



**Law Society of Kenya v Attorney General & 4 others (Petition E307 of 2024)
[2024] KEHC 7702 (KLR) (Constitutional and Human Rights) (27 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7702 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS
PETITION E307 OF 2024
LN MUGAMBI, J
JUNE 27, 2024**

BETWEEN

LAW SOCIETY OF KENYA PETITIONER

AND

THE ATTORNEY GENERAL 1ST RESPONDENT

CABINET SECRETARY FOR DEFENCE 2ND RESPONDENT

THE KENYA DEFENCE COUNCIL 3RD RESPONDENT

THE CHIEF OF THE KENYA DEFENCE FORCES 4TH RESPONDENT

**THE INSPECTOR-GENERAL OF THE NATIONAL POLICE
SERVICE 5TH RESPONDENT**

Deployment of the Military to support the National Police dealing with a security emergency was necessary and in conformity with the Constitution

Reported by Robai Nasike

***Constitutional Law** – fundamental rights and freedoms – limitation of fundamental rights and freedoms – freedom of assembly, demonstration, picketing and petition – deployment of the military to support the National Police - whether the gazette notice under which the decision to deploy the military to support the National Police, was made, complied with the Constitution and legislation – whether conservatory orders seeking to suspend the deployment of the military to support the National Police could be granted – Constitution of Kenya, 2010, articles 37 and 241(3)(b); Kenya Defence Forces Act (Cap 199) sections 31(1) (a), 33(1) and 34(1) and 34(2).*

***Constitutional Law** - internal security - national security organs - military vis-a-vis National Police - deployment of the military to support the National Police in times of unrest - what circumstances could necessitate the deployment of the military to support the National Police - what was the meaning of 'emergency situations*



and disasters' in circumstances where the military was deployed to support the National Police - Constitution of Kenya article 241 (1) (b) and 241 (1) (c).

Brief facts

The Kenya Defence was deployed to support the National Police Service due to a security emergency, pursuant to Gazette Notice No 7861. A petition questioning the decision was filed, together with an application for conservatory orders. In the application, the petitioner submitted that the Gazette Notice purportedly issued under article 241(3)(b) of the Constitution, sections 31(1)(a), 31(1)(c), 34(1) and 34(2) of the Kenya Defence Forces Act (Cap 199) to deploy the Kenya Defence Forces to support the police under the guise of purported security emergency was illegal. It was argued that there were no terms of reference on what the KDF would do or the limitation of where they could go or do within the borders of Kenya, further that there was no evidence of any prior training to undertake such tasks within the civilian population. Moreover, the deployment occurred before the Gazette Notice was published, and even the involvement of Parliament was after the fact of the gazette. According to the petitioner, that was an unprecedented situation that was intended to cause fear and intimidation to the people of Kenya who sought to exercise their democratic rights under article 37 of the Constitution, by peaceably participating in demonstrations.

The petitioner's position was that the procedure under article 241(b) of the Constitution and sections 31(1) (a), 33(1) and 34(1) and (2) of the Kenya Defence Forces Act was not followed prior to the deployment of the military. Moreover, neither an emergency situation had been declared nor a declaration of unrest or critical security situation that was beyond the capacity of regular police had been justified before Parliament before taking the action. It was emphasized by the petitioner that the gazette notice ought to be issued as per the provisions of section 34(1) and (2); 24 hours after approval has been issued by Parliament but the approval was being sought long after the military had been deployed. It was submitted that unless the conservatory orders were granted, ordinary Kenyans who were not always exposed to the military would be exposed to fear and be prevented by intimidation from exercising their right to peaceably demonstrate, hence it was the duty of the court to protect that right.

Issues

- i. Whether the gazette notice that deployed the military to support the National Police complied with the Constitution and legislation.
- ii. Whether a conservatory order that sought to suspend the deployment of the military, to support the National Police, could be granted on grounds that the gazette notice that provided for the deployment was issued in a manner that was unprocedural.
- iii. What circumstances could necessitate the deployment of the military to support the National Police?
- iv. What was the meaning of emergency situations and disasters in circumstances where the military was deployed to support the National Police?

Held

1. There were two possible ways/or situations that could necessitate the deployment of the military to support the National Police. The first situation was what was provided for under article 241 (1) (b) of the Constitution which dealt with emergency situations or disasters. The second situation was what was contained in article 241(1) (c) which covered unrest and instability. In the two scenarios, there were prescribed procedures to be followed, the first scenario was a situation of emergency /or disaster. There, the military could be deployed to be followed by a report that was to be given to Parliament. The second scenario was a situation that pertained to unrest or instability in any part of Kenya. In that regard, approval of Parliament had to be sought prior to the military deployment.
2. The Constitution was silent on the meaning of emergency situation or disaster. The word as used in article 241(1)(b) was not a technical terminology and was used in the ordinary sense of that word for if it was meant to be a technical or special word, then the use of the conjunctive 'or' after the



word ‘emergency’ which related it to disaster would not have been inserted there. The fact that the framers of the Constitution used a different word alongside the word emergency to describe the situation that could call for military deployment showed that they did not intend to give that word any special meaning such as was used elsewhere in the Constitution where certain specific procedures were associated with it. It certainly did not refer to a state of emergency.

3. The High Court ought to uphold the right of individual citizens to assemble, demonstrate and picket under article 37 of the Constitution but it had to also be conscious of the fact that if expressed in a dangerous manner that endangered peace, order and public safety that could not be within the prescribed boundaries of expression. Equally, the government ought to also act in the manner prescribed by legal procedures in intervening in given situations.
4. The petitioner’s fear was not an idle contention. It was common knowledge that the military by the nature of training could be ill-equipped to deal with the civilian population as their focus was armed combat where the military principle was generally suppression through the use of military force to resolve a crisis.
5. Deploying the military in a blanket manner without defining the scope or nature of their operation or the duration of the intervention was a dangerous trend that could bring about militarization of the country which was antithetical to the enjoyment of rights and freedoms. That would potentially muzzle the civilian population from protesting what it believed were unfair taxation policies imposed by the government and also drive a wedge between the military and civilian population that the military was meant to protect. Consequently, a clear balance must be struck and in the spirit of transparency and accountability clear terms of reference which must be published for the public to know, interrogate and appreciate.
6. Even though the intervention was justified, given the situation that necessitated the immediate deployment of the military, it was also clear that the public had not been fully appraised on the extent of the military involvement hence the apprehension and suspicion. That concern must be addressed.
7. Given the eruption and loss of control of the situation by the National Police that followed the public demonstration on June 25, 2024, thus necessitating emergency deployment of the military to assist in arresting the deteriorating situation which endangered life, property and critical government infrastructure, the application of article 241(1)(b) of the Constitution was properly invoked in the circumstances. However, the gazette notice, did not fully inform the public about the military intervention. Hence the public was apprehensive and suspected that its liberties under the Constitution may be put in jeopardy. Therefore, the scope of intervention and duration must be addressed.

Application partly allowed.

Orders

- i. *The intervention of the military in supporting the National Police was necessary in view of the need to preserve order, peace, public safety and critical infrastructure as it was in conformity with the Constitution and the relevant statute and was properly invoked.*
- ii. *It was directed that the terms of military engagement, and duration of engagement be clearly defined and gazetted within the next two days to alleviate public fear that their constitutional liberties could be in jeopardy and also to give public confidence that their liberties would be observed during the duration of military engagement*
- iii. *The court retained residual powers of oversight of the military deployment on observance of human rights and that the file shall remain open during the course of the petition to receive and deal with any complaints of violation for as long as the military intervention lasted.*

Citations

Cases

None referred to



Texts

1. Garner, BA., (Ed) (2009), *Black's Law Dictionary* St Paul Minnesota: West Group 9th Edn
2. Stevenson, A.,(Ed) (2015), *Oxford English Dictionary* Oxford: Oxford University Press 11th Edn

Statutes

Kenya

1. Constitution of Kenya articles 23, 31(1)(a)(c); 33(1); 34(1)(2); 58; 132(4)(d); 135; 241(3)(b) - (Interpreted)
2. Kenya Defence Forces Act (cap 199) sections 31(1)(a)(b)(2)(3); 34; part III- (Interpreted)

Advocates

Mr Akhaabi, Faith Adhiambo, Manwa Hosea and Stephen Mbugua for the petitioner

Mr Mugira h/b for *Mr Emmanuel Bita* for the 1st respondent

Mr Mugira for the 2nd, 3rd and 4th respondents

RULING

1. By a notice of motion application dated 26 June 2024 filed under certificate of urgency, the petitioner/ applicant sought the following orders: -
 - a. Spent
 - (b) That pending the inter-partes hearing of this application, an interim conservatory order be and is hereby issued suspending the application and operation of Gazette Notice No 7861 dated 25 June 2024 and any deployment and/or administration and/operations by the Kenya Defence Forces pursuant to the Gazette Notice No 7861 dated 25 June 2024.
 - (c) That pending the inter-partes hearing of this application, an interim conservatory order in the nature of an injunction be and is hereby issued restraining the respondents, their employees, agents, or any other person acting under their instructions or authority from administering, deploying, controlling or superintending any operations by the Kenya Defence Forces pursuant to Gazette Notice No 7861 dated June 25, 2024.
 - (d) That pending the hearing and determination of this application, an interim conservatory order be and is hereby issued suspending the application and operation of Gazette Notice No 7861 dated 25 June 2024 and any deployment and/or administration and/operations by the Kenya Defence Forces pursuant to the Gazette Notice No 7861 dated 25 June 2024.
 - (e) That pending the hearing and determination of this application, an interim conservatory order in the nature of an injunction be and is hereby issued restraining the respondents, their employees, agents, or any other person acting under their instructions or authority from administering, deploying, controlling or superintending any operations by the Kenya Defence Forces pursuant to Gazette Notice No 7861 dated 25 June 2024.
 - (f) That a conservatory order be and is hereby issued suspending the application and operation of Gazette Notice No 7861 dated 25 June 2024 and any deployment and/or administration and/operations by the Kenya Defence Forces pursuant to the Gazette Notice No 7861 dated 25 June 2024, pending the hearing and determination of the petition filed herewith.
 - (g) That a conservatory order in the nature of an injunction be and is hereby issued restraining the Respondents, their employees, agents, or any other person acting under their instructions or



authority from administering, deploying, controlling or superintending any operations by the Kenya Defence Forces pursuant to Gazette Notice No 7861 dated 25 June 2024 pending the hearing and determination of the petition filed herewith.

- (h) That this honourable court be at liberty to grant any further or other relief that it may deem just and expedient to grant.
 - (i) That the cost of this application be borne by the respondents
2. The application was supported by the affidavit of Florence Muturi sworn on 26 June 2024 together with the grounds on the face of the application
 3. The court upon perusal of the application, directed service of the same be done immediately and parties to appear this morning in view of the urgency of the matter. This morning, the parties appeared in compliance with those directions but counsels for the respondents indicated that they had not had time to file their responses, hence were not in a position to proceed.
 4. The court ruled that the reason for fixing the matter today was informed by the nature of urgency that had been demonstrated and which had convinced the Judge that the issues raised needed to be addressed urgently, hence even with material before the court, the court could still proceed and assess the appropriateness or otherwise of granting a conservatory order pending the filing of responses by the respondents.
 5. The respondents were however granted an opportunity to state their brief position on the matter after granting the petitioner the opportunity to elaborate briefly on the nature of the urgency and why the grant of ex parte conservatory orders sought was absolutely necessary at this stage.

Petitioner's Case

6. The petitioner/applicant was represented by the President of LSK Faith Adhiambo, Mr Akhaabi and Manwa Hosea.
7. In the brief submissions made before this court in respect of notice of motion application dated 26 June 2024, the petitioner submitted that the Gazette Notice purportedly issued under article 241(3) (b) of the Constitution, sections 31(1)(a), 31(1)(c), 34(1) and 34(2) of the Kenya Defence Forces Act cap 199 to deploy the Kenya Defence Forces to support the police under the guise of purported security emergency is illegal.
8. It was argued that there were no terms of reference on what the KDF would do or the limitation of where can go or do within the borders of Kenya, further that there was no evidence of any prior training to undertake such task within the civilian population.
9. Moreover, the deployment occurred before the Gazette Notice was published, and that even the involvement of Parliament was after the fact of gazettelement.
10. Counsel submitted that this situation is unprecedented and intended to cause fear and intimidation to people of Kenya who seek to exercise their democratic rights under article 37 of peaceably participating in demonstrations.
11. The petitioner's position was that the procedure under article 241(b), section 31(1) (a), 33(1) and 34(1) & (2) was not followed prior to the deployment of the military.
12. Moreover, neither an emergency situation had been declared nor a declaration of unrest or critical security situation that was beyond the capacity of regular police had been justified before Parliament prior to taking the said action.



13. It was emphasized by the petitioner that the gazette notice ought to be issued as per provision of section 34(1) & (2); 24 hours after approval has been issued by Parliament but the approval was now being sought long after the military had been deployed.
14. It was the petitioner's contention that unless the conservatory orders are granted, ordinary Kenyans who are not always exposed to the military will be exposed to fear and be intimidated from exercising their right to peaceably demonstrate, hence it is the duty of this court to protect this right.

1st Respondent's brief oral submissions

15. Mr Emmanuel Bita appeared for the 1st respondent whereas Mr Mugira was for the 2nd, 3rd and 4th respondent.
16. Mr Emmanuel Bita submitted that *ex parte* conservatory orders can only be granted where the petitioner is able to demonstrate clear exceptional circumstances.
17. He pointed out that under article 23, it would only apply where a claim of violation has been made on the Bill of Rights yet in the entire petition, the petitioner has not pleaded any specific violation in the Bill of Rights.
18. The 1st respondent asserted the presumption of regularity and legality of government action which it submitted has not been successfully assaulted by the petitioners.
19. The 1st respondent submitted that the petitioner's arguments on fear and intimidation by reason of military deployment are based on hypothetical scenario as no single instance or actual situation has been shown to have occurred to curtail their rights as alleged.
20. The 1st respondent argued that the deployment is in public interest. That the petitioners have not given an alternative view of how they will deal with insecurity that is threatening both life and property should the orders they are seeking be granted, which is a fundamental consideration.

The 2nd, 3rd and 4th respondent brief oral submissions

21. These respondents invited the court to take judicial notice of the goings on in the country at present citing the fact that the National Assembly and Senate were overrun by demonstrators including the Office of Chief Justice that was vandalized, all being critical government institutions and termed the matter as unprecedented.
22. The respondents through Mr Mugira urged the court to be guided by the dictionary meaning word 'emergency' referring to [*Black's Law Dictionary*](#) which defines it as:

“As a situation that demands unusual or immediate action and may allow people to circumvent usual procedures”
23. Mr Mugira dismissed the contention that, for article 241 to be invoked; there ought to have been a declaration of State of Emergency. He contended that this is a different matter separately dealt with under article 58 of the [*Constitution*](#).
24. In the present case, Mr Mugira argued that the need for intervention is guided by the interest preserve the security and thus the notion and that Military should only come after all has fallen is a wrong.
25. Further, counsel submitted that the allegation that the Military will instill fear is speculative and is not based on any evidence, and, that in any event, the deployment is properly sanctioned by the law.



26. He submitted that the condition for grant of interim conservatory order had not been demonstrated in this case.
27. In a brief rebuttal, the President of Law Society of Kenya urged the court to disregard the dictionary meaning of the word ‘emergency’ and instead be guided by the meaning that is ascribed to the word in the context of article 58(1) and articles 132(4)(d) and article 135 of the Constitution.
28. Counsel Akhaabi reiterated his submissions on the provisions of law particularly section 33(1) and 34(2) of the Kenya Defences Act which he said were not complied in issuing the said gazette notice.

Analysis and Determination

29. Arising from the submissions and petitioner’s pleadings, it is my considered view that the following issues arise for determination:
 1. Whether prima facie, gazette notice No 7861 of June 25, 2024 was issued in compliance with the constitution and legislation.
 2. Whether the court should issue/grant the orders sought in this application.

Whether *prima facie*, gazette notice No 7861 of June 25, 2024 was issued in compliance with the constitution and the legislation.

30. To answer this particular question, it is necessary to set out the terms of the impugned gazette notice which includes the provisions of law that were relied on.
31. The gazette notice in question was annexed to the petitioner’s affidavit. It reads: -

“Pursuant to article of 241(3)(b) of the Kenya Constitution as read with sections 31(1)(a), 31(1)9c), 33(1), 34(1) and 34(2) of the Kenya Defence Forces Act, (cap 199), the Kenya Defence Forces is deployed on the 25 June 2024 in support of the National Police Service in response to the security emergency caused by the ongoing violent protests in various parts of the Republic of Kenya resulting in destruction and breaching of critical infrastructure.”

Dated the 25 June 2024

Aden Dare Duale,

Cabinet Secretary for Defence and

Chairperson of the Defence

32. The provision of the constitution and statute under which the said notice was premised reads are as follows: -

“Article 241(3)(b), The Defence Forces –

- (b) shall assist and cooperate with other authorities in situations of emergency or disaster, and report to the National Assembly whenever deployed in such circumstances;

33. The other provisions are in the statute that is, Kenya Defence Forces Act under Part III of the Kenya Defence Forces Act, headed/titled:

Part III:Co-operation with other Authorities in Kenya



31. Co-operation with other authorities:

The Defence Forces—

- a. shall assist and co-operate with other authorities in situations of emergency or disaster, and report to the National Assembly whenever deployed in such circumstances;
- b. may be deployed to restore peace in any part of Kenya affected by unrest or instability but only with the approval of the National Assembly; and
- c. shall, in the interest of national security, co-operate and work with other security organs in the discharge of its constitutional mandate.

34. Sub-section (2) requires that if the defence forces are deployed for any purpose contemplated in Sub-section (1)(a) or (b), the Cabinet Secretary shall inform the National Assembly promptly and in appropriate details indicating:

- a. Reasons for such deployment.
- b. Place where defence forces is being deployed
- c. Period which defence forces is being deployed.
- d. Expenditure incurred or expected to be incurred.

3) Sub-section 3, provides that if the National Assembly is not in session during the first seven (7) days after deployment of defence forces as contemplated in article 241(3)(c) in, sub-section (2), the Cabinet Secretary shall provide the information required to the Speaker of the National Assembly.

Section 33 – Deployment in Support of National Police Service

- (1) The Defence Forces may be deployed in a joint operation and in support of the National Police Service in situations of emergency or disaster.
- (2) The Defence Forces may, with the approval of the National Assembly, be deployed to restore peace in any part of Kenya.
- (3) Whenever the Defence Forces are deployed pursuant to subsection (2), the Inspector-General of the National Police Service shall be responsible for the administration, command, control and overall superintendence of the operation.

Section 34. Regulation of support operation, etc.

- (1) In the event of the Defence Forces being deployed in support of the National Police Service, such deployment shall comply with constitutional standards relating to human rights and fundamental freedoms.
- (2) Where the deployment of the Defence Forces in support of the National Police Service is approved as contemplated in article 241(3) of the Constitution and section 33(1), the Cabinet Secretary shall, within



twenty four hours, issue a notice in the gazette of the commencement of such deployment.

35. From my reading of the above provisions, it is clear they are two possible ways/or situations that may necessitate the deployment of the military to support the National Police.
36. The first situation is what is provided for under article 241(1)(b) which deals with emergency situations or disasters.
37. The second situation is what is contained in article 241(1)(c) which covers unrests and instability.
38. In the two scenarios, there are prescribed procedures to be followed, the 1st scenario are situations of ‘emergency’ /or ‘disaster’. Here, the military can be deployed to be followed by a report that is to be given to Parliament.
39. The second scenario, is a situation that pertains to unrest or instability in any part of Kenya, here, approval of Parliament must be sought prior to the military deployment.
40. What then is meaning of ‘emergency situation or disaster’ which is referred to in article 241(1)(b)? The Constitution is silent on the meaning. Different interpretations were advanced by the rival submissions of the parties.
41. The petitioner was of the view that the state of emergency ought to have been declared in the manner provided for in the Constitution, specifically article 58 to enable article 241(1)(b) to kick in on account of emergency. The respondents on the other hand urged the court to take the *Black’s Law Dictionary* meaning of the word.
42. It is my considered view that the word as used in article 241(1)(b) is actually not a ‘technical’ terminology and is used in the ordinary sense of that word for if it was meant to be technical or special word, then the use conjunctive ‘or’ after the word ‘emergency’ which relates it to disaster would not have been inserted there. The fact that the framers of the Constitution used a different word alongside the word emergency to describe the situation that may call for military deployment shows that they did not intend to give that word any special meaning such as is used elsewhere in the Constitution where certain specific procedures are associated with it. It certainly does not refer to a state of emergency. I find that the word as used should take the ordinary English meaning which under Oxford English Dictionary, 11th Edition, means: -

“serious, unexpected and potentially and dangerous situation requiring immediate action.”

43. Listening to the respondents, especially the 2nd, 3rd and 4th respondents, they argued and urged this court to take judicial notice that indeed, what necessitated the quick action of deploying the military was when Parliament, a critical National Government institution and a symbol of democratic governance and the office of the Chief Justice were vandalized after the demonstrators overpowered the National Police and descended on these key government institutions. Such an occurrence coming from supposedly peaceful demonstrators falls within the definition of: -

“serious, unexpected and potentially dangerous situation requiring immediate action.”

For who would have anticipated that peaceful protests would take such a sudden turn resulting in serious breach of security of that magnitude.



44. This court is today faced with two competing constitutional values, that is, the need to protect life and property, preserve peace, order and public safety and; the need to uphold and protect open public expression by citizenry in a democratic state.
45. The court must uphold the right of individual citizens to assemble, demonstrate and picket under article 37 of the Constitution but it must also be conscious of the fact that if expressed in dangerous manner that endangers peace, order and public safety that cannot be within the prescribed boundaries of expression.
46. Equally, the government must also act in the manner prescribed by legal procedures in intervening in given situations.
47. The petitioner has argued that the intervention of the military to support the police would cause fear and intimidate Kenyans and prevent them from expressing themselves through demonstrations and picketing as provided under article 37.
48. Although the Kenya Defence Forces Act at section 34(1) provides that:
- “Such deployment shall comply with constitutional standards relating to human rights and fundamental freedoms.”
49. This court, shares the same view that the petitioner’s fear is not an idle contention. It is common knowledge that the military by the nature of training may be ill-equipped to deal with civilian population as their focus is armed combat where the military principle is generally suppression through use of military force to resolve of crisis.
50. I would therefore agree with the petitioner that deploying the military in a blanket manner without defining the scope or nature of their operation or the duration of intervention is a dangerous trend that can bring about militarization of the country which is anti-thetical to the enjoyment of rights and freedoms.
51. This can potentially muzzle the civilian population from protesting what it believes are unfair taxation policies imposed by government and also drive a wedge between the military and civilian population that the military is meant to protect. Consequently, a clear balance must be struck and in the spirit of transparency and accountability clear terms of reference which must be published for the public to know, interrogate and appreciate.
52. Consequently, even though the intervention is justified, given the situation that necessitated the immediate deployment of the military; it is also clear to me that the public has not been fully appraised on the extent of the military involvement hence the apprehension and suspicion. This concern must be addressed.
53. I make the following conclusions:
- i. Given the eruption and loss of control of the situation by the National Police that followed the public demonstration on 24 June 2024, thus necessitating emergency deployment of military to assist in arresting the deteriorating situation which endangered life, property and critical government infrastructure, the application of article 241(1)(b) was properly invoked in the circumstances.
 - ii. The gazette notice however, does not inform the public fully about the military intervention hence the apprehension and suspicion being depicted by the public that its liberties under the



constitution may be put in jeopardy hence the scope of intervention and duration must be addressed.

54. Consequently, I make the following orders in the interim:

1. The intervention of the military in supporting National Police is necessary in view of the need to preserve order, peace, public safety and critical infrastructure as it in conformity with the Constitution and the relevant statute and was properly invoked.
2. That it is hereby directed that the terms of military engagement, duration of engagement be clearly defined and gazetted within the next two days to alleviate public fear that their constitutional liberties could be in jeopardy and also to give public confidence that their liberties will be observed during the duration of military engagement
3. That the court retains residual powers of overseeing the military deployment on observance of human rights and that this file shall remain open during the course of this Petition to receive and deal with any complaints of violation for as long as the military intervention lasts.
4. These are the orders of the court

DATED, DELIVERED AND SIGNED VIRTUALLY IN OPEN COURT THIS 27TH DAY OF JUNE, 2024.

L N MUGAMBI

JUDGE

In presence of

Akhaabi, Faith Adhiambo, Manwa Hosea and Stephen Mbugua – for petitioner

Mr. Mugira for 2nd, 3rd and 4th Respondents & holding brief for Emmanuel Bitu

