



**Mwangi & 13 others v In-Charge National Police Traffic & another;
Attorney-General (Interested Party) (Miscellaneous Petition 007 of 2025)
[2025] KEHC 12264 (KLR) (Constitutional and Human Rights) (12 August 2025) (Judgment)**

Neutral citation: [2025] KEHC 12264 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS
MISCELLANEOUS PETITION 007 OF 2025**

AB MWAMUYE, J

AUGUST 12, 2025

**IN THE MATTER OF ARTICLES 2,3,10,19,22(1),23(1) & (3),27,43,47 AND 165(3)
(B),(D) & 258 OF THE CONSTITUTION OF KENYA, 2010**

AND

**IN THE MATTER OF THE ALLEGED CONTRAVENTION OF ARTICLES
3,10(1),10(2),19,20,21(1),25(A),27(1)&(2),28,29,40,47(1),&249 OF THE
CONSTITUTION OF KENYA,2010**

BETWEEN

**LUCY WANJIKU MWANGI 1ST APPLICANT
EUTYCHUS WANJA 2ND APPLICANT
BRUCE MIRUKA 3RD APPLICANT
IRENE NJUGUNA 4TH APPLICANT
JOSEPAHAT KIMATHI 5TH APPLICANT
DAVID KIERU 6TH APPLICANT
BENARD CHIRCHIR 7TH APPLICANT
DENIS MANYANGE 8TH APPLICANT
SAMUEL KANYI 9TH APPLICANT
ELVIS OMARI 10TH APPLICANT
CHARLES KARANJA 11TH APPLICANT
DANIEL ORWERWE 12TH APPLICANT**



JOHN MAINA 13TH APPLICANT

JOEL MUTUA 14TH APPLICANT

AND

IN-CHARGE NATIONAL POLICE TRAFFIC 1ST RESPONDENT

DIRECTOR GENERAL NATIONAL TRANSPORT AND SAFETY

AUTHORITY 2ND RESPONDENT

AND

ATTORNEY-GENERAL INTERESTED PARTY

JUDGMENT

Introduction and Background

1. This judgment concerns a miscellaneous constitutional petition filed by a conglomerate of matatu owners and operators plying the Embakasi, Kiambu Road, Ongata-Rongai and Thika–Juja routes. The Applicants, who are more properly Petitioners and shall thus hereafter be referred to as such, challenge the enforcement operations conducted by the National Transport and Safety Authority (“NTSA”) and the National Police Service.
2. The Petitioners allege that, from 21st January, 2025 onwards, they were subjected to arbitrary and punitive inspection procedures, which entailed the impoundment of vehicles, the forcible removal of number plates, and prolonged detention, despite having prior clearances, resulting in the loss of their livelihood.
3. They contend that these actions were discriminatory, favouring operators with government connections, and that NTSA failed to give written reasons or adhere to fair administrative processes. Thus, the Petitioners sought the following orders:
 - i. An order of Mandamus do issue compelling the 1st and 2nd Respondents to release to the Petitioners their withheld registration number plates as well as the vehicles belonging to the Petitioners in their custody, registration plates of which are provided in the Application.
 - ii. A Declaration do issue that it is unconstitutional for the 1st and 2nd Respondents by themselves, their employees, servants, agents or any other person working under their instructions to pluck off, withhold and or impound without justifiable cause, the number plates and vehicles of the Petitioners, respectively.
 - iii. An Order of prohibition do issue prohibiting the 1st and 2nd Respondents personally, through employees, agents, associates or anyone purporting to act on their behalf or their instructions from interfering with the Petitioners’ operations.
 - iv. Any other Order that this Honourable Court may deem fit and just in circumstance.
 - v. Costs of the Petition be granted to the Petitioner.



Petitioner's Case

4. The Petitioners contend that prior to 21st January 2025, they operated their matatus in full compliance with applicable road traffic regulations and regularly submitted their vehicles for inspection by the 2nd Respondent without encountering any enforcement hostility. They assert that their vehicles bore standard features typical of urban public service vehicles, such as side steps, graffiti, mounted screens, bumpers, and mild window tints, none of which had been previously flagged as unlawful
5. The Petitioners allege that beginning 21st January 2025, a sudden and intense crackdown was initiated by the Respondents without prior notice or justification. During this period, multiple vehicles belonging to the Petitioners were impounded without explanation, and their number plates were forcibly removed and withheld by officers from the NTSA and police. In most instances, they contend, no formal charge or documented inspection report was issued to justify the seizures.
6. According to the supporting affidavit, sworn by Lucy Wanjiku Mwangi, even where the Petitioners complied with the directions issued by the 2nd Respondent, paid the required fines, and rectified purported defects, the return of impounded number plates was either indefinitely delayed or denied outright. This, they contend, rendered their vehicles inoperable, causing severe financial hardship and loss of livelihood.
7. Petitioners argue that the inspections conducted by the Respondents were applied in a discriminatory manner. They claim that vehicles owned by individuals with government affiliations or influence were exempted or processed more favourably during inspections. In contrast, vehicles owned by ordinary operators, including members of the Petitioners' association, were held to harsher standards and subjected to longer detentions.
8. The Petitioners further allege that the conduct of the Respondents amounts to double standards and an abuse of legal authority. They contend that their vehicles were condemned for features previously approved or overlooked, without affording them the opportunity to be heard, contrary to the principles of fair administrative action enshrined under Article 47 of the [Constitution](#).
9. They argue that the unilateral and arbitrary nature of the impoundments violated their rights under Articles 27, 28, 47 and 48 of the [Constitution](#). They further claim that the enforcement actions lacked transparency and did not provide written reasons for the decisions as required by law.
10. Finally, the Petitioners asserted that the crackdowns and inspections have severely undermined their right to earn a livelihood, caused economic distress, and unjustly penalized them despite their repeated efforts at compliance. Thus, they pray for declaratory and conservatory reliefs, as well as orders of mandamus and prohibition to restrain future unlawful interference with their operations.

2nd Respondent's Case

11. The 2nd Respondent, through a replying affidavit sworn by Dr. Andrew Kiplagat, the Director of Road Safety, opposes the Petition on the grounds that its actions were lawful, necessary, and within its statutory mandate. The 2nd Respondent avers that it is established under the [National Transport and Safety Authority Act](#) No. 33 of 2012 with the responsibility of managing and regulating the road transport system and ensuring road safety.
12. The 2nd Respondent states that in January 2025, it conducted routine enforcement operations within Nairobi targeting public service vehicles found to be non-compliant with Sections 106 to 108 of the [Traffic Act](#) (Cap 403), Section 30 of the Traffic Rules, and the Traffic (Operation of Public Service



- Vehicles) Regulations 2014. During this operation, vehicle identification plates were removed from 24 vehicles deemed unroadworthy or non-compliant.
13. It is the 2nd Respondent's position that vehicle inspections and enforcement are undertaken to ensure compliance with safety standards, particularly where fixtures such as graffiti, tinted windows, or structural modifications impair visibility or compromise passenger safety. It states that Section 30 of the Traffic Rules specifically prohibits such modifications that obstruct the driver's view.
 14. It was stated that licensing officers or inspectors are empowered by Section 106(4) and (4A) of the *Traffic Act* to issue an Order of Prohibition where a vehicle is deemed unsafe and to remove number plates for safekeeping until compliance is demonstrated. This authority, the deponent maintains, was strictly followed during the operations.
 15. It was averred that of the 24 number plates removed, only 11 vehicles belonged to the Petitioners. The 2nd Respondent denies allegations of selective enforcement or discrimination. It asserts that enforcement was applied uniformly to all PSVs regardless of ownership, and that the Petitioners have failed to prove otherwise. It emphasizes that regulatory compliance cannot be suspended on account of past inspections that may have overlooked defects.
 16. In response to the Petitioners' claim of non-compliance with court orders, the 2nd Respondent avers that it fully complied with the Orders issued on 3rd February 2025 by reaching out to all affected owners to collect their registration plates.
 17. The 2nd Respondent contends that the Petitioners misled the court into issuing the initial Orders by omitting material facts, including the number of vehicles affected and the legal basis for the inspection and enforcement. It accuses the Petitioners of seeking to obstruct the statutory mandate of NTSA under false pretenses.
 18. It was also stated that inspections were conducted in strict adherence to legal thresholds and that each affected vehicle was duly subjected to technical examination. It asserts that safety considerations and public interest necessitate firm enforcement measures to prevent accidents caused by defective vehicles.
 19. It was further stated that the Petitioners failed to demonstrate how their constitutional rights were violated, and the claims of economic harm are speculative. It invokes the principle that equity follows the law and asserts that parties who come to court with unclean hands are not entitled to equitable relief. Therefore, the 2nd Respondent urges the Court to dismiss the Petition with costs, asserting that its actions were lawful, justified, and in furtherance of public safety, and that the Petition is a veiled attempt to subvert statutory compliance obligations under Kenyan traffic laws.

1st Respondent's And Interested Party's Case

20. The 1st Respondent and the Interested Party opposed the Petition through Grounds of Opposition dated 21st February 2025. They argued that the Petition lacks legal merit, is speculative, and does not meet the constitutional threshold for alleging a violation of fundamental rights.
21. The Respondents argue that the Petitioners have failed to demonstrate with precision how the conduct of the 1st Respondent or the Interested Party has violated their rights under the *Constitution*. Citing the authority of *Anarita Karimi Njeru v Republic* [1976-1980] KLR 1272, they contend that constitutional petitions must be pleaded with clarity and specificity, a threshold the Petitioners have not met.
22. They assert that the powers exercised by the police in the context of traffic enforcement are grounded in Section 105 of the *Traffic Act*, which permits any police officer in uniform to stop, inspect, and test



- a vehicle for purposes of ascertaining compliance with the Act or determining whether the vehicle is being used contrary to law.
23. Further reliance is placed on Section 106(4) of the Traffic Act which empowers licensing officers and police officers to issue prohibition orders in respect of vehicles they deem unroadworthy. The Respondents emphasize that where such orders are issued, the officers are further authorized under Section 106(4A) to remove vehicle identification plates and retain them until compliance is achieved.
 24. It was argued that judicial intervention ought to be limited to cases of manifest illegality, irrationality, or procedural impropriety, and not to interfere with lawful and routine administrative actions by state agencies. They argue that the Petitioners have presented no evidence to show that the impugned actions were carried out in excess of jurisdiction or in breach of the law.
 25. It was further argued that the police acted lawfully in executing their mandate to ensure road safety and public order. They reiterate that the conduct of the Respondents did not constitute any violation of the Petitioners' rights and thus argued that the petition is frivolous, vexatious, incompetent and improperly before the court and an abuse of the court process and should be dismissed with costs.
 26. The Petition was canvassed by way of written submissions, and in compliance, the Respondents and the Interested Party filed their written submissions, whereas the Petitioners did not file their submissions.

The 1st Respondent And Interested Party's Submissions

27. In their written submissions, the Respondents maintain that the Petitioners have failed to demonstrate with requisite particularity any violation of constitutional rights. Citing Anarita Karimi Njeru (1976-1980) 1 KLR 1272 and Mumo Matemu v Trusted Society of Human Rights Alliance & 5 Others [2013] eKLR, they submit that the mere listing of constitutional provisions allegedly breached does not suffice. They argue that the Petition lacks specificity, clarity, and cogent evidence to meet the established threshold for constitutional claims. The Respondents emphasize that all actions taken, including removal of number plates and impounding of vehicles, were firmly anchored in the Traffic Act and executed in the public interest to ensure road safety.
28. Specifically, reliance is placed on Section 105 and Section 106(4) and (4A) of the Traffic Act, which empower police and licensing officers to inspect, impound, and even remove vehicle identification plates where non-compliance with roadworthiness standards is suspected. The Respondents further invoke the National Police Service Act, under which the police are authorized to enforce laws and conduct investigations. The Respondents argue that the crackdown was part of lawful regulatory activity and was neither arbitrary nor discriminatory. Reliance was placed in Njenga v Inspector General of Police & 3 Others; Kimani (Interested Party) [2023] KEHC 487 (KLR) affirming the principle that courts should not interfere with the discharge of statutory mandates unless there is demonstrable ultra vires conduct.
29. The Respondents argue that the Petitioners have not proved their case to the required standard of a balance of probabilities as mandated by Sections 107 and 109 of the Evidence Act. Citing Lt Col. Peter Ngari Kagume & Others v Attorney General [2006], the Respondents submit that the Petitioners' allegations remain speculative and unsupported by tangible evidence. They contend that none of the Petitioners has demonstrated how their specific rights were violated, or that the inspection process was tainted with malice or illegality. Indeed, it is argued that once the Petitioners complied with inspection requirements, their number plates and vehicles were duly released, reinforcing the lawfulness of the Respondents' actions.



30. It was further submitted that the orders sought by the Petitioners are not merited. The prayer for mandamus is said to be overtaken by events as the impounded number plates were returned. A declaration of unconstitutionality is opposed because the Respondents acted within their statutory discretion. The request for an order of prohibition is termed as untenable since vehicle inspections are ongoing and universal, not targeted solely at the Petitioners. The Respondents argue that granting such orders would effectively undermine lawful regulatory oversight and compromise public safety objectives.
31. Emphasis is also placed on the discretionary nature of constitutional remedies. Relying on Halsbury's Laws of England, 4th Edn. Vol. 1(1), para 12, the Respondents urge that relief should be denied where the conduct of the applicant is unmeritorious, or where such relief would disrupt lawful administration. The court is reminded that discretion must be exercised judiciously, taking into account public interest and the need for orderly regulatory enforcement. The Respondents thus contend that none of the circumstances warrant the court's intervention in favour of the Petitioners, and that the Petitioners' own non-compliance cannot be the basis for constitutional reprieve.
32. In conclusion, the 1st Respondent and Interested Party urge the Court to dismiss the Petition for lack of merit. Accordingly, the Court is urged to find that the Petition is an abuse of the court process and should be dismissed with costs to the Respondents.

The 2nd Respondent's Submissions

33. In its written submissions, the 2nd Respondent submitted that its enforcement activities, including the removal of vehicle identification plates, were lawfully undertaken pursuant to Sections 106 to 108 of the *Traffic Act*, Section 30 of the Traffic Rules 1953 [Revised 2019], and the Traffic (Operation of Public Service Vehicles) Regulations 2014 and the Petitioners have not demonstrated how its actions allegedly violated their constitutional rights. Reliance was placed in the case of *Anarita Karimi Njeru v AG* [1979] eKLR 154, *Communications Commission of Kenya & 5 Others v Royal Media Services Limited & 5 Others* [2014] eKLR and *Mumo Matemvu v Trusted Society of Human Rights Alliance & 5 Others* [2013] eKLR.
34. It was submitted that the 2nd Respondent is a statutory body established under the NTSA Act No. 33 of 2012, mandated to regulate road transport and implement road safety measures. Among its powers is the ability to inspect, test, and prohibit the use of defective vehicles. The removal of identification plates from twenty-four (24) vehicles, of which only eleven (11) are cited in the Petition, was done following inspection and issuance of prohibition orders. It is further submitted that the Petitioners' allegation that thirty-one (31) vehicles were impounded is unsubstantiated and remains unsupported by evidence. In line with Section 106 of the *Traffic Act*, plates are only released when vehicles meet compliance standards. Once the Court issued orders of mandamus on 3rd February 2025, it complied by contacting the affected parties to collect their plates.
35. The 2nd Respondent strongly denies the allegations of arbitrariness, intimidation, or illegality and maintains that its officers acted within the law and with public safety in mind. Relying on the decision in *Ezekiel Osewe Onyango v National Police Service, National Transport and Safety Authority & 2 Others* [2022] eKLR and *Premier Motors Limited v Anti-Counterfeit Agency* [2019] eKLR to illustrate that courts have routinely upheld enforcement actions taken by state agencies in the public interest where no illegality or bad faith has been demonstrated. The Petitioners' failure to provide supporting material or discharge the burden of proof, as required by Sections 107 and 109 of the *Evidence Act*, renders their allegations speculative and unmeritorious.



36. On the question of entitlement to equitable reliefs, it was submitted that the Petitioners have approached the Court with unclean hands by misrepresenting their compliance status under the law. The Respondent maintains that equity follows the law and should not be invoked to protect parties seeking to undermine statutory enforcement mechanisms. As such, the Petitioners are not deserving of any declaratory or injunctive relief. It is posited that the grant of mandamus in the absence of illegality would unjustly curtail a lawful exercise of power and embolden non-compliance with road safety standards, which are essential for public welfare.
37. Regarding the second issue on prohibition, it was submitted that such an order cannot lie against actions already undertaken. Citing *Kenya National Examinations Council v Republic ex-parte Geoffrey Githinji Njoroge* [1997] eKLR, it is underscored that prohibition is a forward-looking remedy and cannot quash a decision already made. The Respondent argues that the inspection and prohibition orders were fully implemented under existing statutory provisions, and the law cannot now be restrained from taking its lawful course. Moreover, the enforcement of Sections 106–108 of the *Traffic Act* and related regulations is a continuing mandate necessary for road safety and public protection.
38. It was further submitted that to prohibit it from enforcing the law would amount to judicial overreach into the domain of a statutory agency acting within its lawful boundaries. It maintains that roadworthiness inspections and compliance with vehicle modification laws are integral to reducing accidents and enhancing public safety. The Petitioners’ attempt to restrict these functions under the guise of constitutional litigation is misplaced and against public interest. The court is thus urged to reject any attempt to curtail statutory oversight where no illegality, irrationality, or procedural impropriety has been shown.
39. In conclusion, the 2nd Respondent maintains that the Petitioners have not established any factual or legal foundation upon which the prayers sought may be granted. The removal of the registration plates was conducted in strict adherence to the *Traffic Act*, and subsequent compliance with court orders demonstrates the Respondent’s respect for the law. The Petitioners have failed to meet the threshold for mandamus, prohibition, or any declaratory relief, and the allegations of constitutional violations remain unsupported. The Court is therefore urged to find the Petition devoid of merit and to dismiss it in its entirety with costs to the 2nd Respondent.

Analysis and Issues for Determination

40. Having carefully considered the Petition, the supporting affidavit, the replying affidavit of the 2nd Respondent, the Grounds of Opposition by the 1st Respondent and the Interested Party, and the written submissions and authorities relied on by the parties, the Court is of the considered view that the following issues fall for determination:
- i. Whether the Petition meets the threshold for a constitutional petition.
 - ii. Whether the conduct of the 1st and 2nd Respondents violated the Petitioners’ Constitutional rights.
 - iii. Whether the removal and withholding of the Petitioners’ vehicle identification number plates was unlawful, arbitrary, or amounted to administrative action in violation of the *Constitution*.
 - iv. Whether the Petitioners are entitled to the reliefs sought



Whether the Petition meets the threshold for a constitutional petition

41. Article 165(3)(b) grants this Court the authority to decide whether a right or fundamental freedom “has been denied, violated, infringed or threatened.” However, this broad power is constrained by two safeguards. First, a petitioner must precisely specify the provision alleged to be infringed and outline the factual circumstances constituting the violation. Second, when Parliament or another lawful body has established an effective review or appeal process, the High Court usually waits until that process has been exhausted, unless an exception to the principle of exhaustion applies. The current issue, therefore, involves two aspects: the adequacy of the pleadings and the appropriateness of bringing this matter directly to this Court.
42. The jurisprudence of this jurisdiction in this regard has been settled for a long time that a petitioner should be specific as to the right violated and give particulars of it. It is a rule of good sense that aids in the crystallization of issues before the court and, moreover, gives opportunity to the other party to know the exact nature of the complaint leveled against him and therefore be in a position to give an appropriate answer. It provides structure, sense and symmetry to the litigation and prevents it from being an unruly free-for-all. On the pleading threshold, the classic case remains that of Anarita Karimi Njeru v Attorney General [1979] eKLR 154, where the Court held that:
- “The Petitioner must demonstrate the provisions of the *Constitution* violated and the manner of the violation.”
43. The same articulation was reaffirmed in Supreme Court Petition No. 14 of 2014 Communications Commission of Kenya & 5 Others Versus Royal Media Services Limited & 5 Others [2014] eKLR, where the Court stated that:
- “(349) ...Although Article 22(1) of the *Constitution* gives every person the right to initiate proceedings claiming that a fundamental right or freedom has been denied, violated or infringed or threatened, a party invoking this Article has to show the rights said to be infringed, as well as the basis of his or her grievance. This principle emerges clearly from the High Court decision in Annarita Karimi Njeru v. Republic (1979) KLR 154: the necessity of a link between the aggrieved party, the provisions of the *Constitution* alleged to have been contravened, and the manifestation of contravention or infringement. Such a principle plays a positive role, as a foundation of conviction and good faith, in engaging the constitutional process of dispute settlement. The 3rd Respondent has not shown how it was affected by the decision of CCK to deny National Signal Networks a BSD licence, just as it has also not shown how it was affected by the decision of the Public Procurement Administrative Review Tribunal.”
44. Indeed, the *Constitution* of Kenya (Protection of Rights and Procedure Rules, 2013) reflect that thinking in requiring under Rule 10(2) that constitution petitions must contain, inter alia,
- (i) The facts relied upon,
 - (ii) The constitutional provision violated,
 - (iii) The nature of injury caused or likely to be caused,
 - (iv) The relief sought.



45. Measured against that yardstick, the current Petition shows mixed compliance. It carefully lists the disputed vehicle registration numbers, dates of impoundment, and the involved administrative bodies. It also specifically cites Articles 1, 3, 10, 19, 20, 22, 23, 27, 28, 47, and 48 of the Constitution. What is less clear is the connection between each right and the corresponding factual allegation. For instance, while the Petition states that graffiti was “previously permitted,” it does not explain how the sudden prohibition breached Article 27 on equal protection beyond a mere assertion of discrimination. Likewise, the claim under Article 48 is made without providing details of any instance when access to a tribunal or administrative forum was denied.
46. Section 106(4) of the Traffic Act and Regulation 11 of the Traffic (Operation of Public Service Vehicles) Regulations create an internal pathway: once an order of prohibition is issued, the owner may remedy the defect, request a fresh inspection and obtain release of plates.
47. In the instant matter, the Petitioners cited several constitutional provisions, specifically relying on Articles 27, 28, 47, and 48. However, they failed to provide specific and coherent evidence showing how the impugned actions violated these rights in the context of their individual or collective circumstances. The pleadings were largely generalized and lacked the precision contemplated under Rule 10(2) of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 (the Mutunga Rules).
48. The Court is not persuaded that the Petition satisfies the minimum pleading standards established under Rule 10 of the Mutunga Rules, which require the petitioner to provide particulars of the alleged breach, including the nature of injury suffered and any relevant facts relied upon.
49. The Petitioners failed to distinguish between administrative grievances best pursued through statutory dispute resolution channels and constitutional violations deserving of extraordinary remedies under Article 23.
50. The Petition herein appears to conflate administrative enforcement actions with constitutional violations without demonstrating exceptional circumstances or imminent irreparable harm.
51. In *Mumo Matemba Versus Trusted Society of Human Rights Alliance & 5 others* [2013] e KLR, the Court held that;

“Cases cannot be dealt with justly unless the parties and the court know the issues in controversy. Pleadings assist in that regard and are a tenet of substantive justice, as they give fair notice to the other party. The principle in *Anarita Karimi Njeru* (supra) that established the rule that requires reasonable precision in framing of issues in constitutional petitions is an extension of this principle...We wish to reaffirm the principle holding on this question in *Anarita Karimi Njeru* (supra). In view of this, we find that the petition before the High Court did not meet the threshold established in that case.”
52. Applying these principles, the Court finds that the Petitioners failed to meet the constitutional threshold in form and substance. The Petition was drafted in broad strokes, lacking specific linkages between the Respondents’ conduct and the alleged rights violations.
53. The Petition further failed to demonstrate any procedural or substantive exceptionalities to warrant invocation of this Court’s constitutional jurisdiction as the primary forum for redress.
54. In the result, the Court finds that the Petition falls short of the legal and evidentiary threshold for a constitutional petition.



Whether the conduct of the 1st and 2nd Respondents violated the Petitioners' Constitutional rights

55. The Petitioners allege that the impounding of their vehicles and removal of number plates amounted to a violation of their rights under Articles 27,28,47 and 48. They have contended that the enforcement actions were arbitrary, selectively applied, and not accompanied by reasons or procedural fairness.
56. It is incumbent upon the Court to ascertain whether the Petitioners have sufficiently demonstrated that the conduct of the Respondents infringed upon these constitutional guarantees. The Court notes from the outset that the 2nd Respondent is mandated by law to enforce road safety standards, including inspecting PSVs and ensuring compliance with the [*Traffic Act*](#).
57. As regards Article 27, the Petitioners have not placed before the Court any cogent evidence showing differential treatment vis-à-vis similarly placed matatu operators. Allegations that certain vehicles owned by persons with government connections were released faster or exempted from inspection were not substantiated by affidavits from affected parties or verifiable data.
58. Equality under the law does not equate to uniformity of treatment in every circumstance. Selectivity alone, without proof of invidious discrimination or lack of rational basis, cannot amount to a violation of Article 27. The burden lay with the Petitioners to demonstrate unequal treatment without justification, which they failed to do.
59. Turning to Article 28, the right to dignity, while broad, must be assessed contextually. There is no evidence on record that the manner in which the inspections or enforcement actions were carried out involved demeaning conduct, verbal abuse, or treatment that violated the inherent worth of the Petitioners as persons. Administrative inconvenience or financial loss, however unfortunate, does not ipso facto amount to a violation of dignity.
60. Regarding Article 47, the petitioner must demonstrate that the respondents acted unreasonably, irrationally, or without legal justification. Fair administrative action requires decisions to be lawful, reasonable, and procedurally fair. Here, the Petitioners argue that the removal of plates and continued withholding of vehicles was executed without affording them reasons or an opportunity to be heard. However, the 2nd Respondent annexed Certificates of Examination and Prohibition Orders detailing the specific defects noted on each affected vehicle.
61. The issuance of such documentation, which was served upon the affected vehicle owners, constitutes compliance with the duty to give written reasons. Moreover, nothing barred the Petitioners from seeking a review of such findings under the [*Fair Administrative Action Act*](#) or through internal NTSA mechanisms. The Petitioners opted to file this constitutional petition instead.
62. The Petitioners have also claimed a violation of their right under Article 48 on access to justice. While economic losses and business disruptions are regrettable, there is no indication that the Petitioners were denied access to courts or that any court order was defied by the Respondents. In fact, the 2nd Respondent complied with a Mandamus Order issued by this Court on 3rd February 2025 and invited affected owners to collect their number plates.
63. In the result, this Court finds that the Petitioners have not proved on a balance of probabilities that the conduct of the 1st and 2nd Respondents violated their rights under Articles 27, 28,47 and 48 of the [*Constitution*](#).



Whether the removal and withholding of the Petitioners' vehicle identification number plates was unlawful, arbitrary, or amounted to administrative action in violation of the Constitution.

64. The Petitioners contend that the removal of their vehicle number plates and continued withholding thereof, even after compliance with inspection directives, was unlawful and amounted to arbitrary administrative action in violation of Article 47 of the Constitution. The Court is thus called upon to examine the legality, procedural fairness, and rationality of the Respondents' conduct in this regard.
65. The statutory framework governing the removal of identification plates is principally contained in Sections 106(4) and 106(4A) of the Traffic Act. These provisions empower police officers, licensing officers, or NTSA inspectors to issue prohibition orders and to remove number plates where a vehicle is deemed unroadworthy or in contravention of construction and safety requirements.
66. From the materials on record, it is not disputed that the 2nd Respondent issued valid Certificates of Examination and Test of Vehicle and corresponding Orders of Prohibition in respect of at least eleven (11) vehicles belonging to the Petitioners.
67. In *Onyango v National Police Service & 2 others; Kenya Human Rights Commission (Interested Party)* [2024] KEHC 377 (KLR), the court underscored that:

“The impugned directive stated that several vehicle owners had mounted lights and other equipment on their vehicles in contravention of the law. Further, this was endangering the lives of other road users. The directive further advised all vehicle owners to adhere to the requirements of the law to avoid inconveniences. The impugned directive was in my view issued in line with the statutory mandate of the 1st Respondent...It is thus not clear how the 1st Respondent contravened the law by doing exactly what it is mandated under statute to do. No evidence of such contravention was availed to the court. Further, the Petitioner did not avail any evidence to support his claim that vehicles had been impounded. And even if any vehicle had been impounded for contravening the requirements of the law, such action would be within the ambit of the mandate of the 1st Respondent.”

68. The removal of plates pursuant to those orders was therefore not per se unlawful. On the contrary, the statutory framework permits such action as an enforcement mechanism intended to compel compliance and enhance public safety. In the absence of evidence that the certificates or orders were fabricated or issued mala fides, the Court finds no illegality in the initial removal of plates.
69. However, the more pertinent issue is whether the continued withholding of the plates after compliance constituted administrative unfairness. The Petitioners aver that they rectified the identified defects, paid requisite fines, and in some cases obtained fresh certificates, yet their vehicles remained off the road due to non-return of plates.
70. The 2nd Respondent, for its part, asserts that it complied with a Court order issued on 3rd February 2025 directing the release of the plates and invited affected owners to collect the same. The Court is satisfied that reasonable steps were taken to give effect to the Order.
71. It is a fundamental principle of fair administrative action that affected persons must be afforded notice, reasons for decisions, and an opportunity to comply or appeal. The record demonstrates that notices and reasons were given through written inspection reports. Where compliance was achieved, return of plates was effected upon verification.
72. It bears emphasizing that administrative delay, unless shown to be capricious or grossly unreasonable, does not ipso facto amount to a constitutional violation. The Petitioners did not place before the



Court any correspondence or formal complaints made to NTSA seeking expedited release of plates post-compliance. There is also no evidence of refusal to issue clearance certificates where compliance had been demonstrated.

73. In the view of the Court, the Petitioners' grievances arise more from the operational frustrations of enforcement logistics than from demonstrable breaches of the law. The law permits enforcement to be assertive where public safety is at stake, provided the due process safeguards are not breached.
74. Accordingly, the Court finds that the removal and withholding of the vehicle identification plates was done in accordance with the law and pursuant to valid administrative procedures. No evidence has been tendered to show that the same was executed in an arbitrary, capricious, or procedurally unfair manner.

Whether the Petitioners are entitled to the reliefs sought

75. The Petitioners have sought declaratory reliefs, orders of mandamus directing the return of number plates, and orders of prohibition restraining future enforcement actions. The central question under this limb is whether the legal and factual matrix presented justifies the grant of such reliefs by this Court.
76. Article 23(3) of the *Constitution* empowers this Court, when confronted with violations or threatened violations of fundamental rights, to grant appropriate reliefs including declarations, injunctions, conservatory orders, and judicial review remedies such as mandamus and prohibition. However, such remedies are discretionary and not automatic.
77. From my findings above, the Petitioners have failed to demonstrate any established violation of their constitutional rights. Having failed to meet the evidential and legal threshold, the Petitioners are not entitled to declarations as sought.
78. In the instant matter, the 2nd Respondent has demonstrated compliance with the Mandamus Order issued by this Court on 3rd February 2025. There is no contrary evidence showing refusal to release the same upon compliance.
79. The Petitioners seek prohibition against the continued enforcement of safety measures under the *Traffic Act*. This Court cannot countenance such a blanket prohibition, which would effectively emasculate the statutory role of NTSA and the police. the *Constitution* does not protect conduct that is in breach of valid legislation. In view of that, the Court finds that the Petitioners have not made out a case for the grant of reliefs sought.
80. From the foregoing, a pertinent issue raised by the Petitioners relates to the assertion that several of their vehicles had undergone inspection and were duly issued with Certificates of Examination and Test of Vehicle by the 2nd Respondent. These certificates confirmed the mechanical and safety roadworthiness of the vehicles and, by implication, authorized them to operate lawfully on public roads.
81. While the Court finds no evidence that the issuance of inspection certificates was fraudulent or irregular, and accepts that the Respondents acted within their statutory mandate under Sections 106(4) and 106(4A) of the *Traffic Act* in issuing prohibition orders and removing plates where non-compliance was identified, there appears to exist an operational gap in enforcement practice. Specifically, vehicles were inspected, cleared, and permitted to operate, only to later be impounded on grounds that arguably ought to have been identified or addressed at the point of initial inspection.
82. The Court takes judicial notice that public service vehicles in Kenya often feature elaborate branding, graffiti, and design modifications as a common industry practice. If such features are viewed as



inconsistent with construction or safety regulations, it is incumbent upon regulatory agencies to make this position clear, apply the standards consistently at the point of inspection, and issue timely notices for rectification. A scenario where a vehicle is permitted to operate post-inspection and then impounded later for issues not previously raised undermines the predictability and fairness that are hallmarks of good administrative practice.

83. It is a settled principle that administrative action must be lawful, reasonable, and procedurally fair. However, the mere fact of subsequent enforcement does not automatically render earlier clearance unlawful, particularly where there is evidence of evolving compliance checks or re-inspection triggered by field observations. The enforcement powers under the *Traffic Act* allow for such responsive action.
84. Nevertheless, this Court finds it prudent to observe that for future regulatory consistency, the 2nd Respondent and relevant enforcement agencies should consider revising their inspection protocols to ensure that all compliance parameters, including aesthetic and structural modifications, are clearly evaluated and flagged at the inspection stage. Where discretion exists to permit conditional operation pending correction, such conditions should be expressly recorded, and any tolerance shown at inspection should not later be reversed without notice or justification.
85. The Court is persuaded that the Petitioners' frustration stemmed less from targeted or malicious enforcement and more from an apparent misalignment between inspection approvals and later enforcement. This disjoint creates a regulatory uncertainty that may be perceived as arbitrary, even where the underlying enforcement actions are lawful. Such situations could be mitigated through greater inter-departmental coordination within NTSA and timely communication with affected operators, particularly where regulatory standards evolve or become more stringently applied.
86. In the result, while the Court finds that the impugned removal and withholding of vehicle identification plates by the Respondents was carried out pursuant to statutory powers and within the bounds of lawful administrative discretion, it also takes the opportunity to urge the relevant agencies to harmonize inspection and enforcement protocols. Such harmonization would avoid confusion and enhance compliance by ensuring that vehicle owners are fully informed of the standards they are expected to meet.
87. On the whole, the Petitioners have not demonstrated that the Respondents rose to the threshold of unlawfulness or procedural unfairness required to establish a violation of their constitutional rights, and the Petition does not satisfy the legal standard for constitutional pleadings as elaborated in binding judicial precedent. Accordingly, and for the foregoing reasons, the Petition dated 28th January 2025 is hereby dismissed in its entirety with no orders as to costs.
88. It is so ordered. File closed accordingly.

DATED, SIGNED, AND DELIVERED VIRTUALLY THIS 12TH DAY OF AUGUST, 2025.

BAHATI MWAMUYE

JUDGE

In the presence of: -

Counsel for the Petitioners -Ms Matina h/b Mr Danstan Omari

Counsel for the 1st Respondent – Ms Chibole

Counsel for the 2nd Respondent –Ms Chibole h/b Ms Kihambu

Counsel for the Interested Party – Ms Chibole



