidence that it is the police who caused the death of the deceased by use of a baton to fracture his skull and ribs. However, notably, there is no evidence whatsoever to show that these injuries were caused by the Police during disperse of protesters. It is indeed their evidence from the alleged friends who did not testify nor swear an affidavit as part of their evidence, that the friends of the deceased saw him alive twice. There is no evidence adduced that points a finger to the police being involved in the death of the deceased apart from an allegation that blunt force trauma might have been caused by the police using batons as they were dispersing the crowd.
54. The Court admits that there are various reports attached by the Petitioners admitting that the state violated several constitutional rights during the Anti-Finance Bill demonstrations between June and July 2024 where the Commission documented 175 deaths perpetuated during the demonstrations. In general terms, the police might have used excessive force in the manner which they responded to the Anti- Finance Bill protests however, the KNHCR Reports did not make reference to the instances in respect which the deceased was involved and no evidence has been adduced in support of the same.
55. I have evaluated all the evidence on record and have found no evidence to prove that Respondents are in any way connected to the death of the deceased. The fact that some police officers exercised excessive or lethal force, does not, of itself, necessarily imply that the Petitioner can attest to who caused the fatal injuries to Beasley Kogi and whether the same was caused by a police officer or by members of the public.
56. The evidence on record confirms that none of the Petitioners saw who caused the blunt injuries to the head and chest of the deceased. They relied on hearsay evidence from the friends who did not testify nor did they swear an affidavit in support of their allegations to enable the respondents a rights of reply making the same inadmissible before this court.
57. When the wounds were caused, by what and by whom, it is difficult to tell from the evidence. It would have greatly assisted the court had the Petitioners placed some evidence before this court relating



the police officers to the death of Beasley Kogi or even the weapon used to cause the fatal wounds unfortunately, such evidence was not placed before me.

58. In the circumstances there is no basis upon which this court could reasonably conclude that it is a police officer that caused the fatal injuries to the deceased. I am not satisfied that the petitioners have discharged the evidential burden upon them and in the circumstances, in the absence of evidence, I am unable to find that the blunt force to Beasley Kogi's head and chest were caused by police officers.
59. From the foregoing, I find that the Petitioners failed to prove that the Respondents were responsible for the death of the deceased, Beasley Kogi and have also not established a violation of his Constitutional rights.

Whether the Respondents have delayed in investigating and prosecuting Beasley Kogi's case thus compounding the violation

60. There can be no dispute that the National Police Service is charged with inter alia the duty to carry out investigations and to apprehend those culpable. It is also not in doubt that the Director of public Prosecutions exercises the state's power of prosecution of cases. However, in carrying out their respective mandates, both are subject to the Constitution and the Law.
61. The present petition seems to challenge the manner in which the National Police and the Office of the Director of Public Prosecution discharged their respective duties in relation to the unlawful death of Beasley Kogi Kamau.
62. The Petitioners claim that there is delay in investigations and prosecution of the police officers who unlawfully killed Beasley Kogi which amounts to a criminal cover-up and threatens further violation of the Constitution.
63. The Respondents on the other hand in their response to their Petition state that upon receipt of the report of the death of Beasley Kogi Kamau, the Directorate of Criminal Investigations, Nairobi Central commenced investigations into the death through Inquest No. 7/2024 and on 11th October, 2024 the Inquest file was forwarded to the Office of the Director of Public Prosecutions with recommendations that the matter be placed before a magistrate of competent jurisdiction for purposes conducting a public inquest owing to the lack of eye witnesses and forensic evidence connecting any suspect to the death of the deceased.
64. According to the Respondents they have been proactive in ensuring that effective investigations have been conducted into the incident to facilitate prosecution.
65. The Respondents adduced evidence which includes a cover report that indicates that they reached out to the deceased relatives to record their statements but they were yet to do the same. The report indicates that apart from the police, no other independent witness has recorded a statement.
66. The Respondents have equally attached a letter dated 11th October, 2024 to the ODPP forwarding the inquest files and recommending that the matter be placed before a magistrate of competent jurisdiction to be heard as a public inquest. There seems to be no response or communication from the ODPP.
67. It is however, noteworthy that the Petitioner have not produced any evidence to show that they lodged a complaint against the Respondents and the Police officers to conduct investigation and eventually prosecute those involved in the unlawful killing of Beasley Kogi Kamau, the deceased herein.
68. The Director of Public Prosecution has constitutional mandate and discretion to initiate, continue and, or terminate criminal prosecution under Article 157 of the Constitution of Kenya, 2010. In doing so, the DPP does not require consent or permission from any person or authority. The DPP must,



- however, exercise his powers in a manner that has regard to public interest, interest of administration of justice and need to prevent and avoid abuse of the legal process.
69. The DPP exercises constitutional discretion and courts should rarely interfere with this discretion, has been affirmed by courts on numerous occasions. Courts should only interfere with this discretion where there are justifiable grounds.
 70. In *Republic v Director of Public Prosecution & 2 others Ex parte Francis Njakwe Maina & another* [2015]eKLR, it was observed that the Court ought not to usurp the constitutional mandate of the Director of Public prosecutions to undertake prosecution in exercise of the discretion conferred upon the office. The court made the point that if an applicant demonstrates that the criminal proceedings constitute an abuse of process, the court will not hesitate in putting a halt to such proceedings.
 71. In *Paul Ng'anga Nyaga v Attorney General & 3 others* (2013) eKLR the Court held that it can only interfere with and interrogate the acts of other constitutional bodies if there is sufficient evidence that they acted in contravention of the Constitution.
 72. This court therefore finds that the 1st, 3rd, 4th and 6th Respondents being independent bodies are not under the control of any person and organ including this court and cannot therefore be compelled to take any action except where it is demonstrated that it has acted in violation of the Constitution. The Respondents are mandated to carry out investigations either on their own volition or a complaint by a member of the public pursuant to Article 252 of the Constitution. They then send their report on investigations including its recommendations to the ODPP.
 73. In my view if the Respondents have already conducted independent, prompt and effective investigations and forwarded the report to the Office of the Director of Public Prosecutions, to commence a public inquest on the matter, as required by law they cannot therefore be deemed to have violated the deceased rights to investigate and prosecute due to violations of the right to life and the freedom from inhuman and degrading treatment.
 74. As pointed out above, the law is settled, that courts should be slow in interfering with DPP's constitutional discretion to prosecute. The Petitioners have therefore not satisfied the threshold that would persuade this court to compel the DPP to prosecute since there is already a recommendation to conduct a public inquest by the Respondents on the death of Beasley Kogi Kamau among others.
 75. Having come to the conclusion that there was no sufficient evidence to confirm a violation of the Constitutional rights of Beasley Kogi Kamau by the Respondents, this petition fails. In light of the above analysis, this court finds that the Petition lacks merit and proceeds to dismiss it with no orders as to costs.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 19TH DAY OF JUNE 2025.

BAHATI MWAMUYE

JUDGE

In the presence of: -

Counsel for the Petitioner – Mr. Ojala h/b Mr. Ochiel Dudley

Counsel for the Respondents – Ms. Were

Court Assistant -Ms. Neema

