

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
OF KENYA AT NAIROBI
PETITION NO. E126 OF 2025

**IN THE MATTER OF ARTICLES 3(1), 28, 29(a), 29(d), 29(f),
30(1), 30(2), 39, AND 41 OF THE CONSTITUTION OF KENYA**

AND

**IN THE MATTER OF THE CONTRAVENTION OF THE
FUNDAMENTAL RIGHTS AND FREEDOMS OF THE
PETITIONERS UNDER ARTICLES 28, 29(a), 29(d), 29(f), 30(1),
30(2), 39, AND 41 OF THE CONSTITUTION OF KENYA**

AND

**IN THE MATTER OF SECTIONS 4 AND 17 OF THE
EMPLOYMENT ACT, 2007**

AND

**IN THE MATTER OF SECTIONS 2 AND 3 OF THE
COUNTER-TRAFFICKING IN PERSONS ACT NO. 8 OF 2010**

AND

IN THE MATTER OF RULES 4 (1), 10 AND 11 OF THE

**CONSTITUTION OF KENYA (PROTECTION OF RIGHTS
AND FUNDAMENTAL FREEDOMS) PRACTICE AND
PROCEDURE RULES, 2013**

AND

**IN THE MATTER OF THE TRAFFICKING AND
ENSLAVEMENT OF THE PETITIONER**

BETWEEN

HARON NYAKONG'O..... PETITIONER

- VERSUS -

GRATIFY SOLUTIONS

INTERNATIONAL LTD..... 1ST RESPONDENT

VIRGINIA WACHEKE MURIITHI..... 2ND RESPONDENT

ANN NJERI KIHARA..... 3RD RESPONDENT

BONIFACE OWINO..... 4TH RESPONDENT

- AND -

THE NATIONAL EMPLOYMENT

AUTHORITY..... INTERESTED PARTY

(Before Hon. Justice Byram Ongaya on Thursday 20th November,

2025)

JUDGMENT

1. The petitioner filed the petition and supporting affidavit dated 19.06.2025 through Manasseh & Company Advocates and prayed for judgment jointly and severally as against the respondent for:
 - a) A declaration that the petitioner was subjected to slavery, practices similar to slavery, human trafficking, servitude, forced or compulsory labour and exploitation as perpetrated by the respondents.
 - b) A declaration that the petitioner was subjected to inhuman and degrading treatment by the respondents.
 - c) A declaration that the petitioner's freedom of movement was infringed upon by the respondents.
 - d) A declaration that the respondents violated the petitioner's constitutional rights to privacy and dignity by unlawfully requiring and conducting a mandatory HIV test.
 - e) A declaration that the petitioner's rights and freedoms were thus contravened and grossly violated by respondents.
 - f) A permanent injunction restraining the respondents, whether by themselves, their agents, servants, or any other persons

acting under their authority, from recruiting, transporting, harbouring, exploiting, facilitating, or engaging in the export or deployment of Kenyan workers to any foreign jurisdiction.

- g) A declaration that the petitioner is entitled to an award of damages, compensation, restitution and reparation, and such an award be based on the gravity of the violation of petitioner's rights and freedoms as well as the unjust enrichment by respondents as a result thereof.
- h) Payment of the petitioner's promised salaries of Kshs. 180,000 per month, totalling Kshs. 720,000.
- i) Special damages of Kshs. 53,090 and a refund of Kshs. 150,000.
- j) General damages, exemplary damages, and costs.
- k) Any other relief this Honourable Court may deem fit to grant.

2. The petitioner's case was as follows:

- a. The respondents have been unlawfully recruiting unsuspecting Kenyan youths by deceitfully promising lucrative employment opportunities in Bangkok, smuggling

them to Thailand for non-existent jobs by use of tourist VISAs, and subsequently smuggling them to Myanmar, where the victims are handed over to criminal organisations and forcibly exploited in online fraud operations targeting citizens of the United States and other countries.

- b. The petitioner is one of the many victims of the respondents' illegal activities, having been deceptively recruited, smuggled, and trafficked by the respondents by road and then by boat via the Moei River to Myanmar, where he was subjected to exploitation and inhumane conditions at the hands of transnational criminal syndicates.
- c. The petitioner had deferred his studies at Kisii University in November 2024 to travel for work in Bangkok, Thailand, to facilitate the payment of his fees once he resumed school. During his search for employment, he contacted the 1st respondent through the 2nd respondent, who facilitated and processed his foreign job placement. The 2nd respondent had promised him a customer care job in Bangkok, Thailand, at a monthly salary of Kshs. 180,000.

- d. To facilitate the petitioner's placement in Bangkok, Thailand, the 2nd respondent requested Kshs. 200,000. The petitioner paid Kshs. 150,000 in instalments, directly to the 1st respondent's Mpesa number +254721373492, registered in the names of the 2nd respondent.
- e. The petitioner departed the Jomo Kenyatta International Airport for Bangkok, Thailand, by flight at 5:00 pm on 15.12.2024. The 4th respondent led him and seven other recruited individuals through the clearance process at the airport. Upon boarding the flight, their team leader took pictures and sent them to a WhatsApp group for monitoring their travel progress.
- f. Upon arrival in Thailand, they found a Thai driver waiting for them at the airport. The driver confirmed each of their faces against the pictures on their phones, took their photos and sent them to individuals on his phone. The driver then took their passports, placing them in a compartment at the front of the vehicle. They were transported to a well-kept hotel for the night and later taken by Chinese men in the

early morning to a river in Mae Sot, near the border with Myanmar. They were then ushered onto a small boat on the water, and their luggage was confiscated.

- g. The petitioner was smuggled to a rebel-controlled scam compound in Myanmar that was heavily guarded and monitored with numerous CCTV cameras and uniformed security guards. His passport, phones and passwords were confiscated. They were taken to a dormitory resembling a high school dormitory, which would be their designated sleeping area.
- h. The petitioner was forced to work in online fraud by creating fake profiles to scam people in the United States, especially in real estate. He was held against his will, and when he requested to return to Kenya, the managers of the scam compound demanded USD 4,500 to facilitate his release, claiming that they had bought him. Since he was unable to make the said payment, he was trapped in servitude and forced labour for criminal purposes. Further, he was subjected to severe physical abuse, as well as relentless

mental and psychological torment, including intimidation, threats and constant fear for his life.

- i. The respondents extracted labour from the petitioner in forced criminality for which they did not intend to pay, and which they did not pay for. The petitioner was not paid any salaries for the time he was exploited in Myanmar, Thailand.
- j. The petitioner was rescued on 04.04.2025 by the military and repatriated to Kenya.

3. The petitioner particularised the violation of the Constitution of Kenya as follows:

- (i) The respondents treated the petitioner like a slave, held him in servitude and forced him to perform forced labour contrary to Article 30 of the Constitution.
- (ii) The respondents contravened the petitioner's right to freedom of movement under Article 39, as they recruited and transported him to Myanmar through deception for the purpose of exploiting him. He was recruited, transported, harboured, and exploited in forced labour and compelled to engage in criminal activities, constituting modern-day

slavery and human trafficking within a complex organised crime network orchestrated by the respondents.

(iii) The respondents subjected the petitioner to inhuman and degrading treatment contrary to Articles 28 on the right to human dignity, and Article 29 on the right to freedom and security of the person. As extensively detailed in his petition, he experienced instances of physical and psychological abuse at the behest of the respondents, in violation of his right not to be treated in an inhuman and degrading manner. The respondent's employment agency operated unlawfully, and he was never provided with a written contract of employment before travelling to Bangkok, Thailand. He is still undergoing counselling to facilitate his full recovery and rehabilitation from the criminal ideas and skills obtained during his enslavement in Myanmar.

4. The respondents filed a response to the petition dated 01.08.2025, supported by the replying affidavits of the 2nd, 3rd and 4th respondents, through Kiarie, Kabita, Kihunye & Associates Advocates. They urged as follows:

- a) The respondents deny the allegations of human trafficking, forced labour and constitutional violations as contained in the petition. The petitioner's narrative is a calculated attempt to mislead this Honourable Court for unjust enrichment.
- b) The 1st respondent operates a cybercafé and stationery supply business, entirely unrelated to job placement or labour export. The 2nd and 3rd respondents are directors of the 1st respondent, while the 4th respondent is a client. The interactions between the petitioner and the individual respondents were casual and legitimate and in no way amounted to a criminal enterprise. Further, the respondents' business does not fall under the purview of the interested party.
- c) The petitioner has failed to meet the legal and factual threshold for filing a constitutional petition, as his claims are unsubstantiated and rife with demonstrable contradictions and inconsistencies. He has failed to establish a *prima facie* case against the respondents.
- d) The respondents deny all the petitioner's averments, including that he was treated like a slave or that they recruited,

transported, harboured, or exploited him by means of deception for purposes of exploitation. The 3rd and 4th respondents did not receive any money from the petitioner.

- e) The petitioner's claims are riddled with factual errors, including the M-Pesa number discrepancy, and are entirely unsubstantiated by any credible or admissible evidence.
- f) The respondents pray for orders that the petition herein be dismissed in its entirety with costs, that the conservatory orders issued on 20.06.2025 be discharged upon dismissal of the petition, and that this Court issues any other order or direction it deems just and expedient in the circumstances.

5. The petitioner then filed a supplementary affidavit, sworn on 10.10.2025, averring that the response and replying affidavits are mere denials, devoid of any substantive rebuttal or credible explanation to his petition. The 2nd respondent has admitted receipt of Kshs. 150,000 directly to her phone number +254796876880, duly registered in her name, and she has failed to explain why the funds were sent to her on behalf of the petitioner. Consequently, the petitioner's evidence that the said

payments constituted a placement fee for the purported employment opportunity in Thailand remains clear, consistent and entirely uncontroverted. Exhibit *VWM-1* on page 1 of the 2nd respondent's annexures shows they were licensed to operate a consultancy firm with one computer. They did not, therefore, run a cybercafé, since a cybercafé cannot operate with only one computer, which exposes the falsity and inconsistency in the respondents' claim. The petitioner noted that his passport bears an exit stamp from Myanmar following the rescue, with his repatriation fully funded by the Government of Kenya.

6. The parties filed their respective written submissions. The Court has considered the parties' respective positions and makes findings as follows.
7. The **1st issue** for determination is whether the petitioner was a victim of trafficking in persons at the instance of the respondents. The applicable law on trafficking in persons as urged for the petitioner is not in dispute and it is as follows:

- a) Article 30 of the Constitution prohibits holding an individual in slavery or servitude or requiring one to perform forced labour.
- b) Kenya is bound by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol).
- c) Article 3(a) of the Palermo Protocol defines trafficking in persons to mean the recruitment, transportation, transfer, and harbouring of vulnerable persons by means of fraud, deception, or for exploitation.
- d) This provision is replicated in Kenya's Section 3 of the Counter Trafficking in Persons Act No.8 of 2010 (CTiP Act), which, in addition outlaws trafficking in persons for forced labour. Indeed, Kenya ratified the Palermo Protocol on 05.01.2005 and has domesticated it in the Act to establish a framework to address human trafficking including prevention, protection and prosecution.
- e) Section 3(1)(d)(5) of the CTiP Act replicates the definition of trafficking in persons in Article 3 of the Palermo

Protocol. Section 2 interprets “forced labour” to mean “the extraction of work or services from any person for the purpose of exploitation”.

f) The definition of human trafficking was also expounded by the UK Court in **Basfar v Wong 2022 UKSC 20** where the court held that holding the Claimant in domestic servitude in Saudi Arabia amounted to human trafficking. It stated further that trafficking has three elements: (i) the act: recruitment, transportation, transfer, harbouring; (ii) the means by which the act is done: coercion, abduction, fraud, deception, inducement; and, (iii) the purpose: exploitation, which includes forced labour or slavery or servitude. The Court stated thus:

81. In contrast to slavery and forced labour, international consensus on a definition of human trafficking is much more recent and was only arrived at in 2000 with the adoption of the Palermo Protocol, to which there are now 178 state parties. Article 3 of the Palermo Protocol defines “trafficking in persons” as meaning:

“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”

“Exploitation” is stated to include:

“at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;”

Article 4(a) of the Council of Europe Anti-Trafficking Convention on Action against Trafficking in Human Beings (2005) defines “trafficking in human beings” in similar terms.

82. The definition of human trafficking has three elements:
- (i) the act: recruitment, transportation, transfer, harbouring or receipt of persons;

(ii) the means (by which the act is done): threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving or receiving payments or benefits to a person to achieve the consent of a person who has control of the victim; and

(iii) the purpose: exploitation, which includes the purpose of forced labour or slavery or servitude.

g) In **Kifano v Loivin Limited & 4 others (Petition E143 of 2022) [2024] KEELRC 13536 (KLR)**, the ELRC Court affirmed that the petitioner therein was a victim of human trafficking, where the respondents were engaged in one or more constituent acts of human trafficking, being recruitment, transportation, harbouring, and exploitation.

8. Is any of the constituent elements of human trafficking established in the instant case? The petitioner's case is that he was recruited by the Respondents when he reached out to them with an inquiry for employment, indicating they ran an Employment Agency called, Gratify Solutions International Ltd. Exhibit HN-1 of the supporting affidavit shows that the 2nd and 3rd

respondents are the directors and shareholders of the 1st respondent. The petition states that he reached out to the respondents with an inquiry for employment. The respondents then promised him a customer care personnel job with a monthly salary of Kshs.180, 000.00 with added incentives of good bonuses. He then conceded to the employment under the allure of promised employment and salaries. He then gathered and paid Kshs.150, 000.00 in instalments directly to the 1st respondent's Mpesa Number +254721373492 which was registered in the 2nd respondent's name. The payment was in circumstances that the 2nd respondent had asked the petitioner to pay Kshs.200,000.00 to facilitate his placement in Bangkok, Thailand. His evidence is that he was advised that he would travel in a group of others recruited by the respondents. Thus on 15.12.2024 and per the arrangements he arrived to join the group for transportation at the Kenyatta International Airport. The 4th respondent joined the group and guided the group members, including the petitioner, in the clearance processes at the airport. His exhibit HN-2 shows

that he indeed travelled to the Kingdom of Thailand upon a tourist visa.

9. The 4th respondent in his replying affidavit denied that he was at the airport, to guide the petitioner and the other members of the travelling group on the material date, as alleged for the petitioner. However, the petitioner in exhibit HN-11 shows that the 4th respondent communicated and exchanged messages on the cell phones as exhibited including wishing the petitioner a safe journey. The 4th respondent denied mandating an HIV test for the Petitioner as a precondition for employment or travel related to any legitimate business or any other purpose. The 4th respondent stated in the replying affidavit thus “26.THAT in specific response to paragraph 100 of the Petition, the contents whereof are categorically and vehemently denied, and the Petitioner is put to strict proof thereof. I vehemently deny that the Respondents' employment agency was operating unlawfully or that it was not registered with the National Employment Authority or lacked requisite permits. As stated earlier, the 1st Respondent is a legitimate cybercafé and stationery supply business, not an

employment agency, and therefore does not require registration under the National Employment Authority Act, 2016.” By that statement, the Court infers that the 4th respondent appears to assert that the respondents operated an employment agency and which operated lawfully and then at the same time, purports to assert that the 1st respondent operated as a cybercafé. By those findings, the Court returns that the respondents operated as an employment agent, albeit, without compliance with the legal and policy regimes regulating the operation of employment agents. Further, the Court returns that the respondents recruited the petitioner and the 4th respondent was indeed involved in guiding the petitioner in clearance at the airport and generally in the travel arrangements per exhibit HN-11.

10. The 2nd respondent in the replying affidavit has stated thus “21. THAT the Petitioner's claim in paragraph 47 of the Petition that he paid Kshs. 150,000 in instalments directly to the 1st Respondent's Mpesa Number +254721373492 registered in my name is a malicious fabrication and a blatant factual error. Firstly, M-Pesa number +254721373492 belongs to the 3rd Respondent,

Ann Njeri Kihara, not to me. Secondly, while the Petitioner's Exhibit "HN-3" (M-Pesa Statement) does show certain transfers to my personal M-Pesa number (+254796876880), I categorically deny that these transfers were from Haron Nyakong'o or for recruitment fees or any job placement services related to him. If any funds were sent to my number, it was for a purpose unknown to me or by a different sender, as I have no record of receiving funds from Haron Nyakong'o or of him being a client of my personal informal money-lending business. The Petitioner has failed to provide any credible evidence to substantiate that he personally sent these funds or that they were for recruitment. This blatant factual error in his sworn pleading demonstrates a reckless disregard for truth and an attempt to maliciously implicate the 3rd Respondent, who categorically denies any involvement or receipt of funds.” By that statement, the Court returns that the 2nd respondent has admitted that the money the petitioner says were paid to her cell phone Mpesa number is substantially established because she fails to rebut the petitioner’s case that she received the money, albeit, as paid on behalf of the petitioner by a third

party. The 2nd respondent fails to delink the third party from the petitioner's assertion that it was a payment on his behalf.

11. The 3rd respondent in the replying affidavit stated thus “22. THAT the Petitioner's claim in paragraph 47 of the Petition that he paid Kshs.150,000 in instalments directly to the 1st Respondent's Mpesa Number +254721373492 registered in my name is a malicious fabrication and a blatant factual error. Firstly, M-Pesa number +254721373492 belongs to me, Ann Njeri Kihara, the 3rd Respondent, not to the 2nd Respondent, Virginia Wacheke Muriithi. Secondly, I categorically deny ever receiving any funds from Haron Nyakong'o for any purpose, including recruitment or job placement. The Petitioner's Exhibit "HN- 6" (M-Pesa Statement), which he attaches, actually shows money transactions belonging to the 2nd Respondent's personal M-Pesa number (+254796876880), and not to my number (+254721373492). This blatant factual error in his sworn pleading demonstrates a reckless disregard for truth and a deliberate attempt to maliciously implicate me, who has had no interaction or financial dealings whatsoever with the Petitioner.”

By that statement it appears to the Court that the respondents indeed received the money as alleged for the petitioner, albeit, from a third party paying for the petitioner and within the deception scheme as alleged for the petitioner.

12. In particular, the Court returns that any mix-up in whether the phone and Mpesa account numbers in issue belonged to the 2nd or 3rd respondent does not defeat the 2nd and 3rd respondents' own evidential admission that the respondents received the money in the blurred transactions as urged for the petitioner. On a balance of probability, the petitioner has established that the payment of Kenya Shillings One Hundred and Fifty Thousand (150,000) was made on the Petitioner's behalf by Douglas Momanyi Nyachieo from his M-Pesa Number 0712558332. The 2nd and 3rd respondents have substantially not denied that payment as submitted for the petitioner at paragraphs 30 to 34 of the petitioner's final submissions.

13. The Court returns that the petitioner has established on a balance of probabilities that indeed the respondents jointly and severally recruited and transported him within the definition of trafficking

human beings upon the 1st element of the act of recruiting and transporting of persons. The Court further finds that as urged for the petitioner, the 1st respondent's corporate existence was invoked by the other respondents to further the deceptive intent as a disguised foreign job placement agency.

14. While making the finding the Court has considered the parties' submissions on whether the electronic evidence was admissible in terms of communications with the 4th respondent in exhibit HN-1 and returns that as submitted for the petitioner, sections 106A - 106B of the evidence Act regarding authentication of electronic evidence was complied with. The certificate of electronic and digital evidence discloses the devices that were used to retrieve and reproduce the digital material and confirmed that the devices were in good working condition. It also confirms the accuracy of the WhatsApp chats and photographs taken during the travel and as communicated with the 4th respondent.

15. The Court further finds that in absence of any other material to rebut the petitioner's account of his suffering after the recruitment and transportation, on a balance of probabilities, his

account is upheld. While making that finding the Court considers that the statutory nexus being provisions of the CTiP Act render the respondents strictly liable for the recruitment and transportation of the petitioner within jurisdiction and subsequently the resulting and consequential suffering outside the jurisdiction. In particular, the Court considers that the chain of causation of the suffering outside the jurisdiction was not broken at any point from the recruitment and transportation of the petitioner within jurisdiction and for which the Court has found that the respondents were thereby strictly liable for trafficking the petitioner.

16. The Court finds that by recruiting and transporting the petitioner, albeit by his consent, the respondents were jointly and severally liable of trafficking and as well liable for inhuman and degrading treatment and servitude. The respondents jointly and severally recruited and transported the petitioner, they invoked deception that the petitioner was genuinely getting into employment, and the un rebutted petitioner's evidence is that the purpose of the entire scheme was exploitation including forced labour, servitude

and forced criminality. The court finds that all elements in the definition of human trafficking are established namely the act, means and purpose. The Court further returns that the petitioner's initial consent was irrelevant as within the deceptive design of the respondents. The respondents were part of the unbroken chain of supply and it was irrelevant that they were not directly involved in the final exploitation phase that the petitioner suffered.

17. The Court finds that the conditions of being held captive and forced into criminal work amounted to forced labour, servitude and likely slavery – all of which constituted violation of rights and freedoms as urged for the petitioner including inhuman and degrading treatment. The respondents as recruiters and transporters facilitated the same and are liable as found.

18. The **2nd issue** is on remedies. The Court returns as follows:

a) The petitioner prayed for a declaration that the petitioner was subjected to slavery, practices similar to slavery, human trafficking, servitude, forced or compulsory labour and exploitation as perpetrated by the respondents. The Court has

found that the respondents were liable and the declaration will issue.

- b) The petitioner prayed for a declaration that the petitioner was subjected to inhuman and degrading treatment by the respondents. The respondents urge that they were not privy to the petitioner's predicament after he left Kenya. As urged for the respondents the visa stated "Employment Prohibited". It is submitted that the same was calculated to further the deception that the tourist visa would be converted to a work permit once the petitioner arrived in Thailand and which was a deliberate misrepresentation on the part of the respondents. It appears to the Court that the respondents calculated to engage in fraud and deception per section 3(1) of the CTiP Act. To that extent the Court finds that the respondents are strictly liable for the suffering per the petitioner's account that followed after the recruitment and transportation. The declaration will issue accordingly.
- c) The petitioner prayed for a declaration that the petitioner's freedom of movement was infringed upon by the

respondents. The Court has upheld the petitioner's account of suffering in the foreign lands and the declaration will issue.

- d) The petitioner prays for a declaration that the respondents violated the petitioner's constitutional rights to privacy and dignity by unlawfully requiring and conducting a mandatory HIV test. As submitted for the respondents, other than alleging that the 2nd respondent demanded that the petitioner undertakes a HIV test, no collaborative evidence that the test was actually undertaken. The prayer will collapse for want of necessary evidence.
- e) The petitioner prayed for a declaration that the petitioner's rights and freedoms were thus contravened and grossly violated by respondents. This will issue to the extent as found in this judgment.

Article 28 of the Constitution guarantees the enjoyment of the right to inherent dignity and the right to have dignity respected and protected at one's place of employment. As submitted for the petitioner, he was subjected to cruel, inhuman, and degrading treatment, including: (a) being

forced to consume disturbing and unfamiliar foods such as frogs, snakes, and unidentified meats; (b) having all personal belongings, including phones and passports, confiscated upon arrival; (c) being allowed only one and a half hours of strictly monitored phone access per day; (d) being explicitly warned against sharing any images or information about their conditions under threat of severe punishment; (e) being constantly reminded that all communications were being tracked; (f) living in perpetual fear of violent retribution or death for attempting to contact family or escape; (g) being prohibited from communicating with fellow victims within the work area; (h) being subjected to arbitrary and brutal disciplinary measures, including frequent beatings for minor or unintentional infractions; (i) being informed that his release required payment of USD 4,500 because he had been “bought”; (j) being held in a heavily guarded compound, creating a constant sense of imprisonment; (k) being locked in dark solitary confinement rooms when he failed to meet scamming targets; and (l) being denied food as punishment

for mistakes — all of which instilled constant terror, caused severe trauma, and amounted to gross violations of his right to dignity and protection from inhuman and degrading treatment.

Article 39 of the Constitution provides that every person has the right to freedom of movement. The petitioner's passport was confiscated while in Myanmar, where he was forced to work in the scamming compounds against his will. The Petitioner was only able to return upon rescue on 4th April 2025 by the military, following which he was repatriated to Kenya.

It was submitted that in **M W K & another v Attorney General & 3 others [2017] eKLR**, the Court awarded a total sum of Kshs 4,000,000/= after determining that the actions of the Respondents, who were police officers, had infringed upon the Petitioner's right to human dignity.

The Court has considered the violations flowing from the recruitment and transportation of the petitioner. While thereafter there was no break in the chain of causation of the

subsequent violations in the foreign jurisdictions, the Court has considered that the respondents while being strictly liable were not directly involved in those violations. The Court finds that in the circumstances of the case, a sum of Kshs. 5, 000, 000.00 will vindicate the petitioner and serve sufficient deterrence, accordingly.

In making the award, the court has considered vindication of the petitioner's suffering, the lost opportunity to work, the deterrence effect of the award, the extent of the harm the petitioner suffered especially the psychological injury, and, the respondents' joint and several capacity to pay. The petitioner has shown and demonstrated the psychological trauma he suffered. He continues with the rehabilitation process and he worked throughout captivity without pay. The court has as well considered the public policy and the international obligations that the respondents as traffickers of human beings should not escape liability and that the petitioner should access relief.

- f) The petitioner prayed for a permanent injunction restraining the respondents, whether by themselves, their agents, servants, or any other persons acting under their authority, from recruiting, transporting, harbouring, exploiting, facilitating, or engaging in the export or deployment of Kenyan workers to any foreign jurisdiction. The Court has found that the petitioners were liable for trafficking the petitioner and the relief will issue to bar future violations.
- g) The Court considers that the failure to earn runs into the violation of rights as found and the prayer for payment of the petitioner's promised salaries of Kshs. 180,000 per month, totalling Kshs. 720,000 will be declined. While making that finding the considers that the purported foreign contract of service was not concluded in accordance with applicable statutory provisions, it was deceptive and fraudulent as urged and submitted for the petitioner and the Court finds that such unlawful contract cannot constitute a basis for payment of salary as alleged and claimed for the petitioner.

h) No submissions were made to justify grant of special damages of Kshs.53,090 and a refund of Kshs.150,000 and the relief is deemed abandoned. Similarly, exemplary damages to deter human trafficking run into the award already made for violation of rights and freedoms and is declined as already sufficiently provided for.

i) The petitioner has substantially succeeded and respondents will pay costs of the petition.

19. By the findings it should be obvious that the petitioner sufficiently established a case of violation of the Bill of Rights as mediated by the protections in the CTiP Act. The submissions for the respondents that the threshold for pleading a violation of rights had not been passed will collapse.

In conclusion judgment is hereby entered for the petitioner against the respondents jointly and severally for:

1) The declaration that the petitioner was subjected to slavery, practices similar to slavery, human trafficking, servitude, forced or compulsory labour and exploitation as perpetrated by the respondents.

- 2) The declaration that the petitioner was subjected to inhuman and degrading treatment by the respondents.
- 3) The declaration that the petitioner's freedom of movement was infringed upon by the respondents.
- 4) The declaration that the petitioner's rights and freedoms were thus contravened and grossly violated by respondents as found herein.
- 5) Payment to the petitioner of Kshs.5,000,000.00, for violation of rights and fundamental freedoms, by 01.02.2026, and failing interest to be payable thereon at Court rates from the date of this judgment till full payment.
- 6) The respondents to pay costs of the petition.

**Signed, dated and delivered by video-link and in court at Nairobi
this Thursday 20th November, 2025.**

**BYRAM ONGAYA
PRINCIPAL JUDGE**