



THE JUDICIARY



April 27, 2023

PRESS STATEMENT - PASTOR PAUL MACKENZIE:

Recognising that the main suspect, **Pastor Paul Mackenzie Nthenge** of Good News International Ministries has faced, and is still facing various charges, the Judiciary offers deep sympathy to the families, relatives and friends of victims affected by the unravelling mass deaths, sufferings and injuries at Shakahola Village in Kilifi County.

Bearing in mind that the matters are pending in court, and upon perusal of the court files, we wish to share with the members of the public the status of the cases that are before the court regarding the charges preferred against Pastor Mackenzie and his co-accused.

BACKGROUND

Pastor Paul Mackenzie Nthenge of Good News International Ministries - Malindi was first arraigned on **17.10.2017** where he was charged with radicalisation, for promoting extreme beliefs, offering education in unregistered institutions, failing to take his children to compulsory primary and secondary education and failing to provide the children with education. In 2019, he faced other charges at the Malindi Magistrate's Court. A number of his followers were also charged on various occasions with child neglect.

The complaints against Pastor Mackenzie and his co-accused were also discussed by stakeholders in the justice chain led by the then Presiding Judge at the Malindi law Courts under the auspice of the **Kilifi County Court Users Committee (CUC)** in its Quarterly meeting of **15.11.2019**.

The CUC discussed the issue of radicalization of children by Pastor Mackenzie through his church and TV station. The issue was escalated to the National Government Implementation Committee and the Communications Authority, and **the CUC was advised the matter had been forwarded to the Cabinet for discussion in the coming weeks**. Subsequently, the TV station's licence was revoked by the Communications Authority.

However, no feed-back was given on the proposal by the CUC to have the church de-registered or the decision by the Cabinet on the issue.

A: CRIMINAL CASES

i) Malindi Criminal Case No. 182 of 2017 Republic -vs- Paul Nthenge Mackenzie; Winne Alexander Gandi & Betty Mwaka

The three accused were jointly charged with the **offence of offering Basic Education in an un-registered institution contrary to Section 76(1) (2) and Section 92(a) of the Basic Education Act**. The particulars were that **on 14.03.2017** at Good News International Ministries in Malindi

Sub County jointly with others not before the court, they unlawfully offered basic education in an unregistered institution in contravention with the Act.

The accused entered into a plea bargain with the Office of the Directorate of Public Prosecutions (ODPP) and were discharged by the trial court and ordered to be of good behaviour.

ii) Malindi Criminal Case No. 790 of 2017

Republic-vs-Paul Mackenzie Nthenge

The accused was charged on 17.10.2017 with 4 counts:-

1. **Radicalisation** contrary to Section 12D of the Prevention of Terrorism Act No. 30 of 2012 Revised Edition 2015. The Particulars were that on **29.09.2017** at Good News International Ministries in Malindi promoted an extreme belief system for the purposes of facilitating ideological objectives to advance religious and social change;
2. **Offering basic education in an unregistered institution** contrary to Section 82 of the Basic Education Act No. 14 of 2013. The Particulars were that **on 29.09.2017** at Good News International Ministries in Malindi Sub County jointly with other's not before the court **offered basic education in an unregistered institution;**
3. **Failing to take his/her child to compulsory primary and secondary education** contrary to Section 30(2) of the Basic Education Act No. 14 of 2013 and the particulars were: on **29.09.2017** at Furunzi area of Malindi Sub County jointly failed to take his children to school as required by law;
4. **Failing to provide right to education of a child** contrary to Section 7 of the Children Act Cap 141 Laws of Kenya and the Particulars were: **on diverse dates between 28.08.2017 and 29.09.2017** in Furunzi area of Malindi Sub County jointly failed to provide his children namely V.P aged 13 years, S.P aged 4 years and O.M aged 5 years with their right to education, which is the responsibility of the parents.

Pastor Mackenzie pleaded not guilty and the Prosecution opposed bail. The Court ordered that Care and Protection Files be opened for the Children and also a Pre Bail Report be filed. **The Court on 19.10.2017 granted the accused conditional cash bail of Kshs.100,000.00 in the alternative Bond of Kshs.500,000.00 with one surety and upon release be reporting to the OCS Malindi each week.**

The court also ordered that the matter be heard on priority basis as it was a public interest matter.

The matter was heard and determined and the accused was acquitted on 29.10.2021 under Section 210 of the Criminal Procedure Code.

iii) Malindi Criminal Case No. 366 of 2019

Republic -vs- Paul Mackenzie Nthenge

The accused Paul Mackenzie Nthenge is charged with 3 Counts as follows:

1. **Incitement to disobedience of the law** contrary to Section 96 (c) of the penal code and the particulars are: on **11.04.2019 in Malindi Township** jointly with others not before the

court was found in possession of cinema topographic films intended to incite children against attending school and incited Christians against Hindus, Buddhists and Muslims.

2. **Being in possession and distributing films to the public which had not been examined and classified by Kenya Film Classification Board** contrary to Section 12 of the Films and Stage Plays Act Cap 222 Laws of Kenya and the particulars are: on diverse dates **between 01.01.2019 and 11.04.2019** at Good News International Church in Malindi Township jointly with others not before court were found in possession and exhibition of films to the Public through Times Television which had not been examined and classified by Kenya Films Classification Board.
3. **Operating a filming studio and producing films without valid filming licence from Kenya Films Classification Board** Contrary to Section 4 of the Films and Stage Play Act Cap 222 Laws of Kenya and the particulars are: **On 11.04.2019** at Good News International Church in Malindi Township jointly with others not before court was found operating a filming studio and producing films for public consumption without first registering as a film agent and acquiring filming license.

The accused pleaded not guilty and the Prosecution objected to Bail/Bond. The Court declined the Application and granted the accused Cash Bail of Kshs.500,000.00 and in the alternative Bond of Kshs.1,000,000.00 with one surety.

The matter is coming up for Defence Hearing on 26.06.2023.

B. MISCELLENOUS CRIMINAL APPLICATIONS

i) Malindi Misc. Criminal Application No. 176 of 2017 Republic -vs- Paul Mackenzie Nthenge and 20 Others.

The State made an application to hold Pastor Mackenzie and 20 others for 30 days on grounds that they were to carry out investigations for radicalization of children after they were found with 73 Children in a church in what was believed to have been a radicalisation process.

The court ordered age assessment to be done for four of the suspects who were found to be minors and an order for care and protection was issued.

The court allowed the other suspects to be held for a period of seven days for further investigations.

ii) Malindi Misc. Application No. E024 of 2023 Republic -vs- Paul Nthenge Mackenzie

The State moved the court on 23.03.2023 seeking for orders to hold Pastor Paul Mackenzie for a period of 14 days for being connected to murder of two children who had succumbed to starvation and suffocation at Shakahola and buried in a shallow grave.

The matter was heard and the respondent released on a cash bail of Kshs.10,000.00 and ordered to report to the police station as and when required to aid in investigations.

The ODPP filed a Review of the Orders to the High court which was dismissed for lack of merit.

**iii) Malindi Misc. Application No. E040 of 2023
Republic -vs- Paul Nthenge Mackenzie and 13 Others**

The State moved the court on 17.04.2023 seeking for orders to allow the chief pathologist to exhume remains of 14 unknown bodies buried at Shakahola for post mortem, toxicology and DNA tests.

The matter was heard and orders were granted for exhumation, post mortem, toxicology and DNA testing.

**iv) Malindi Misc. Application No. E041 of 2023
Republic -vs- Paul Nthenge Mackenzie and 13 Others**

The State moved the Court on 17.04.2023 seeking for Orders to hold the 14 respondents for 30 days as they were linked to the offences of murder, suicide, manslaughter, conspiracy to kill, criminal recklessness and negligence, abducting in order to confine, accessories to the fact, child cruelty, child neglect, attempted suicide and others.

The matter was heard and orders granted as follows:

Suspects 1-7 to remain in police custody for a period of 14 days pending completion of investigations:

Suspects 8-14 to remain in police custody for a period of 7 days and the matter will be mentioned on 02.05.2023.

v) Malindi Misc. Application No. E043 of 2023 Republic -vs- Paul Nthenge Mackenzie and 7 Others

The State moved the court on 25.04.2023 seeking for further exhumation orders on the 800 acres of land owned by Pastor Paul Mackenzie at Shakahola together with orders for DNA, post mortem and toxicology tests for any bodies that would be found buried.

The application was allowed and further directed that the exhumation is limited to the 800 acres of land at Shakahola as mapped out by the scene of crime experts.

C: OTHER CASES/APPLICATIONS LINKED TO GOOD NEWS INTERNATIONAL CHURCH OWNED BY PASTOR PAUL NTHENGE MACKENZIE

**i) Malindi Children Protection & Care No. 57 of 2017
S.P and 42 Others**

These were 43 Children ranging from 1 year to 13 years and included Pastor Paul Mackenzie's 3 children who had been rescued from Good News International Church-Mayungu where they had been locked and were not going to school but receiving religious teachings.

The matter was heard on 18.10.2017 and after considering the Children Officer's Report allowed the Children who were being held at Mayungu Children Centre (safe space) to be released back to their families after counselling and medical care.

**ii) Malindi Criminal Case No. 264 of 2019
Republic -vs- Isaac Njoroge Kuria**

On 25.03.2019 the accused a member of the Good News International Church was charged with Cruelty and Neglect to a Child and the particulars were: On diverse dates **between 08.09.2019 to 14.03.2019** at Sunpark area in Malindi being the father of D.N.K aged 6 years, E.N.K aged 4 years and H.N.K aged 2 years willfully abandoned the Children by prohibiting them from school and medical care and other basic necessities.

The children had been rescued by their maternal grandparents after receiving a tip off from neighbours on what was happening.

The accused was found guilty for prohibiting the children from attending school and failing to take the children to hospital yet they were seriously sick suffering from acute TB and malnutrition.

The children's mother who was a nurse had also died in the house from TB after refusing to seek medical attention as their church prohibited them to do so.

The accused were discharged under Section 35(1) of the Criminal Procedure Code after hearing his mitigation.

**iii) Malindi Misc. Criminal Application No. E042 of 2023
Republic -vs- Smart Mwakalama, Haji Kombo and Mtengua Mkai**

The State moved the court on 24.04.2023 seeking orders to hold the accused persons for a period of 10 days at Malindi Police Station as they are connected to the offence of murder, manslaughter and others.

The application was heard and police allowed to hold the accused persons for 3 days and the matter came up on 27.04.2023 for status update and further directions.

The Judicial Service Commission which is charged with handling disciplinary issues and the leadership of the Judiciary, are examining the court records to establish whether there was any misconduct on the part of Judicial Officers and staff who handled the subject matters.

The Judiciary reaffirms its commitment to upholding the Constitution and the rule of law in the administration of justice

DIRECTORATE OF PUBLIC AFFAIRS AND COMMUNICATION