

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA IN NAIROBI
HCCHRPET/E/2026

KATIBA INSTITUTE PETITIONER
VERSUS
ATTORNEY-GENERAL..... 1ST RESPONDENT
CABINET SECRETARY FOR
THE MINISTRY OF HEALTH2ND RESPONDENT
AND
KELIN KENYA..... INTERESTED PARTY

Certificate of Urgency

I, Joshua Malidzo Nyawa, Advocate of the High Court of Kenya, certify this matter extremely urgent and '*absolutely cannot wait*' because:

1. *'We wish to inform you that tomorrow we will be killed with our families,'* as written by Philip Gourevitch, illustrates the consequences of failure by authorities to act on credible and imminent threats to life. This concern directly informs the urgency of this matter, given the imminent exposure of the public to grave health risks.
2. Credible media reports indicate constitutional recklessness by the Executive in advancing arrangements with grave public health, sovereignty, and constitutional implications without demonstrable compliance with the Constitution. The reports further indicate advanced Kenya-US discussions on establishing in Kenya a quarantine facility for American citizens exposed to Ebola and other highly infectious diseases, with the Government confirming readiness to proceed, effectively positioning Kenya as an offshore quarantine site for foreign states.
3. This development follows public statements by the United States Secretary of State, Marco Rubio, emphasising that the primary objective of United States foreign policy is to prevent the entry of Ebola into the United States. In response, Kenya appears to have been selected as an alternative containment site, thereby externalising infectious disease risk management to the Republic's territory.

4. The impugned arrangement is being undertaken in a manner that is not transparent and is devoid of constitutional accountability, public participation, parliamentary oversight, or full disclosure of its health, environmental, and security implications. There is no further indication that any environmental or health impact assessment has been undertaken, notwithstanding the extreme risks involved.
5. Ebola is, according to the World Health Organisation, a highly severe and often fatal disease with no universally approved cure and limited treatment options. It is highly infectious and poses a significant threat to public health systems, particularly in contexts of limited containment capacity, thereby presenting a direct and immediate threat to the rights to life under Article 26 and health under Article 43 of the Constitution and triggering a heightened constitutional obligation on the State to exercise maximum precaution in any related policy response.
6. In these circumstances, the Respondents' actions amount to a departure from constitutional obligation and a descent into constitutional recklessness, wherein foundational safeguards are subordinated to executive expediency.
7. This Court has previously intervened in comparable circumstances, including in **Law Society of Kenya & 7 others v Cabinet Secretary for Health & 8 others; China Southern Co. Airline Ltd (Interested Party) [2020] KEHC 9970 (KLR)**, where conservatory orders were issued to prevent exposure of the public to constitutional and public health risk (Corona virus).
8. Unless this Honourable Court urgently intervenes, there is a real and imminent danger that Kenya may be converted into an offshore quarantine

centre for foreign states, thereby exposing citizens to avoidable loss of life and rendering these proceedings nugatory.

9. In the circumstances, the urgency of arresting this escalating constitutional recklessness and protecting the supremacy of the Constitution cannot be overstated.

Dated 28 May 2026, Nairobi



Joshua Malidzo Nyawa
Advocate for Petitioner

Drawn and filed by

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