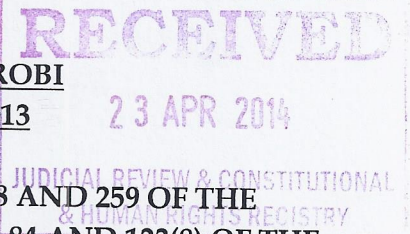


# **CONFIDENTIAL**

## **ANNEX A**

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CONSTITUTIONAL PETITION 586 OF 2013**



IN THE MATTER OF ARTICLES 1, 2, 3, 10, 20, 21, 22, 23, 258 AND 259 OF THE  
 CONSTITUTION OF KENYA, 2010 AND SECTIONS 1, 3, 60, 65, 84 AND 123(8) OF THE  
 FORMER CONSTITUTION OF KENYA

AND

IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND  
 FREEDOMS UNDER ARTICLES 27, 28, 29 AND 50 OF THE CONSTITUTION OF KENYA,  
 2010 AND SECTIONS 70, 72, 74 AND 77 OF THE FORMER CONSTITUTION OF KENYA

AND

AND IN THE MATTER OF THE CONSTITUTIONAL VALIDITY OF THE TWO KENYAN  
 CASES PENDING BEFORE THE ICC NAMELY THE PROSECUTOR VS. UHURU MUIGAI  
 KENYATTA AND THE PROSECUTOR VS. WILLIAM SAMOEI RUTO AND JOSHUA  
 ARAP SANG

AND

IN THE MATTER OF THE CONSTITUTIONAL VALIDITY OF THE WARRANT OF  
 ARREST ISSUED BY THE INTERNATIONAL CRIMINAL COURT AGAINST WALTER  
 OSAPIRI BARASA ON 2<sup>ND</sup> AUGUST 2013

BETWEEN

WALTER O. BARASA .....PETITIONER

AND

HON. ATTORNEY GENERAL.....1<sup>ST</sup> RESPONDENT

THE DIRECTOR OF PUBLIC PROSECUTIONS.....2<sup>ND</sup> RESPONDENT

THE CABINET SECRETARY MINISTRY OF  
 INTERIOR AND NATIONAL CO-ORDINATION.....3<sup>RD</sup> RESPONDENT

AND

H.E HON. UHURU MUIGAI KENYATTA.....1<sup>ST</sup> INTERESTED PARTY

H.E HON. WILLIAM SAMOEI RUTO.....2<sup>ND</sup> INTERESTED PARTY

JOSHUA ARAP SANG.....3<sup>RD</sup> INTERESTED PARTY

**NOTICE OF MOTION**



*(Under Rule 5 (d) (i) of the Constitution Of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 and the Inherent Powers of the Court)*

**TAKE NOTICE** that the Honourable Court shall be moved on the \_\_\_\_\_ day of \_\_\_\_\_ 2014 at 9:00 O'clock in the forenoon or soon thereafter when Counsel for the named 1<sup>st</sup> Interested Party **H.E. HON. UHURU MUIGAI KENYATTA** may be heard for orders;

1. **THAT** the named 1<sup>st</sup> Interested Party's name be struck out of the proceedings herein.
2. **THAT** the costs be provided for.

Which application is grounded on the **FOLLOWING GROUNDS** and **UPON OTHER AND FURTHER GROUNDS** as may be adduced at the hearing hereof.

1. **THAT** the named 1<sup>st</sup> Interested Party has been improperly enjoined in this Petition and his name should be struck out.
2. **THAT** the named 1<sup>st</sup> Interested Party does not wish to participate in the proceedings herein and therefore is not an "Interested Party" as purported in the pleadings herein.
3. **THAT** the named 1<sup>st</sup> Interested Party is currently voluntarily defending himself at the ICC and does not wish to litigate issues relating to his ICC case before this Court.
4. **THAT** the named 1<sup>st</sup> Interested Party was not consulted before his name was included in the proceedings herein.
5. **THAT** the issues being raised in the Petition can be, and ought to be resolved by the Court without the participation of the named 1<sup>st</sup> Interested Party.
6. **THAT** the issues being raised in the current proceedings have no bearing on the named 1<sup>st</sup> Interested Party's case at the ICC.

DATED at NAIROBI this ..... 23<sup>rd</sup> ..... day of ..... April ..... 2014

  
**KENNEDY OGETO, ADVOCATE FOR**  
**H.E. HON. UHURU MUIGAI KENYATTA**  
**NAMED AS 1<sup>ST</sup> INTERESTED PARTY**



**DRAWN & FILED BY:**

OGETTO, OTACHI & COMPANY  
ADVOCATES  
AMBASSADOR COURT, BLOCK C-6  
MILIMANI ROAD  
P.O BOX 79438-00200  
**NAIROBI**

**TO BE SERVED UPON:**

KINOTI & KIBE CO.  
ADVOCATES  
QUEENSWAY HOUSE  
5<sup>TH</sup> FLOOR, KAUNDA STREET  
P.O BOX 29871  
**NAIROBI**

THE HON. ATTORNEY GENERAL  
STATE LAW OFFICES  
SHERIA HOUSE  
P.O BOX 40112  
**NAIROBI**

DIRECTOR OF PUBLIC PROSECUTIONS  
NSSF BUILDING  
**NAIROBI**

CABINET SECRETARY  
MINISTRY OF INTERIOR AND  
NATIONAL COORDINATION  
HARAMBEE HOUSE  
**NAIROBI**