



HYPOTHETICAL CASE

**Before the Ganda High Court in the case between:
 Ganda Lawyers for Data Rights, Mitanni
 And
 The Republic of Ganda**


1. The Unitary Republic of Ganda (Ganda), with Goma City as its capital, is a small, low-income Equatorial African country situated on the western seaboard of Eastern Africa. It consists of six provinces, which are divided into 115 districts. Ganda became independent in 1986 and has since then enjoyed relative peace and stability however under the leadership of one President. It witnessed a five-year economic and political downturn starting in 2016, but the development of off-shore oil ventures has stabilized the country's economy. Its total population is around 13 million people.

2. Ganda operates under a plural legal system, where civil law and customary law coexist and enjoy 'equal status' under the 1995 Constitution of the Republic of Ganda (1995 Constitution). Chapter V of the 1995 Constitution contains, verbatim, the rights, obligations and duties set out in pari-materia with chapter four of Uganda's 1995 Constitution. The Ganda Parliament, the only legislative body in the country, consists of one house, and adopts all legislation. In terms of the Constitution, legislation adopted by Parliament only enters into force once signed by the President.

3. Ganda is a member of the United Nations (UN), the African Union (AU) and the East African Community (EAC). It has ratified the following UN human rights treaties: the International Covenant on Civil and Political Rights (ICCPR) in 1984; the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1984, the African Charter on Human and People's Rights (AfCHPR).

4. The President of Ganda in 2019 signed the Data Protection and Privacy Act, 2019. Among other laws signed by the President are; The Interception of Communications Act, 2010 and the Anti-Terrorism (Amendment) Act, 2017. These all have a striking similarity with the laws operational in Uganda.

5. As a result of the economic and political downturn from 2016, there was an increase in crime and a 2020 crime report by police's Intelligence Unit of Ganda released showed that several high-caliber guns, among other SMGs and Micro Uzi made from Israel or Singapore were in the hands of criminals. Similarly, police statistics showed that of the 3,600 murder cases committed during the preceding 7 years, less than 100 had been successfully investigated and culprits convicted.



6. Among the crimes are a chain of high profile assassinations within Ganda carried out with the assistance of vehicles and motor cycles. In 2018, Justice Jovian Makanda, a Judge of the High Court of Ganda was assassinated by assailants who were riding on a motorcycle which is one of the most commonly used means of transport in Ganda. Since then, several other high profile assassinations to the tune of 13 government officials by assailants in the same manner ensued but hitherto, the government has not been able to bring the culprits to book.

7. In an attempt to respond to this nature of crime, H.E the President of Ganda, Joel Musanvu announced that there will be an expansion of the state surveillance capacity through GPS enabled devices to motor vehicles and cycles which will cover much of the population given their reach and relevance to Ganda's economy. It will also grant the Gandan state access to data on movement of millions of people they transport every day for their own safety and protection from terrorism.

8. This smart tracking project is the pet-project of the National Security Council (NSC) of Ganda, the Works ministry and security agencies, including Internal Security Organization and Chieftaincy of Military Intelligence to nip in the bud high-profile assassinations in the country.

9. Under a non-disclosure agreement, the state of Ganda approached, hired and contracted ISONET, a Global Security Company (which has no online presence nor digital footprint to establish its prior related experience in offering surveillance technology and services) based in Russia to install GPS enabled tracking devices in motor vehicles and motorcycles which will be manufactured within Ganda despite the multiple bankruptcy challenges it's facing in Moscow.

10. In one case, filed in September 2018, engineering company Gus-Drom Technology LLC successfully sued ISONET for failure to pay \$556m and it was found to be bankrupt. The company has also been sued by Mortem LLP for failure to pay about \$200m, and by Pension Fund of the Russian Federation for failure to pay \$476 and \$2.1m, respectively.

11. Upon arrival of ISONET in 2021, the plan to roll-out a pilot tracking-system installation of around 1,000 and 1,500 motor-vehicles out of the more than 1.8 million vehicles in the country by the end of 2021 ensued. Currently, the tracking system has been installed in 1.5 million Vehicles and over 300,000 moto cycles.

12. On 10th October 2022, on the outskirts of Goma city, the Ganda police intercepted and arrested a terrorism suspect, a one Muzamil Keeta alias 'bazooka' through the assistance of the GPS tracking device systems installed on motor cycles. Police was able to pull this off through the conversations overheard between bazooka and his explosive paraphernalia suppliers on the black market. At his residence, he was found to be in possession of artillery constituting 27 guns of both the AK 47 and SMG machine guns. This arrest was widely broadcasted by media houses and outlets with praises of the effectiveness of the GPS tracking system installed on vehicles and motor bikes.

13. A month later, on 5th November 2022, unknown to Hon. Fox Mitanni, a leader of opposition in the Ganda parliament, his home was raided by the police to search for the "weapon of mass destruction" which he had alluded to on the 3rd of Nov. 2022 at 8pm while on his way back home in his car. Following the raid, Mitanni was also intercepted that very evening on Prime Avenue in Goma city center and thereby arrested. The GPS surveillance system was used to monitor and track him with the claim that he's suspected for treasonous criminal activities.

14. The evidence produced by police was an excerpt of a phone recording of Mitanni's conversation with his wife on 3rd Nov.2022 at 8pm where he had mentioned about a weapon of mass destruc-

tion. In his defense, Mitanni made a formal request to the mobile telecom service provider INSTATEL to avail him a full contextual excerpt of his conversation with his wife. A complete extraction of the conversation revealed that the discussion with his wife was centered on the food she had prepared for him at home and that his 'mouth and stomach' are the weapon of mass destruction ready to demolish the food. It was mere casual spouse jargon and talk. Mitanni was released on the account of this evidence.

15. During the process however, Mitanni discovered that the GPS motor surveillance tracking system which was installed in his vehicle was also recording his private conversations. The GPS device had an inbuilt radio device chip that enabled the recordings. This is how Police was able to misjudge his jargon and raided his house. Furthermore, there was an extraction of an excerpt of Mitanni's phone conversation from INSTATEL by police to back up the recording in the GPS device which was used to "corroborate" the fact that he had a weapon of mass destruction. The police however, did not obtain a court order to enable the interception of Mitanni's phone conversations.

16. Being aggrieved by the interference in his private life by the Ganda Police, INSTATEL and ISONET, Mitanni approached the Ganda Lawyers for Data Rights, a non-profit that advocates for the rule of law and data privacy and together filed a suit in the High Court challenging the legality of government's program to mount digital beacons or Global Positioning System (GPS) trackers on all motor vehicles by ISONET a foreign company, in the absence of adherence to the safeguards protecting privacy and data belonging to people of Ganda with no connection to criminality or terrorism.

17. On January 7th 2023, Ganda Lawyers for Data Rights and Mitanni submitted a case to the High Court of Ganda to adjudicate over the following issues;

- a. Ganda violated the Data Protection and Privacy Act, 2019 of Ganda by failing to carry out a due diligence to do a Data Protection and Privacy Impact Assessment of ISONET,
- b. That the Ganda Police unlawfully acquired, intercepted and tapped Mitanni's private phone conversation from INSTATEL, and,
- c. The installation of the geolocation tracking device on vehicles by ISONET and the government of Ganda constitute an interference with the right to privacy and private life of the citizens of Ganda.

18. The matter is set to be heard by the High Court of Ganda on 11th and 12th 2023. Prepare memorials for both GLDR, Mitanni (Applicant) and Ganda (Respondent) setting out the following arguments:

- a. The parties' position on the procedural aspects (jurisdiction and admissibility) of the case.
- b. The parties' position on the material aspects (merits) of the case, and the appropriate remedies.

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