

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
JUDICIAL REVIEW DIVISION
JUDICIAL REVIEW APPLICATION NO E119 OF 2023

REPUBLIC.....APPLICANT

VERSUS

TOOLS FOR HUMANITY CORPORATION (US).....1ST RESPONDENT

TOOLS FOR HUMANITY GmbH.....2ND RESPONDENT

WORLD COIN FOUNDATION (CAYMAN ISLANDS).....3RD RESPONDENT

WORLD ASSETS LIMITED (BRITISH VIRGIN ISLANDS).....4TH RESPONDENT

PLATINUM DE PLUS LTD.....5TH RESPONDENT

DATA PROTECTION COMMISSIONER.....6TH RESPONDENT

CABINET SECRETARY, MINISTRY OF INFORMATION, COMMUNICATION

AND THE DIGITAL ECONOMY.....7TH RESPONDENT

COMMUNICATIONS AUTHORITY.....8TH RESPONDENT

CENTRAL BANK OF KENYA.....9TH RESPONDENT

KATIBA INSTITUTE1ST APPLICANT

LAW SOCIETY OF KENYA.....2ND APPLICANT

KENYA HUMAN RIGHTS COMMISSION.....3RD APPLICANT

INTERNATIONAL COMMISSION OF JURISTS (KENYA).....4TH APPLICANT

AFRICAN CENTER FOR OPEN GOVERNANCE.....5TH APPLICANT

DATA PRIVACY & GOVERNANCE SOCIETY OF KENYA...INTERESTED PARTY

CERTIFICATE OF URGENCY

I Ochiel J Dudley, Advocate, certify this Application urgent because:

1. In July 2023, Worldcoin began collecting *biometric data* by scanning irises of the Kenyan public. Although data consent must be *voluntary, free, and informed*, Worldcoin obtained consent by the *inducement* of a cryptocurrency—Worldcoin (approximately worth Kshs 7,000/= or 50 USD). Worldcoin did not register as a data processor (or fully as a data controller) in Kenya.
2. Applicants contest Worldcoin’s venture to unlawfully collect and process biometric data (iris scans) in Kenya: (i) without undertaking (or using an inadequate) Data Protection Impact Assessment; (ii) without registering as a “data processor” or “controller”; (iii) using consent obtained by *inducement* of a cryptocurrency—Worldcoin (approximately worth Kshs 7,000/= or 50 USD); and (iv) without the Communication Authority’s type approval of **the Orb**.
3. The data security, consumer protection, cybersecurity, and safety of the biometric data collected by Worldcoin is at stake; leakage could render this case nugatory.

Dated at Nairobi this 24th day of August 2023

Ochiel JD

OCHIEL J DUDLEY
ADVOCATE FOR THE APPLICANTS

DRAWN AND FILED BY:

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CHAMBER SUMMONS

(Rule 3 of the High Court (Practice and Procedure) Rules, 1964; Rule 17 of the High Court (Organisation and Administration) (General) Rules, 2016)

LET PARTIES attend the Honourable Court in chambers or virtually on the day of 2023 at 9:00 am or per the cause list for hearing of this application for orders:

- a) That this Application be and is certified urgent for *ex parte* directions in the first instance.
- b) That leave be granted admitting this cause for hearing during the court's August recess.

Which application is filed because:

1. Section 31 of the Data Protection Act, 2019 demands a data protection impact assessment if, by its nature, scope, context, and purposes, the data processing may lead to high risk to the rights and freedoms of a data subject.
2. In July 2023, Worldcoin began collecting *biometric data* by scanning faces and irises of the Kenyan public using **the Orb**. Although data consent must be voluntary, *free* and *informed*,

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Worldcoin unlawfully obtained consent by the *inducement* of a cryptocurrency—
Worldcoin (approximately worth Kshs 7,000/= or 50 USD). Worldcoin did not register
as a data processor in Kenya.

3. Applicants contest Worldcoin’s venture to unlawfully collect and process biometric data (iris and facial scans) in Kenya:
 - (i) without Communication Authority’s **type approval** or **type acceptance** of **the Orb** under Regulation 3 of the Kenya Information and Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2010
 - (ii) without undertaking (or using an inadequate) Data Protection Impact Assessment;
 - (iii) without registering as a “data processor” or “controller”; and
 - (iv) using consent obtained by *inducement* of a cryptocurrency—Worldcoin (approximately worth Kshs 7,000/= or 50 USD)
4. Equally, there is a danger that Worldcoin is transfers personal data outside of Kenya without appropriate safeguards in violation of Regulation 41 (1) of the Data Protection (General) Regulations, 2021.
5. The data security, consumer protection, cybersecurity, and safety of the biometric data collected by the Respondents is at stake. Processing or leaking the sensitive biometric data, in the pendency of this matter, will render this case nugatory.

AND WHICH application is supported by the affidavit of Lempaa Suyianka and grounds as may be advanced at the application hearing.

Dated at Nairobi this 24th day of August 2023

OchielJD
OCHIEL J DUDLEY
ADVOCATE FOR THE APPLICANTS

DRAWN AND FILED BY:

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JUDICIAL REVIEW APPLICATION NO E119 OF 2023
IN THE MATTER OF: ARTICLES, 10, 22, 23, 28, 31, 47 AND 258 OF THE
CONSTITUTION OF KENYA 2010

AND

SECTION 18, 31, AND 32 OF THE DATA PROTECTION ACT, 2019

AND

WORLDCOIN’S DECISION TO COLLECT BIOMETRIC DATA (IRIS SCAN)
WITHOUT A DATA PROTECTION IMPACT ASSESSMENT AND BY CONSENT
INDUCED BY THE PROMISE OF A CRYPTOCURRENCY

BETWEEN

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CHAMBER SUMMONS

(Under sections 7, 8, 9, 11 and 14 of the Fair Administrative Actions Act; Section 8 and 9 of the Law Reform Act Cap 26; Order 53 of the Civil Procedure Rules (2010) and other enabling provisions of the law).

LET ALL PARTIES concerned attend the Honourable Court in chambers/virtually on the day of2020 at 9:00am or soon after as the Ex Parte Applicants may be heard on their application for orders that:

1. This application be, and is, certified urgent for ex parte orders in the first instance.
2. Applicants be and are granted leave to apply for judicial review orders of:

- (a) Prohibition restraining the 1st to 5th Respondents and their agents from further collecting, processing, or transferring the personal biometric data collected in Kenya using the **Orb**, without undertaking (or using an inadequate) Data Protection Impact Assessment contrary to section 31 of the Data Protection Act, 2019 or using consent obtained through inducement of a cryptocurrency—Worldcoin. And in the case of the 3rd to 5th Respondents without registering as data processors or controllers in Kenya.
 - (b) Certiorari to bring to this court and to quashing Worldcoin's decision to collect, process, or transfer biometric data collected in Kenya using the **Orb**, without undertaking (or using an inadequate) Data Protection Impact Assessment contrary to section 31 of the Data Protection Act, 2019 and by consent obtained through inducement of a cryptocurrency—Worldcoin.
 - (c) An order directing the Data Protection Commissioner to cancel the 1st and 2nd Respondents' certificate of registration as a data controller in Kenya for being obtained through misrepresentation or material non-disclosure contrary to section 19(2) of the Act and Regulation 5 and 16 of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021.
 - (d) Mandamus compelling the 1st to 5th Respondents to, within 7 days of the order, permanently erase and destroy (under the supervision of the Data Protection Commissioner) the personal biometric data collected by them from Kenya using the Orb for having been obtained unlawfully.
 - (e) A structural interdict directing the Cabinet Secretary (in consultation with the Data Commissioner) to prescribe practice guidelines for commercial use of personal data in Kenya under section 37(3) of the Act and to file the guidelines before the court within 12 months of the court's order.
3. Leave so granted does operate as a stay—restraining the 1st to 5th Respondents from collecting, processing, or transferring the personal biometric data collected in Kenya, using the Orb, pending the hearing and determination of the application.
 4. Leave does issue for Applicants to serve the 1st to 4th Respondents through their Kenyan agents, by email, or registered post.

WHICH APPLICATION is premised on the grounds:

1. Section 31 of the Data Protection Act, 2019 demands a data protection impact assessment be undertaken and submitted to the Office of the Data Protection Commissioner at least sixty days before processing of personal data if (by nature, scope, context, and purposes) the data processing may lead to high risk to the rights and freedoms of a data subject.

Under Regulation 49(1)(c) of the Data Protection General Regulations, 2021, a Data Protection Impact Assessment is mandatory if the processing involves **biometric personal data**.

2. In July 2023, without undertaking (or using an inadequate) Data Protection Impact Assessment, Worldcoin began collecting *biometric data* by scanning irises of the Kenyan public.
3. Further, although data consent must be express, unequivocal, voluntary, free, specific, and informed under the Act and Regulations, Respondents unlawfully obtained consent by *inducement* of a cryptocurrency—Worldcoin (approximately worth Kshs 7,000/= or 50 USD). Contrary to Regulation (4)(b) of the Data Protection General Regulations, 2021 the inducement of a cryptocurrency—Worldcoin was a non-negotiable part of the terms and conditions for processing.
4. Likewise, the 3rd to 5th Respondents did not register as data processors or controllers in Kenya despite having significant roles in collecting and processing the biometric data gathered by Tools for Humanity through the **Orb**. The 1st and 2nd Respondents only registered with the Office of the Data Protection Commissioner as “data controllers” while the 3rd to 5th Respondents are neither registered as data processors or data controllers in Kenya.
5. Again, the Applicants query the omission by the Cabinet Secretary (in consultation with the Data Commissioner) to prescribe practice guidelines for commercial use of personal data, by entities like Worldcoin, under section 37(3) of the Act.
6. On 28 July 2023 the Data Protection Commissioner issued a cautionary note calling for heightened vigilance by Kenyans in scanning their data through the Orb and to ensure that they receive proper information before disclosing any personal or sensitive data.
7. Afterward on 2 August 2023 the Communications Authority and the Data Protection Commissioner issued a joint statement raising “a number of legitimate regulatory concerns” about: (i) security and storage of the collected sensitive data (facial recognition and iris scans); (ii) obtaining consumer (data subject) consent in exchange for monetary reward which borders on inducement; (iii) uncertainty regarding consumer protection on

cryptocurrency and related ICT services; cybersecurity safeguards and standards; (iv) massive citizen data in the hands of private actors (without appropriate safeguards).

8. Concerned, Applicants query the data security, consent, consumer protection, cybersecurity, and safety of the biometric data collected by the Respondents. Leakage of the sensitive biometric data, in the pendency of this matter, will render this case nugatory. Leave should therefore operate as stay to preserve the subject matter of the application in the interim.
9. Applicants have a good cause of action and should serve the 1st to 4th Respondents through their Kenyan agents, by email address, or registered post.

AND WHICH APPLICATION is supported by the Statutory Statement, and by the Verifying Affidavit of Lempaa Suyianka and by grounds and submissions to be adduced at the hearing of the main application.

Dated at Nairobi this 24th day of August 2023

Ochiel JD
OCHIEL J DUDLEY

ADVOCATE FOR THE APPLICANTS

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TO BE SERVED UPON:

1. Tools for Humanity Corporation (Us) T/A Worldcoin
2. Tools for Humanity GmbH
3. Data Commissioner
4. Cabinet Secretary, Ministry of Information, Communication and the Digital Economy
5. Data Privacy Governance Society of Kenya

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**THE DECISION TO COLLECT BIOMETRIC DATA (IRIS SCAN) WITHOUT A
DATA PROTECTION IMPACT ASSESSMENT AND BY CONSENT INDUCED
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STATUTORY STATEMENT

A. INTRODUCTION

1. This application concerns Worldcoin’s venture to unlawfully collect, process, or transfer biometric data (iris scans and facial recognition) in Kenya: (i) without undertaking (or using an inadequate) Data Protection Impact Assessment; (ii) without registering as a “data processor” or “controller”; (iii) using consent obtained by *inducement* of a

cryptocurrency—Worldcoin (approximately worth Kshs 7,000/= or 50 USD), and (iv) without the Communication Authority’s type approval of **the Orb**.

2. Applicants also question the omission by the Cabinet Secretary (in consultation with the Data Commissioner) to prescribe practice guidelines for commercial use of personal data, by entities like Worldcoin, under section 37(3) of the Act.

B. PARTIES

(a) Applicants

3. Katiba Institute, the 1st ex parte Applicant, is a constitutional research, policy, and litigation institute established to aid the implementation of Kenya’s 2010 Constitution. Katiba Institute files this application in the public interest.
4. Law Society of Kenya, the 2nd ex parte Applicant, is a premier bar association founded by section 4 of the Law Society of Kenya Act, 2014. Section 4 of the Act directs LSK to ‘uphold the Constitution of Kenya and advance the rule of law and administration of justice’ and to ‘protect and assist’ the public in Kenya in legal matters.
5. Kenya Human Rights Commission (KHRC), the 3rd ex parte Applicant, is a non-governmental organisation whose objectives include promoting human rights and fundamental freedoms, good governance, and democracy.
6. Founded in 1952, the International Commission of Jurists-Kenya (ICJ Kenya), the 4th Applicant, is an international, non-partisan, and non-profit registered professional society with long-established and well-recognised expertise in the rule of law.
7. Africa Center for Open Governance (AFRICOG), the 5th Applicant is an independent, non-profit organisation. AFRICOG provides cutting-edge research and monitors governance and public ethics issues in both the public and private sectors. AFRICOG’s goal is to address the structural causes of the governance crisis in East Africa.

(b) Respondents

8. Tools for Humanity Corporation (US), Tools for Humanity GmbH (Germany), Wordcoin Foundation (Cayman Islands), and World Assets Ltd (Virgin Islands) the 1st, 2nd, 3rd and 4th Respondents, are foreign entities and proprietors of Worldcoin, WorldID, WorldApp,

and the Orb. World Assets Ltd is fully owned by Worldcoin Foundation. (The Worldcoin entities will be served through their Kenyan agents by email or registered mail).

9. Platinum De Plus Ltd, 5th Respondent, is a registered Kenyan company and the local agent of the Worldcoin entities. Platinum De Plus “spends time onboarding thousands of users to the Worldcoin network”.
10. Data Protection Commissioner, the 6th Respondent, is mandated by section 6 of the Data Protection Act, 2019 to oversight the implementation of the Data Protection Act, 2019.
11. The 7th Respondent is the Cabinet Secretary responsible for matters relating to information, communication and technology and sued for omitting to prescribe (in consultation with the Data Commissioner) practice guidelines for commercial use of personal data, by entities like Worldcoin, under section 37(3) of the Act.
12. CA is a regulatory authority established by the Kenya Information and Communications Act, 1998. The CA is sued for its unconstitutional, unprocedural, and illegal censure of the six TV stations for live broadcasts of opposition demonstrations on 20 March 2023.
13. Central Bank of Kenya is established by section 3 of the Central Bank of Kenya Act, and mandated to formulate and implement such policies that promote the establishment, regulation and supervision of efficient and effective payment, clearing and settlement systems.

(c) Interested Party

14. Data Privacy and Governance Society of Kenya is a society of private practitioners, inhouse data protection officers in public and private sector, academia, civil society, young professionals, and university students. DPGSK’s mission is to ensure legal, responsible, and ethical use of data by among others championing policy and legislative reforms in data privacy and governance and engaging in strategic litigation on data privacy and governance matters. The Society is joined as Interested Party having a legitimate and **identifiable** stake or a legal **interest** or duty in the proceedings.

C. FOUNDATIONAL FACTS

15. Registered as a data controllers in Kenya, Tools for Humanity is headquartered in San Francisco, California (U.S. corporation) and Erlangen, Germany (GmbH) serve as

- “advisors to the Worldcoin Foundation and World Assets Ltd who operate the World App”.
16. On the other hand, **Worldcoin Foundation (registered in the Cayman Islands) holds the patents to the Orb technology, owns all user data, and issues all Worldcoin token** (through a subsidiary **World Assets Ltd** registered in the British Virgin Islands.
 17. Tools for Humanity shares personal data with **Worldcoin Foundation** and World Assets Ltd. But neither Worldcoin Foundation nor World Assets Ltd is registered as a data processor or controller in Kenya.
 18. Collectively, the Worldcoin entities own and operate: **World ID** described as “first technology to prove” one is a real and unique person using their iris pattern; a cryptocurrency token **Worldcoin** distributed by Worldcoin Foundation (through a subsidiary World Assets Ltd) to everyone for verifying at an Orb; and **World App** an “app that enables payment, purchases, and transfers using Worldcoin, digital assets, and traditional currencies”. The Worldcoin entities collect biometric data using “**The Orb**” an open-source hardware device that captures and processes ones image and their unique iris pattern.
 19. They aim to build the “world’s largest identity and financial network” by scanning biometric data and using it to generate and store a unique code to identify one individual from the next. The iris and facial images scanned through **the Orb** is processed for machine learning on an Amazon web service cloud infrastructure.
 20. In July 2023, without undertaking (or using an inadequate) Data Protection Impact Assessment, the 1st and 2nd Respondents began collecting *biometric data* by scanning irises of the Kenyan public using the Orb.
 21. First, Wordcoin did not seek or the Communications Authority give type approval or type acceptance of the **Orb** used to collect biometric data by scanning faces and irises.
 22. Second, although data consent must be express, unequivocal, voluntary, free, specific, and informed under the Act and Regulations, Respondents unlawfully obtained consent by *inducement* of a cryptocurrency—Worldcoin (approximately worth Kshs 7,000/= or 50 USD). Contrary to Regulation (4)(b) of the Data Protection General Regulations 2021 the

inducement of a cryptocurrency—Worldcoin was a non-negotiable part of the terms and conditions for processing.

23. Third, although **Worldcoin Foundation holds the patents to the Orb technology, owns all user data, and issues all Worldcoin token** (through a subsidiary World Assets Ltd (British Virgin Island), none of these two entities registered as a data processor in Kenya. Besides, Tools for Humanity Corporation did not disclose to the Kenyan public the roles of these entities in processing the biometric data collected from Kenya. Still, Tools for Humanity shares personal data with Worldcoin Foundation and World Assets Ltd.
24. Fourth, the Applicants query the omission by the Cabinet Secretary (in consultation with the Data Commissioner) to prescribe practice guidelines for commercial use of personal data, by entities like Worldcoin, under section 37(3) of the Act.
25. On 28 July 2023 the Data Protection Commissioner issued a cautionary note calling for heightened vigilance by Kenyans in scanning their data through the Orb and to ensure that they receive proper information before disclosing any personal or sensitive data.
26. Afterward on 2 August 2023 the Communications Authority and the Data Protection Commissioner issued a joint statement about Worldcoin raising “a number of legitimate regulatory concerns” about: (i) security and storage of the collected sensitive data (facial recognition and iris scans); (ii) obtaining consumer (data subject) consent in exchange for monetary reward which borders on inducement; (iii) uncertainty regarding consumer protection on cryptocurrency and related ICT services; cybersecurity safeguards and standards; (iv) massive citizen data in the hands of private actors (without appropriate safeguards).
27. Applicants have a good cause of action and should serve the 1st and 2nd Respondents through their Kenyan agents by email address, or registered post.

(a) Constitution of Kenya

28. Under Article 19(1) the Bill of Rights is an integral part of Kenya’s democratic state and is the framework for social, economic, and cultural policies. Article 20(1) applies the Bill of Rights to all law and all persons. Accordingly, private persons, like Worldcoin, have a negative obligation under Article 21(1) to *respect* the rights in the Bill of Rights.
29. Article 31 guarantees every person the right to privacy, including the right not to have information relating to their family or private affairs unnecessarily required or revealed.
30. Article 28 entitles every person to dignity and the right to have their dignity respected.

(b) UN Guiding Principles on Business and Human Rights

31. Article 11 of the UN Guiding Principles on Business and Human Rights Business demand that enterprises should respect human rights and must avoid infringing on the human rights of others and address adverse human rights impacts with which they are involved.
32. Besides, under para 13, the responsibility to respect human rights requires that business enterprises: (a) avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; (b) seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.
33. In turn, under para 14, the responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure.

(c) Data Protection Act, 2019

34. From its long title, the Act gives effect to Article 31(c) and (d) of the Constitution; establishes the Office of the Data Protection Commissioner; regulates the processing of personal data; and provides for the rights of data subjects and obligations of data controllers and processors.
35. “Consent” under the Act means a “manifestation of express, unequivocal, *free*, specific and *informed* indication of the data subject’s wishes by a statement or by a clear affirmative

- action, signifying agreement to the processing of personal data relating to the data subject”.
36. The Data Protection Act defines “**personal data**” to mean any information relating to an identified or identifiable natural person such as those collected by Worldcoin
 37. By extension, “**biometric data**” means personal data resulting from specific technical processing based on physical, physiological, or behavioural characterisation including blood typing, fingerprinting, deoxyribonucleic acid analysis, earlobe geometry, retinal scanning, and voice recognition.
 38. On the other hand, “data processing” is defined to include include any operation or sets of operations which is performed on personal data or on sets of personal data whether or not by automated means, such as: (a) collection, recording, organisation, structuring; (b) storage, adaptation or alteration; (c) retrieval, consultation or use; (d) disclosure by transmission, dissemination, or otherwise making available; or (e) alignment or combination, restriction, erasure or destruction.
 39. Under section 18 of the Act, no person can act as a data controller or data processor unless registered with the Data Commissioner. The Data Commissioner shall prescribe thresholds required for mandatory registration of data controllers and data processors, and in making such determination, the Data Commissioner must consider— the nature of industry; the volumes of data processed; whether sensitive personal data is being processed; and any other criteria the Data Commissioner may specify.
 40. Under section 19(2), a data controller or data processor required to register must apply to the Data Commissioner and supply:
 - (a) a description of the personal data to be processed by the data controller or data processor;
 - (b) a description of the purpose for which the personal data is to be processed;
 - (c) the category of data subjects, to which the personal data relates;
 - (d) contact details of the data controller or data processor;
 - (e) a general description of the risks, safeguards, security measures and mechanisms to ensure the protection of personal data;
 - (f) any measures to indemnify the data subject from unlawful use of data by the data processor or data controller; and

- (g) any other details as may be prescribed by the Data Commissioner.
- (3) A data controller or data processor who knowingly supplies any false or misleading detail under sub-section (1) commits an offence.
- (4) The Data Commissioner shall issue a certificate of registration where a data controller or data processor meets the requirements for registration.
- (5) A data controller or data processor shall notify the Data Commissioner of a change in any particular outlined under subsection (2).
- (6) On receipt of a notification under sub-section (5), the Data Commissioner shall amend the respective entry in the Register.
- (7) A data controller or data processor who fails to comply with the provisions of this section commits an offence.
41. Section 25 indicates, as a principle, that every data controller or data processor must ensure that personal data is not transferred outside Kenya, without proof of adequate data protection safeguards or consent from the data subject.
42. Section 26(a) entitles a data subject to be informed of the use to which their personal data is to be put.
43. Section 30 of the Act forbids a data controller or data processor from processing personal data unless the data subject consents to the processing for one or more specified purposes. Further, processing of personal data shall be in accordance with the purpose of collection.
44. Section 31 of the Data Protection Act, 2019 requires a data protection impact assessment where a processing operation (like Worldcoin) is likely to result in high risk to the rights and freedoms of a data subject, by its nature, scope, context and purposes. Under the Act a “data protection impact assessment” means an assessment of the impact of the envisaged processing operations on the protection of personal data.
45. The Data Protection Impact Assessment must cover:
- a systematic description of the envisaged processing operations and the purposes of the processing, including, where applicable, the legitimate interest pursued by the data controller or data processor;
 - an assessment of the necessity and proportionality of the processing operations in relation to the purposes;

- an assessment of the risks to the rights and freedoms of data subjects;
 - the measures envisaged to address the risks and the safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Act, taking into account the rights, and legitimate interests of data subjects and other persons concerned
46. The data controller or data processor shall consult the Data Commissioner prior to the processing if a data protection impact assessment prepared under this section indicates that the processing of the data would result in a high risk to the rights and freedoms of a data subject. In the section, “data protection impact assessment” means an assessment of the impact of the envisaged processing operations on the protection of personal data.
47. The data impact assessment reports must be submitted sixty days prior to the processing of data.
48. Under section 32 of the Act, conditions of consent are that:
- (1) A data controller or data processor shall bear the burden of proof for establishing a data subject’s consent to the processing of their personal data for a specified purpose.
 - (2) Unless otherwise provided under the Act, a data subject shall have the right to withdraw consent at any time.
 - (3) The withdrawal of consent does not affect the lawfulness of processing based on prior consent before its withdrawal
 - (4) In determining whether consent was *freely given*, account shall be taken of whether, among others, the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract.
49. Section 37 of the Act forbids anyone from using, for commercial purposes, personal data obtained under the Act without: “express consent from a data subject” or “authority under a written law and informing the data subject such use when collecting the data from the data subject”. Section 37(3) empowers the Cabinet Secretary (in consultation with the Data Commissioner) to prescribe practice guidelines for commercial use of personal data under the Act.

50. Section 40(1)(b) entitles a data subject to demand that a data processor or data controller erases or destroys without undue delay personal data that the data controller or data processor is no longer authorised to retain, irrelevant, excessive, or obtained unlawfully.

(b) Fair Administrative Action Act, 2019

51. Article 47 of the Constitution as read with section 4(1) of the Fair Administrative Action Act, 2015 guarantees every person the right to administrative action that is *expeditious, efficient, lawful, reasonable and procedurally fair*.
52. Section 2 of the Act defines “administrative action” as *powers, functions and duties* exercised by *authorities* or quasi-judicial tribunals or any act, omission or decision of any person, body or authority that affects the legal rights or interests of any person to whom such action relates. The decision to collect biometric data in Kenya is an administrative action within the Fair Administrative Action Act, 2015.
53. Under section 7 of the Fair Administrative Action Act, 2015 this court is entitled to review administrative action where either:

(i) The administrator—

- a. acted exceeding the jurisdiction or power conferred under any written law; or failed to take into account relevant considerations; or

(ii) The administrative action:

- a. did not comply with a mandatory and material procedure or condition prescribed by an empowering provision;
- b. was materially influenced by an error of law;
- c. was made in made in bad faith or abuse of power;
- d. violates the legitimate expectations of the person to whom it relates;
- e. is unreasonable; or unproportionate; is not rationally connected to: the purpose for which it was taken; the purpose of the empowering provision; the information before the administrator; or the reasons given for it by the administrator.

19. In terms of reliefs, a court can under section 11(1)(e) and (f) of the FAA issue any appropriate relief, including remitting the matter for reconsideration by the administrator,

with or without directions and compelling the performance by an administrator of a public duty owed in law and in respect of which an applicant has a legally enforceable right.

(c) Central Bank of Kenya Act

20. The Act defines “**currency**” as currency of Kenya or foreign currency. On the other hand, “**payment**” means transferring currency to discharge a liability, making a gift or donation or creating a balance at a bank, financial institution or microfinance bank that can be drawn.
21. If the Bank recommends, the Minister may publish Gazette regulations prohibiting the issue by any person other than the Bank of any bill of exchange, promissory note, or similar instrument for the payment of money to the bearer on demand.

(d) Data Protection (General) Regulations, 2021

22. Under Regulation 4, if processing is based on consent under section 32 of the Act, a data controller or data processor must in seeking consent prior to the processing, inform the data subject of—
- (a) the identity of the data controller or data processor;
 - (b) the purpose of each of the processing operations for which consent is sought;
 - (c) the type of personal data that is collected and used;
 - (d) information about the use of the personal data for automated decision-making, where relevant;
 - (e) the possible risks of data transfers due to absence of an adequacy decision or appropriate safeguards;
 - (f) whether the personal data processed shall be shared with third parties;
 - (g) the right to withdraw consent; and
 - (h) the implications of providing, withholding or withdrawing consent.
- (2) The information under sub-regulation (1) may be presented to the data subject through a written notice, oral statement, audio or video message.
 - (3) In obtaining consent from a data subject, a data controller or a data processor shall ensure that the—
 - (a) data subject has capacity to give consent;
 - (b) data subject voluntarily gives consent; and
 - (c) consent is specific to the purpose of processing.
 - (4) Pursuant to section 32(4) of the Act, consent shall be considered to have been given freely, unless where —

- (a) it is presumed on the basis that the data subject did not object to a proposal to processing of their personal data in a particular manner;
 - (b) it is presented as a non-negotiable part of the terms and conditions for processing;
 - (c) **the data subject is unable to refuse or withdraw their consent without detriment;**
 - (d) **the data controller or data processor merges several purposes for processing without seeking specific consent for each purpose; or**
 - (e) **the intention of the data subject is ambiguous.**
- (5) Where the data subject withdraws consent to any part of the processing, the data controller or data processor shall restrict the part of the processing in respect of which consent is withdrawn, subject to section 34 of the Act.
23. The elements of transparency under Article 30 include: the use of clear, simple and plain language to communicate with a data subject to enable a data subject to make decisions on the processing of their personal data; making the information on the processing easily accessible to the data subject; providing details of the use and disclosure of the personal data of a data subject.
24. Under Regulation 40, a data controller or data processor who is a transferring entity shall ascertain that the transfer is based on appropriate data protection safeguards and consent of the data subject before transferring personal data out of Kenya.
25. Under Regulation 41, a transfer of personal data to another country or a relevant international organisation is based on appropriate safeguards where: there is a binding legal instrument which contains appropriate safeguards for the protection of personal and the legal instrument is essentially equivalent to the protection under the Act and Regulations. Or where the data controller having assessed all the circumstances surrounding transfers of that type of personal data to another country or relevant international organization (in a data protection impact assessment) concludes that appropriate safeguards exist to protect the data.
26. Regulation 46 states that where transfer is based on consent, the transfers of personal data to another country can only occur where the data subject has explicitly consented to the proposed transfer; and has been informed of the possible risks of such transfers. A data

controller or processor must seek consent from a data subject to transfer sensitive personal data, per section 49 of the Act.

27. Under Regulation 49 processing operations considered to result in high risks to the rights and freedoms of a data subject include: processing biometric or genetic data; large scale processing of personal data; innovative use or application of new technological or organizational solutions. A data processor or controller must conduct a data processing impact assessment before these activities.

(e) Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021

28. Under Regulation 5(2), an application for registration under sub-regulation (1) shall be accompanied by: a copy of the establishment documents; particulars of the data controllers or data processors including name and contact details; a description of the purpose for which personal data is processed; and a description of categories of personal data being processed.
29. Regulation 16 of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 empowers the Data Protection Commissioner to cancel a certificate of registration or vary the conditions for registration, where the Data Commissioner establishes that the data controller or data processor provided false or misleading information concerning any registration particulars; or the data controller or data processor willfully or negligently fails to comply with provisions of the Act and any Regulations.

(f) Kenya Information and Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2010

30. Para 2 of the Regulation defines “**type acceptance**” as evaluating communications equipment that has been type approved by a recognised foreign national regulatory authority to ensure conformity of such equipment to national standards. On the other hand, “**type approval**” means checking the compatibility of communications equipment with any operating communication network and the conformance of such equipment to national standards in Kenya.
31. In that regard, para 3 demands that all communications equipment intended to connect or access the public operating communication networks, wireless communications

equipment, and radio communications equipment intended to be connected directly or to inter-work with a communications network in Kenya to send, process or receive information must before use be submitted for type approval or type acceptance by the Commission.

(g) General Data Protection Regulation

32. The European General Data Protection Regulation are applicable to this dispute because Tools for Humanity GmbH is registered and headquartered in Erlangen, Germany. Second, though headquartered in San Francisco, California, Tools for Humanity Corporation has Erlangen and Berlin.
33. Article 46(1) of the GDPR allows a controller or processor to transfer personal data to a third country or an international organisation only if the controller or processor has provided appropriate safeguards, and on condition that enforceable data subject rights and effective legal remedies for data subjects are available.

E. GROUNDS OF REVIEW: PARTICULARS OF UNCONSTITUTIONALITY

(a) Illegality

34. Article 47(1) and section 4 of the FAA require lawful administrative action. Further, per section 7 of the FAA, the court can review administrative action where the administrator acted beyond jurisdiction or statutory power or failed to consider relevant considerations. The court will also review administrative action where the administrative action: did not comply with a mandatory and material procedure or condition under the law or was materially influenced by an error of law.

Lack of the Communication Authority's type approval or type acceptance of the Orb

35. Despite Regulation 3(1) of the Kenya Information and Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2010 (on mandatory type approval or acceptance of interwork with a communications network in Kenya to send, process or receive information) Worldcoin did not seek or the Communications Authority did not give type approval or type acceptance of **the Orb**.

36. Despite that Worldcoin unlawfully uses the Orb to send, process, or receive biometric data like iris and facial images in Kenya.

Data Protection Impact Assessment

37. Worldcoin's decision to collect and process images and biometric data is ultra vires section 31 of the Data Protection Act, 2019 and Regulation 49 of the Data Protection (General) Regulations, 2021.
38. To mitigate the potential for a breach of the right to privacy in processing of personal data, section 31 of the Data Protection Act, 2019 demands a data protection impact assessment if, by its nature, scope, context, and purposes, the data processing may lead to high risk to the rights and freedoms of a data subject.
39. Under Regulation 49 of the Data Protection (General) Regulations, 2021 processing operations considered to result in high risks to the rights and freedoms of a data subject include: processing biometric or genetic data; large scale processing of personal data; innovative use or application of new technological or organizational solutions. A data processor or controller must conduct a data processing impact assessment before these activities.
40. Applicants contend that section 31's mischief (in requiring the assessment) is to identify and mitigate any risks to the right to privacy and other constitutional rights. The assessment must per section 31 assess the risks involved in processing of personal data and potential measures to mitigate those risks. This assessment entails detailing processing operations meticulously, assessing the necessity and proportionality of processing operations, assessing the risks to the rights of data subjects, and detailing the measures that would be adopted to mitigate said risks. Section 31(2) of the DPA mirrors personal data protection laws around the world including in the European Union where Tools for Humanity GmbH is registered. Tools for Human states in its privacy policy that it applies the General Data Protection Regulation.
41. In the case at bar, however, without undertaking (or using an inadequate) Data Protection Impact Assessment, Worldcoin began collecting *biometric data* by scanning irises of the Kenyan public. For sure, no data protection impact assessment was done by (or to assess

the risks of the biometric data processing by) Wordcoin Foundation (Cayman Islands),^{24 of 73} World Assets Ltd (Virgin Islands), and Platinum De Plus (Kenya).

42. Ultimately, the Respondents' omission to conduct the data protection impact assessment in this case is not only ultra vires the Act, but also threatens the right to privacy under Article 31 of the Constitution.

Consent

54. Second, although data consent must, under section 2 of the Act, be express, unequivocal, voluntary, *free*, specific, and *informed*, Respondents unlawfully obtained consent by *inducement* of a cryptocurrency—Worldcoin (approximately worth Kshs 7,000/= or 50 USD).
55. Where data processing is based on consent obtained from a data subject under Regulation 4(3) a data controller or a data processor must ensure that the: data subject has capacity to give consent; **data subject voluntarily gives consent**; and consent is specific to the purpose of processing. Under Regulation 4(4) consent is considered to have been given freely, unless where:
- (a) it is presumed on the basis that the data subject did not object to a proposal to processing of their personal data in a particular manner;
 - (b) it is presented as a non-negotiable part of the terms and conditions for processing;
 - (c) **the data subject is unable to refuse or withdraw their consent without detriment**;
 - (d) **the data controller or data processor merges several purposes for processing without seeking specific consent for each purpose**; or
 - (e) **the intention of the data subject is ambiguous**.

56. In this case, the inducement of payment in Worldcoin prima facie indicates no lawful consent contrary to Regulation 4(4) as read with section 2 of the Act. First, the consent was neither freely nor voluntarily given. Second, data subjects could not refuse or withdraw their consent without detriment (losing out on the Worldcoin). Third, Worldcoin merged several purposes for processing without seeking specific consent for each purpose: Worldcoin, WorldID, and WorldApp. Fourth, because of the concealment

and failure to register Worldcoin Foundation and World Assets Ltd, either as data processors or data controllers in Kenya, the data subject's intention was ambiguous.

57. Similarly under Article 43 of the GDPR, consent is presumed not to be freely given if it does not allow separate consent to be given to different personal data processing operations despite it being appropriate in the individual case, or if the performance of a contract, including the provision of a service, is dependent on the consent despite such consent not being necessary for such performance.
58. Assuming consent to collect and process biometric data could be purchased, Worldcoin made “**payment**” for the biometric data using bitcoins instead of a “**currency**”.
59. Since consent was unlawfully obtained, Worldcoin’s use of the biometric data for commercial purposes is without consent and violates section 37(1) of the Data Protection Act, 2019.

Failure to register Wordcoin Foundation and World Assets Ltd as data processor or data controller in Kenya

60. Third, under section 18 of the Act, no person can act as a data controller or data processor unless registered with the Data Commissioner. In this case, Tools for Humanity Corporation (US) and Tools for Humanity GmbH (Germany) are only registered as “data controllers” and not “data processors”.
61. Under the Act, a “data controller” determines “the purpose and means of processing personal data”. On the other hand, a “data processor” is one who “processes personal data on behalf of a data controller”.
62. Tools for Humanity Corporation (US) and Tools for Humanity GmbH (Germany) are advisors to the (unregistered data processors) operators of Worldcoin: Worldcoin Foundation and World Assets Ltd.
63. **Worldcoin Foundation, which holds the patents to the Orb technology, owns all user data, and issues all Worldcoin tokens (through a subsidiary World Assets Ltd)** is not registered either as a data processor or data controller in Kenya under section 18 of the Data Protection Act, 2019. World Assets Ltd which issues the **Worldcoin** in consideration for biometric data registered on **the Orb** is similarly unregistered in Kenya as a data processor or data controller despite section 18 of the Act.

64. Equally, Platinum De Plus Ltd the local agent of the Worldcoin which “~~spends time~~ **onboarding thousands of users to the Worldcoin network**” is not registered as a “data processor” or “data controller” in Kenya. At any rate, Platinum De Plus Ltd did not conduct a data protection impact assessment before collecting or processing the biometric data on behalf of Worldcoin in Kenya.
65. Therefore, despite Article 46(1) of the GDPR, Worldcoin transfers personal data to a third country without providing: (i) appropriate safeguards, and (ii) on condition that enforceable data subject rights and effective legal remedies for data subjects are available. Worldcoin has no appropriate safeguards and does not offer enforceable data subject rights or effective legal remedies. The privacy policy subjects all disputes to arbitration out of Kenya. Worse, Tools for Humanity’s privacy notice as at today does not show that they collect biometric data through the Orb.
66. Hence, contrary to section 25 of the Act and Regulation 41, Worldcoin decided to transfer personal data outside Kenya, without proof of adequate data protection safeguards or consent from the data subject.

Misleading information in registration as data controller

67. Contrary to Regulation 5(2) of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021, Worldcoin’s application for registration as data controller did not include copies of the establishment documents or particulars of the data processors (Worldcoin Foundation and World Assets Ltd) including their name and contact details.
68. Further, under Regulation 16 of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 empowers the Data Protection Commissioner to cancel a certificate of registration where the Data Commissioner establishes that the data controller or data processor provided false or misleading information in relation to any registration particulars; or the data controller or data processor willfully or negligently, fails to comply with provisions of the Act and any Regulations.
69. As such, the data controller certificate issued to 1st and 2nd Respondents is liable to cancellation under Regulation 16 (b) and (c).

70. Under section 7(2)(o) a court may review administrative action or decision if that decision was taken or made in abuse of power. Further, elements of fairness under Regulation 36 (a) and (d) of the Data Protection (General) Regulations, 2021 include granting the data subjects the highest degree of autonomy concerning control over their personal data and guarding against the exploitation of the needs or vulnerabilities of a data subject.
71. In this case, Wordcoin’s venture to unlawfully collect and process biometric data: (i) without undertaking (or using an inadequate) Data Protection Impact Assessment; (ii) without registering as a “data processor” or “controller”; and (iii) using consent obtained by *inducement* of a cryptocurrency—Worldcoin (approximately worth Kshs 7,000/= or 50 USD) was made in abuse of power.
72. Worldcoin exploited data subjects' autonomy, needs, and vulnerability by inducing them with cryptocurrency payment. This inducement violated the data subject’s right to dignity under Article 28 of the Constitution.
73. By extension, Worldcoin violated its corporate obligation to respect human rights of the data subjects under Article 21(1) of the Constitution and principle 11 and 13 of the **UN Guiding Principles on Business and Human Rights, 2011** requiring businesses to avoid infringing on the human rights of others or causing, or contributing to adverse human rights impacts.

F. RELIEFS

74. As a result, invoking Article 23 of the Constitution and section 11 of the FAA, the Applicant prays for the following or other appropriate reliefs:
- (a) Prohibition restraining the 1st to 5th Respondents and their agents from further collecting, processing, or dealing in biometric data collected in Kenya, without undertaking (or using an inadequate) Data Protection Impact Assessment contrary to section 31 of the Data Protection Act, 2019 or using consent obtained by inducement of a cryptocurrency—Worldcoin.
 - (b) Certiorari to quashing the 1st to 5th Respondents decision to collect or process biometric data in Kenya without undertaking (or using an inadequate) Data Protection Impact Assessment contrary to section 31 of the Data Protection

Act, 2019 and by consent obtained through inducement of a cryptocurrency—Worldcoin.

- (c) Mandamus compelling the 1st to 5th Respondents to permanently delete (under the supervision of the Data Protection Commissioner) any biometric data collected in Kenya without undertaking (or using an inadequate) Data Protection Impact Assessment contrary to section 31 of the Data Protection Act, 2019 and by consent obtained through inducement of a cryptocurrency—Worldcoin.
- (d) A structural interdict directing the Cabinet Secretary, in consultation with the Data Commissioner, to prescribe practice guidelines for the commercial use of personal data in Kenya under section 37(3) of the Act and to file the guidelines before the court within 12 months of the court’s order.

Dated at Nairobi this 24th day of August 2023

Ochiel JD
OCHIEL J DUDLEY

ADVOCATE FOR THE APPLICANTS

DRAWN AND FILED BY:

Ochiel J Dudley, Advocate,
5, The Crescent, off Parklands Road,
P. O. Box 26586-00100 Nairobi
ochieljd@katibainstitute.org
0731 740 766

TO BE SERVED UPON:

1. Tools for Humanity Corporation (Us) T/A Worldcoin
2. Tools for Humanity Gmbh
3. Data Commissioner
4. Cabinet Secretary, Ministry of Information, Communication and the Digital Economy
5. Data Privacy Governance Society of Kenya

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
JUDICIAL REVIEW DIVISION
JUDICIAL REVIEW APPLICATION NO E119 OF 2023

REPUBLIC.....APPLICANT

VERSUS

TOOLS FOR HUMANITY CORPORATION (US).....1ST RESPONDENT
 TOOLS FOR HUMANITY GmbH.....2ND RESPONDENT
 WORLD COIN FOUNDATION (CAYMAN ISLANDS).....3RD RESPONDENT
 WORLD ASSETS LIMITED (BRITISH VIRGIN ISLANDS).....4TH RESPONDENT
 PLATINUM DE PLUS LTD.....5TH RESPONDENT
 DATA PROTECTION COMMISSIONER.....6TH RESPONDENT
 CABINET SECRETARY, MINISTRY OF INFORMATION, COMMUNICATION
 AND THE DIGITAL ECONOMY.....7TH RESPONDENT
 COMMUNICATIONS AUTHORITY.....8TH RESPONDENT
 CENTRAL BANK OF KENYA.....9TH RESPONDENT
 KATIBA INSTITUTE1ST APPLICANT
 LAW SOCIETY OF KENYA.....2ND APPLICANT
 KENYA HUMAN RIGHTS COMMISSION.....3RD APPLICANT
 INTERNATIONAL COMMISSION OF JURISTS (KENYA).....4TH APPLICANT
 AFRICAN CENTER FOR OPEN GOVERNANCE.....5TH APPLICANT
 DATA PRIVACY & GOVERNANCE SOCIETY OF KENYA...INTERESTED PARTY

VERIFYING AFFIDAVIT

I, Lempaa Suyianka, a resident of Nairobi and of P. O. Box 26586-00100 Nairobi, Kenya make oath and state as follows:

1. I am a Senior Litigation Counsel at Katiba Institute the 1st Applicant, competent, duly informed, and authorised to swear this Affidavit on behalf of the Ex Parte Applicants.
2. Registered as a data controllers in Kenya, Tools for Humanity is headquartered in San Francisco, California (U.S. corporation) and Erlangen, Germany (GmbH) serve as “advisors to the Worldcoin Foundation and World Assets Ltd who operate the World App”.
3. On the other hand, **Worldcoin Foundation (registered in the Cayman Islands) holds the patents to the Orb technology, owns all user data, and issues all Worldcoin token** (through a fully owned subsidiary **World Assets Ltd** registered in the British Virgin Islands).

I annex the certificates of incorporation and Memorandum for Worldcoin Foundation, the certificates of incorporation, register of members, and register of directors of World Assets Ltd marked as “LS-1(a) and (b)” and “LS-2(a)”, “(b)”, and “(c)”.

4. Tools for Humanity shares personal data with **Worldcoin Foundation** and with World Assets Ltd. But neither Worldcoin Foundation nor World Assets Ltd is registered as a data processor or controller in Kenya.

I annex Tools for Humanity’s privacy notice version 4.7 effective 19 June 2023 marked as “LS-3”

5. Collectively, the Worldcoin entities own and operate: **World ID** described as “first technology to prove” one is a real and unique person using their iris pattern; a cryptocurrency token **Worldcoin** distributed by Worldcoin Foundation (through a subsidiary World Assets Ltd) to everyone for verifying at an Orb; and **World App** an “app that enables payment, purchases, and transfers using Worldcoin, digital assets, and traditional currencies”. The Worldcoin entities collect biometric data using “**The Orb**” an open-source hardware device that captures and processes ones image and their unique iris pattern.
6. They aim to build the “world’s largest identity and financial network” by scanning biometric data and using it to generate and store a unique code to identify one individual from the next. The iris and facial images scanned through **the Orb** is processed for machine learning on an Amazon web service cloud infrastructure.

I annex a Worldcoin presentation marked as “LS-4”.

7. In July 2023, without undertaking (or using an inadequate) Data Protection Impact Assessment, the 1st and 2nd Respondents began collecting *biometric data* by scanning irises of the Kenyan public using the Orb.
8. On 28 July 2023 the Data Protection Commissioner issued a cautionary note calling for heightened vigilance by Kenyans in scanning their data through the Orb and to ensure that they receive proper information before disclosing any personal or sensitive data.

I annex a copy of the statement by the Data Commissioner marked as “LS-5”.


9. Afterward on 2 August 2023 the Communications Authority and the Data Protection Commissioner issued a joint statement about Worldcoin raising “a number of legitimate regulatory concerns” about: (i) security and storage of the collected sensitive data

(facial recognition and iris scans); (ii) obtaining consumer (data subject) consent in exchange for monetary reward which borders on inducement; (iii) uncertainty regarding consumer protection on cryptocurrency and related ICT services; cybersecurity safeguards and standards; (iv) massive citizen data in the hands of private actors (without appropriate safeguards).

I annex a copy of the Communications Authority and Data Protection Commissioner joint public statement marked as “LS-6”.

- 10. Applicants have a good cause of action and should serve the 1st and 2nd Respondents through their Kenyan agents, by email address, or registered post.
- 11. I swear this affidavit from facts within my knowledge unless I have otherwise disclosed the source of the information believing it to be true per the Oaths and Statutory Declarations Act, Cap 15.

Sworn at Nairobi by Lempaa Suyianka this 24th day of August 2023

BEFORE 

L. Suyianka
 DEPONENT

DRAWN AND FILED BY:
 Ochiel J Dudley, Advocate,
 5, The Crescent, off Parklands Road,
 P. O. Box 26586-00100 Nairobi
ochieljd@katibainstitute.org
 0731 740 766

CR-395097

Certificate Of Incorporation

This is the Exhibit Marked ".....LS-1....."
Referred to in the Annexed Affidavit Declaration
of Lempaa Suyianka.....
Sworn / declared before me
this.....day of.....20.....
at.....
.....

Commissioner For Oaths

I, **LISA MOORE-JERVIS** Assistant Registrar of Companies of the Cayman Islands
DO HEREBY CERTIFY, pursuant to the Companies Act, that all requirements of the said
Act in respect of registration were complied with by

Worldcoin Foundation

an Exempted Limited Guarantee Foundation Company incorporated in the Cayman Islands with
Limited Liability with effect from the 31st day of October Two Thousand Twenty-Two

Given under my hand and Seal at George Town in the
Island of Grand Cayman this 31st day of October
Two Thousand Twenty-Two



**Assistant Registrar of Companies,
Cayman Islands.**



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Dated 31 October 2022

EXEMPTED Foundation Company Registered and
filed as No. 395097 On 31-Oct-2022

Assistant Registrar

This is the Exhibit Marked ".....LS-1(b)....."
Referred to in the Annexed Affidavit Declaration
of Lempaa Suyianka.....
Sworn / declared before me
this 24.....day of August.....20 23.....
at.....Nairobi.....

Commissioner For Oaths

Foundation Companies Act, 2017

**Memorandum of Association
of
Worldcoin Foundation**

A foundation company limited by guarantee



103-12988879-5



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EXEMPTED Foundation Company Registered and
filed as No. 395097 On 31-Oct-2022

Assistant Registrar

The Foundation Companies Act, 2017
A foundation company limited by guarantee

Memorandum of Association

of

Worldcoin Foundation

- 1 The name of the foundation company is Worldcoin Foundation.
- 2 The foundation company is a company within the meaning of the Companies Act (Revised) and a foundation company within the meaning of the Foundation Companies Act, 2017.
- 3 The aim of the foundation company is both philosophical and political: to realise more inclusive, fair, and just institutions of governance and of the global digital economy, including by helping achieve certain targets of U.N. Sustainable Development Goal 16 (namely, 16.4, 16.5, 16.6, 16.7, and 16.9). This aim is shared by those who contribute to or have regular contact with the Worldcoin projects.
- 4 The objects for which the foundation company is established are –
 - (a) support, grow, and encourage adoption of the Worldcoin projects, which include initiatives relating to the protocol, digital identity solutions, and other blockchain tools and technologies;
 - (b) to educate the public on the ecosystem of the Worldcoin projects;
 - (c) to support the Worldcoin ecosystem and foster its decentralisation efforts and governance initiatives;
 - (d) to receive, sell, loan, spend and hold assets, including virtual assets, for the benefit of the Worldcoin Foundation in accordance with all applicable laws;
 - (e) to receive and make grants, rewards and contributions in accordance with all applicable laws;
 - (f) to acquire, hold or grant trademarks, copyrights, and other intellectual property rights or licenses, and to open source or place into the public domain certain intellectual property in accordance with all applicable laws;
 - (g) to act as a holding company and an investment company, with no restriction on the objects or operations of its subsidiaries or on the nature of its or their investments;
 - (h) to provide financial assistance or benefits to beneficiaries as designated or determined under the articles of association; and



- (i) to do all such things as in the opinion of the directors are or may be incidental or conducive to the above objects or any of them. Sustainable Development Goal 16 and realising a more inclusive global digital economy.

Assistant Registrar

- 5 As provided by section 7(5) of the Foundation Companies Act, 2017 (Revised), the foundation company shall not have a duty to carry out the objects set out in its memorandum.
- 6 The foundation company shall have and be capable of exercising all the functions of a natural person of full capacity irrespective of any question or corporate benefit, as provided by section 27(2) of the Companies Act (Revised).
- 7 The foundation company's initial secretary shall be Leeward Management Limited, PO Box 144, 3119 9 Forum Lane, Camana Bay, George Town, Grand Cayman KY1- 9006, Cayman Islands or such other qualified person (as defined in the Foundation Companies Act, 2017) as the directors may at any time decide.
- 8 The foundation company's registered office will be situated at the business address of the secretary for the time being.
- 9 The foundation company may not carry on a business for which a licence is required under the Laws of the Cayman Islands unless duly licensed.
- 10 The foundation company will not trade in the Cayman Islands with any person, firm or corporation except in furtherance of its business carried on outside the Cayman Islands. Despite this, the foundation company may effect and conclude contracts in the Cayman Islands and exercise in the Cayman Islands any of its powers necessary for the carrying on of its business outside the Cayman Islands.
- 11 No portion of the income or property of the foundation company from whatever place or source shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to the members, directors or supervisors of the foundation company, as such, apart from authorised remuneration for services to the foundation company.
- 12 The liability of the members is limited.
- 13 The foundation company may cease to have members.
- 14 Each person who is a member undertakes to contribute to the assets of the foundation company in the event of the foundation company being wound up during the time that the person is a member, or within one year thereafter:
 - (a) for payment of:
 - (i) the debts and liabilities of the foundation company contracted before the time at which the person ceases to be a member; and



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- (ii) the cost, charges and expenses of the winding-up of the foundation company, and

EXEMPTED Foundation Company Registered and
filed as No. 395097 On 31-Oct-2022

- (b) for the adjustments of the rights of the contributories amongst themselves,

Assistant Registrar



such amounts as may be required, not exceeding the sum of one United States dollar (US\$1.00).

- 15 If on the winding-up or dissolution of the foundation company there remain surplus assets after the satisfaction of its debts and liabilities, the same shall be applied or distributed under the articles of association of the foundation company and, subject thereto, shall be paid or transferred to one or more of the following: (1) such charitable objects as shall be decided by ordinary resolution of the foundation company, or (2) another group or entity which is charged with the realization of the same or similar objects as the foundation company, as shall be decided by ordinary resolution of the foundation company.
- 16 Save as provided in the next sentence, this memorandum and the articles of association may be altered by special resolution. Neither clause 11 nor clause 15 of this memorandum may be altered, and no other alteration may be made which is in any way inconsistent with clause 11 or clause 15.



Dated the 31st day of October, 2022.

EXEMPTED Foundation Company Registered and
filed as No. 395097 On 31-Oct-2022

Name, address and occupation of subscriber	Signature
	<p>per: <u></u> Name: Glenn Kennedy Authorised Signatory</p>
Witness to above signature	<p><u></u> Name: Silma Canton</p> <p>Address: 3119 9 Forum Lane, Camana Bay, George Town, Grand Cayman KY1-9006, Cayman Islands</p> <p>Occupation: Administrator</p>



Assistant Registrar

TERRITORY OF THE BRITISH VIRGIN ISLANDS
BVI BUSINESS COMPANIES ACT, 2004



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CERTIFICATE OF INCORPORATION
(SECTION 7)

The REGISTRAR of CORPORATE AFFAIRS, of the British Virgin Islands HEREBY CERTIFIES, that pursuant to the BVI Business Companies Act, 2004, all the requirements of the Act in respect of incorporation having been complied with,

World Assets, Ltd.

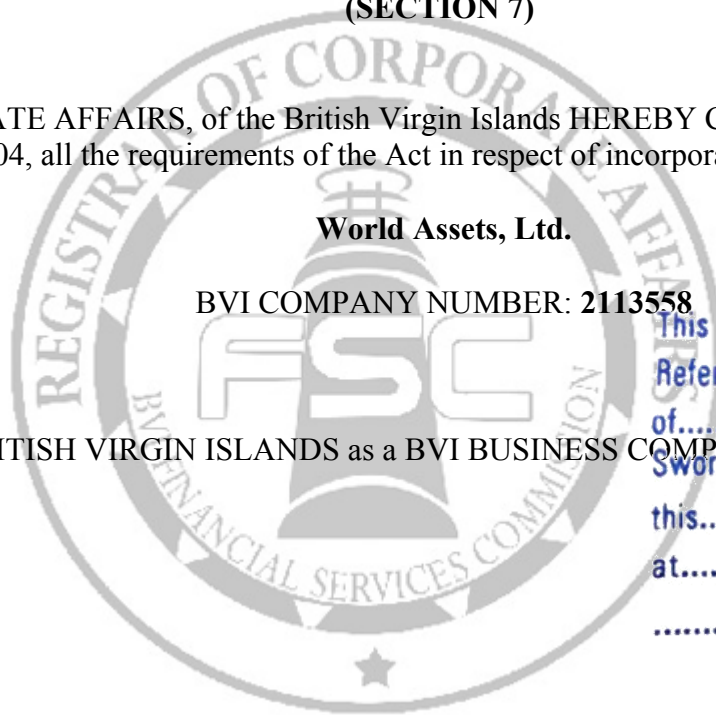
BVI COMPANY NUMBER: 2113558

is incorporated in the BRITISH VIRGIN ISLANDS as a BVI BUSINESS COMPANY, this 7th day of December, 2022.

This is the Exhibit Marked ".....LS-2(a)....."
Referred to in the Annexed Affidavit Declaration
of.....Lempaa Suyianka.....
Sworn / declared before me
this.....24.....day of.....August.....20.23.....
at.....Nairobi.....

.....
Commissioner For Oaths

for REGISTRAR OF CORPORATE AFFAIRS
7th day of December, 2022



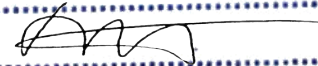
Name of Company: World Assets, Ltd.

Company Number: 2113558

REGISTER OF MEMBERS
39 of 73

Full Name	Worldcoin Foundation					Occupation	Foundation
Address	P.O. Box 144, 3119 9 Forum Lane, Camana Bay, George Town, Grand Cayman, KY1-9006, Cayman Islands						
Class of share	Par Value	Current holding		Date Entered as a Member		Date of Ceasing to be Member	
Ordinary	No par value	50,000		7 December 2022			
Date	Shares Acquired			Shares Transferred			Notes
	Certificate Number	Distinctive Nos.	No. of Shares	Certificate Number	Distinctive Nos.	No. of Shares	
07/12/2022	1	1-50,000	50,000				Issue

This is the Exhibit Marked ".....LS-2(b)....."
 Referred to in the Annexed Affidavit Declaration
 of.....Lempaa Suyianka.....
 Sworn / declared before me
 this 24.....day of.....August.....20, 23.....
 at.....



Commissioner For Oaths

Name of Company: World Assets, Ltd.

Company Number: 2113558

Date of Appointment	Full Name (Any Former Names or Alias)	Nationality and ID/Passport No.	Residential Address (or Registered Office Address)	Business Occupation	Date of Ceasing to Act
7-Dec-2022	Worldcoin Foundation	Incorporated in Cayman Islands CR-395097	P.O. Box 144, 3119 9 Forum Lane, Camana Bay George Town, Grand Cayman KY1-9006 Cayman Islands	Foundation	

This is the Exhibit Marked ".....LS-2(c)....."
 Referred to in the Annexed Affidavit Declaration
 of.....Lempaa Suyianka.....
 Sworn / declared before me
 this.....24.....day of August.....20.23.....
 at.....Nairobi.....

 Commissioner For Oaths

Tools for Humanity Privacy Notice

Thank you for choosing to be part of the Worldcoin Community! Worldcoin is an open-source protocol, supported by a global community of developers, individuals, and other contributors.

This Privacy Notice covers the data you provide to us through your use of our websites, applications (“App”), and other services linked to this Privacy Notice (collectively, the “Services”). This Privacy Notice is incorporated into and governed by the [User Terms and Conditions](#) (“User Terms”). Tools for Humanity Corporation (“TFH US”), along with its German subsidiary Tools for Humanity GmbH (“TFH Germany”; together, “TFH” or “we,” “us”), is contributing to the initial development and growth of the Worldcoin protocol (“Worldcoin”).

The California Consumer Privacy Act, as amended by the California Privacy Rights Act, does not presently apply to us.

1. Controllers

We are the data controller of all “App Data”: Tools for Humanity Corporation, 548 Market Street, PMB 49951, San Francisco, CA 94104 USA.

“App Data” means all personal data collected and processed through your use of the World App, as defined further in Section 5 below, except any personal data related to your use of the Worldcoin protocol or the Worldcoin tokens (such as your wallet address and the transactional data, which we do not collect).

2. Updates to this Privacy Notice

We update this Privacy Notice sometimes. If we make major changes, such as how we use your personal information, then we’ll let you know via an email or a message in your App.

3. What is in this Privacy Notice?

- Our commitment to protecting your privacy and data
- Information we collect and why
- How we use the data we collect
- Where we process your data
- When we share your data
- How your data is recorded on public blockchain
- How we use cookies
- How long we keep your data
- How this Privacy Notice differs for children and teens
- The statutory rights you have under GDPR
- How to contact us about this Privacy Notice

4. Our Commitment to Protecting your Privacy and Data

We are deeply committed to protecting your privacy and securing your data. We recognize that we can only fulfill our mission of distributing our digital tokens fairly to as many people as possible if people trust us, and privacy and data security are central to earning your trust.

Privacy

This is the Exhibit Marked “LS-3
 Referred to in the Annexed Affidavit Declaration
 of Lempaa Suyianka
 Sworn / declared before me
 this 24 day of August 2023
 at Nairobi

 Commissioner For Oaths

We have designed our products and services with your privacy in mind. We collect data to improve our product and services. We will always tell you, here in this Privacy Notice or in data consent forms for specific products or services, what data we are collecting, why we are collecting that data, and what we do with it.

Data Security

We have a dedicated team to look after your data and have implemented physical and electronic safeguards that protect your data both in transit and at rest. At the same time, no service can be completely secure. If you have any concerns about your account or your data, please contact us through our [Request Portal](#) or write to us at Tools For Humanity Corporation, 548 Market Street, PMB 49951, San Francisco, CA 94104 USA.

5. Information We Collect and Why

5.1 Data You Provide To Us

As a user, you are not required to provide any data to access the App. However, you may need to provide us with certain data in order to use a feature within the Services. The legal grounds for processing in the cases below are the user's consent and the performance of a contract (our commitment to provide the Services). Below is a list of data that you may provide and what we may use the data for:

- **First and last name.** You may choose to enter your name to associate it with your account. We and other users may see your name when they choose to interact with your account. We may require your name when you submit a data subject request. The legal basis for processing this data is performance of the Service under the User Terms.
- **Email address.** You may choose to enter your email to associate it with your account. You may also provide your email to subscribe to our mailing list to stay up-to-date with the Worldcoin project. We may require your email when you submit a data subject request. The legal basis for processing this data is performance of the Service under the User Terms.
- **Phone number.** You may choose to enter your phone number to associate it with your account. With your permission, other users may be able to find your account through your phone number. We may require a phone number when you submit a data subject request. The legal basis for processing this data is performance of the Service under the User Terms.
- **Feedback and correspondence from you.** These include any emails, chat messages, or other communications that you send us via email or third-party social media websites. We may use a third-party service provider to facilitate surveys about your use of our Services. The legal basis for processing this data is performance of the Service under the User Terms.
- **Address book contacts.** You may provide the App with access to your address book to enable the feature that makes it easy for you to find and interact with other users who may be in your address book. The address book information remains on your device. The legal basis for processing this data is the legitimate interest of the subject to be found within the App and the interest of the sharing user to find her contacts in the App.

Please note: You are responsible for ensuring that sharing your contacts' information complies

with applicable laws. This may require that you obtain your contacts' permission. You can change

your mind and turn off our access to your contacts at any time in your device settings. If you elect to import your device's address book contacts to the App to find out which of your contacts uses our Services or invite them to join you in using our Services, we will periodically sync your contacts' phone numbers to those numbers and corresponding wallet addresses provided by other users on our servers.

- **Location information.** You may decide to enable a location-based service (such as a feature allowing you to find an Orb Operator near you). We may collect information about your location through GPS, IP address, cell tower information, or Wi-Fi access point information. The type of location data collected depends on the service you are using, the device you're using (for example, Apple or Android), and your device's settings (whether permissions are enabled or disabled). You can change your permissions any time in your device's settings. The legal basis for processing this data is compliance with legal obligations.
- **Enterprise Data.** If you have a business relationship with us (such as if you are an Orb Operator or a supplier), then we may require information such as names, mailing address, email, phone number, wallet address, and other documentation (such as

your government ID) as part of furthering that business relationship and to satisfy our know-your-customers obligations. We may use third-party services, such as Onfido, to help us collect and review the information and documentation above to satisfy the know-your-customers obligations. The legal basis for processing this data are compliance with legal obligations, namely, know-your customer (KYC) and know-your business (KYB) obligations as required by law.

- **P2P Marketplace.** If you use the P2P Marketplace Services (where available) that allow you to purchase digital tokens from other users, then we may collect additional information such as your wallet address, your contact information (i.e. your phone number), and your account number associated with the transaction (such as your M-PESA number). We log the transaction data as part of providing the P2P Marketplace Services. We may also collect additional information to comply with applicable KYC requirements. The legal basis for processing this data is performance of the Services under the User Terms and compliance with legal obligations.
- **Application data.** If you want to work for us you have to send us your application that includes your cover letter and CV as well as the personal information you wish to disclose. The legal basis of processing are steps at the request of the data subjects prior to entering into a contract.

5.2 Data We Collect From Third-Party Sources

From time to time, we may obtain information about you from the following third-party sources:

- **Blockchain Data.** We may analyze public blockchain data to ensure parties utilizing our Services are not engaged in illegal or prohibited activity under the User Terms, and to analyze transaction trends for research and development purposes. The legal basis for processing this data is compliance with legal obligations.
- **Identity Verification Services.** We may obtain information from third-party services using your data to verify your identity if required by law (such as applicable know-your-customer requirements). To clarify, we do **not** use your biometric data when we verify your identity as required by law. The legal basis for processing this data is compliance with legal obligations.
- **Talent data bases.** We may collect data from various sources to make job offers to talented individuals. The legal basis of processing those are legitimate interests. The legitimate interests pursued are our interest to recruit individuals and the individual's interest to receive job offers that entail an exciting mission and a high compensation.

5.3 Data We Collect Automatically

If permitted under applicable law, we may collect certain types of data automatically when you interact with our Services. This information helps us address customer support issues, improve the performance of the Services, provide you with a streamlined and personalized experience, and secure your Account credentials. Information collected automatically includes:

- **Online Identifiers:** Geo-location and tracking details (see above), computer or mobile phone operating system, web browser name and version, and IP addresses. The legal basis for processing this data are compliance with legal obligations (in very limited cases as these data are also fed into our fraud and illicit financial flow detection detection) and performance of contract as we wish to provide a stable and fraud-free experience of our software.
- **Usage Data:** Authentication data, security questions, and other data collected via cookies and similar technologies. The legal basis for processing this data is performance of our service under the User Terms.
- **Cookies:** small data files stored on your hard drive or in-device memory that help us improve our Services and your experience, see which areas and features of our Services are popular, and count visits. For the legal basis processing those data please refer to our [Cookie Policy](#) where we explain the different kinds of cookies we are using.

Similarly, the App gathers information for troubleshooting and improvement. We use third-party services, such as Segment.io or PostHog, to view aggregated information about end user usage and interactions. Where possible, we take steps to minimize or mask the information sent to third parties (such as encoding the data). The legal basis for processing the above mentioned data is the legitimate interest of operating the App and the website.

5.4 Anonymized and Aggregated Data

Anonymization is a data processing technique that modifies personal data so that it cannot be associated with a specific individual.

Examples of anonymized data include:

- Transaction data
- Click-stream data
- Performance metrics
- Fraud indicators

We also aggregate data, combining large amounts of information together so that it no longer identifies or references an individual. We use anonymized or aggregate data for our business purposes, such as understanding user needs and behaviors, improving our Services, conducting business intelligence and marketing, detecting security threats, and training our algorithms.

The legal basis for processing the above mentioned data is the legitimate interest of a functioning app or website, business insights and fraud prevention.

6. How We Use the Data We Collect

We must have a valid reason (or "lawful basis for processing") to use your personal information. In instances when you'd reasonably expect us to use your personal information and our use of that information complies with applicable laws, we don't ask for your express permission. We use your data for the following purposes:

- To provide and maintain our products and services under the User Terms. These services include:
 - - The App where users can manage their World ID and digital tokens as well as learn about cryptocurrency in general and the Worldcoin project in specific;
 - The Operator App where Orb Operators can manage and oversee their Orbs under management and their statistics;
 - The P2P Marketplace where we connect users with agents;
 - The legal basis for all these cases is performance of a contract, namely, the User Terms.
- To improve and develop our products and services, including to debug and repair errors in our Services. The legal basis of this processing are legitimate interests. The interests pursued are providing a stable and safe experience of our software and hardware.
- To conduct data science research. The legal basis of this processing are legitimate interests of providing a better user experience, greater support, and more useful features in the Services.
- To analyze your use of our Services to provide better support. The legal basis of this processing are legitimate interests. The interests pursued are providing better experience of our soft- and hardware;
- To enable you to publish information on a blockchain to prove your uniqueness. The legal basis of this processing is your explicit consent;
- To use your wallet address to send you digital tokens we support. The legal basis of this processing is performance of a contract, namely, the User Terms.;
- To comply with applicable law such as anti-money-laundering law and sanctions. This entails:
 - - Using your IP address to block individuals whose country does not allow them to access the Services;

- To answer data subject requests under the applicable data protection laws like requests for access or deletion;
 - Monitor potentially illicit financial flows e.g. from blacklisted wallets; and
 - The legal basis for this processing data is compliance with legal obligations.
- To handle your customer service requests, complaints and inquiries. The legal basis for this processing is performance of a contract, namely, the User Terms.
 - To resolve disputes, troubleshooting issues, and enforcing our agreements with you, including this Privacy Notice and the User Terms. The legal basis of this processing is performance of a contract, namely, the User Terms and legitimate interests where the interests pursued are the defense of legal claims; and
 - To contact you regarding updates to the Services. The legal basis of this processing is performance of a contract, namely, the User Terms.

7. Where We Process Your Data

7.1 Data Transfer.

When you provide us with your data, it may be transferred, stored, or processed in a location outside of where your data was originally collected. The country in which your data is transferred, stored, or processed may not have the same data protection laws as the country in which you initially provided the data.

We adhere to the principles stated in the European Union's General Data Protection Regulation (GDPR), even when not required. For example, when we work with data processors that operate outside the European Economic Area (EEA), we ensure that they are in compliance with GDPR. We only share data with data processors outside of the EEA if such a transfer is lawful and if we are confident that the data processor will protect your data as required under applicable laws and, further, in accordance with our standards. When transferring data to a country that does not have an adequacy decision, we utilize the EU Standard Contractual Clauses.

7.2 Risks of Transfer

Below is a list of possible risks that may arise if we transfer your data to the United States, the European Union, or another country. Below we also summarize how we mitigate the respective risks.

- While we do what we can to ensure that our subcontractors are contractually obligated to adequately protect your data, these subcontractors may not be subject to the data privacy law of your country. If the subcontractors were to illegally process your data without authorization, then it may be difficult to assert your privacy rights against that subcontractor. We mitigate this risk as we close strict data processing agreements with our subcontractors that oblige them to protect the data at a GDPR level and fulfill subjects' requests.
- It's possible that the data privacy law in your country is inconsistent with the data privacy laws in the U.S. or in the E.U. We always try to adhere to the highest standard of data protection we are subject to. So far, we found this to be GDPR and are treating all data as if it were governed by GDPR.
- It may be possible that your data will be subject to governmental access of officials and authorities. In those cases we have committed ourselves to challenge any invalid, overbroad, or unlawful governmental request to access in court. We further use advanced encryption to hinder unauthorized access.

Please note that this list contains examples, but may not include all possible risks to you.

7.3 NO FINDING OF ADEQUACY OF UNITED STATES PRIVACY LAWS

The European Union Commission responsible for making determinations of the adequacy of the Privacy Laws of other jurisdictions in comparison to the GDPR has not yet positively established that the country-specific level of personal data protection in the United States, where part of your data is processed, provides the same level of protection as the Privacy Laws in the European Union.

8. When We Share Your Data

We will never sell your data.

When we share your data outside of our organization, we will always:

- Share it in a reasonably secure way;
- Take steps to ensure that it is handled in a manner that is consistent with our commitment to your privacy ; and
- Prohibit other companies from using it for their own purposes.

We do share your data in these limited ways:

- **With Worldcoin Foundation:** Data, including your personal information, may be shared with Worldcoin Foundation or a subsequent organization responsible for promoting and furthering the mission of the Worldcoin project.
- **Within our organization:** We only disclose data to our team members who require access in order to perform their tasks and duties. We only disclose as much data as is needed to perform specific tasks and duties and have a system of strict access control.
- **With vendors and service providers outside of our organization:** We only disclose data to service providers whose services we rely on in order to process the data and provide our Services to you. We only disclose data with identity verification vendors if required by Law (i.e., know-your-customer requirements).
- The categories of such service providers are:
 - Cloud service providers (all data types)
 - SaaS providers; we use SaaS products in the following categories:
 - Database and infrastructure management
 - Data security
 - Recruiting
 - Communication
 - Surveys
 - KYC/KYB i.e. checking official documents
 - Data subject request management
 - Technical support
 - User support
 - External experts
 - Specialist software developers
 - Legal specialists
 - Tax advisors
- Banks
- Labeling service providers (only under special safeguards)

- Background check services for applicants and Orb Operators
- **With law enforcement, officials, or other third parties:** We may disclose your data in order to comply with applicable laws and respond to mandatory legal demands. We will carefully consider each request to determine whether the request complies with the law and, where appropriate, we may challenge invalid, overbroad, or unlawful requests. We may share personal data with police and other government authorities where we reasonably believe it to be necessary to comply with law, regulation or other legal process or obligation.
- We may share your personal information if we believe that your actions are inconsistent with our User Terms, if we believe that you have violated the law, or if we believe it is necessary to protect our rights, property, and safety, our users, the public, or others.
- We may share your personal information with our lawyers and other professional advisors where necessary to obtain advice or otherwise protect and manage our business interests.
- We may share your personal information in connection with, or during negotiations concerning, any merger, sale of company assets, financing, or acquisition of all or a portion of our business by another company.
- Data, including your personal information, may be shared between and among our current and future parents, affiliates, and subsidiaries and other companies under common control and ownership.
- We may share your personal information with your consent or at your direction.

9. How Your Data is Recorded on Public Blockchain

Transaction information related to your use of our Services may be recorded on a public blockchain.

Please note: Blockchains are public ledgers of transactions that are maintained on decentralized networks operated by third parties that are not controlled or operated by Worldcoin. Due to the public and immutable nature of blockchain ledgers, we cannot guarantee the ability to amend, erase, or control the disclosure of data that is uploaded and stored on a blockchain

10. How We Use Cookies

We use cookies to help our Services work better. In addition to cookies, we may use other similar technologies, like web beacons, to track users of our Services. Web beacons (also known as "clear gifs") are tiny graphics with a unique identifier, similar in function to cookies. Our [Cookie Policy](#), incorporated herein by reference.

We also use Google Analytics. More information on how Google uses your data when you use its partners' websites and applications: <https://policies.google.com/technologies/partner-sites>. By using the Services, you consent to us storing and accessing cookies and other data on your computer or mobile device and the use of Google Analytics in connection with such activities. Please read the information at the link provided so you understand what you are consenting to.

11. How Long Do We Keep Your Data?

We retain your data for as long as is reasonably necessary to provide our Services to you, serve our legitimate business purposes, and comply with our legal and regulatory obligations. If you close your account with us, we will delete your account data within one month; otherwise we will delete your account data after 2 years of inactivity. If required by law, we will continue to retain your personal data as necessary to comply with our legal and regulatory obligations, including fraud monitoring, detection, and prevention, as well as tax, accounting, and financial reporting obligations.

Please note: Blockchains are decentralized third-party networks that we do not control or operate. Due to the public and immutable nature of blockchain technology, we cannot amend, erase, or control the disclosure of data that is stored on blockchains.

12. How this Privacy Notice Differs for Children and Teens

Individuals under the age of 18 are not allowed to use the Services, and we do not knowingly collect data from individuals under the age of 18. If you believe that your child under the age of 18 has gained access to the Services without your permission, please request the deletion of their data by contacting us through our [Request Portal](#).

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If we learn that we have collected data about a child under age 18, we will delete such data as quickly as possible. We have taken steps like implementing an automated age detection AI-model, instructions to operators and self-confirmations to restrict use of the Services to those who are at least 18 years old. We do not market products or services to children.

13. The statutory rights under GDPR

This section applies if the processing of your data falls under the GDPR's scope of application (*e.g.*, if you are a resident of the European Economic Area). You may have additional rights under GDPR as listed below. To exercise your rights available under GDPR, please contact us at our [Request Portal](#).


- You have the right to obtain from us at any time upon request information about the personal data we process concerning you within the scope of Art. 15 GDPR.
- You have the right to demand that we immediately correct the personal data concerning you if it is incorrect.
- You have the right, under the conditions described in Art. 17 GDPR, to demand that we delete the personal data concerning you. These prerequisites provide in particular for a right to erasure if the personal data are no longer necessary for the purposes for which they were collected or otherwise processed, as well as in cases of unlawful processing, the existence of an objection or the existence of an obligation to erase under Union law or the law of the Member State to which we are subject.
- You have the right to demand that we restrict processing in accordance with Art. 18 GDPR.
- You have the right to receive from us the personal data concerning you that you have provided to us in a structured, commonly used, machine-readable format in accordance with Art. 20 GDPR.
- You have the right to object at any time, on grounds relating to your particular situation, to the processing of personal data concerning you which is carried out, inter alia, on the basis of Article 6 (1) sentence 1 lit. f GDPR, in accordance with Article 21 GDPR.
- You have the right to contact the competent supervisory authority in the event of complaints about the data processing carried out by the controller. The responsible supervisory authority is: the Bavarian State Office for Data Protection Supervision (Bayerisches Landesamt für Datenschutz).
- If the processing of personal data is based on your consent, you are entitled under Art. 7 GDPR to revoke your consent to the use of your personal data at any time with effect for the future, whereby the revocation is just as easy to declare as the consent itself. Please note that the revocation only takes effect for the future. Processing that took place before the revocation is not affected.

14. How to Contact us About this Privacy Notice

You may choose to delete your data from within the App under the Settings menu. If you have questions or concerns regarding this Privacy Notice, wish to exercise your rights, or to contact our Data Protection Officer (DPO), please submit your request through our [Request Portal](#) or write to us at Tools For Humanity Corporation, 548 Market Street, PMB 49951, San Francisco, CA 94104 USA. We respond to all requests we receive from individuals wishing to exercise their data protection rights in accordance with applicable data protection laws. You can also delete your data from within the App.

If you have an unresolved privacy or data use concern that we have not satisfactorily addressed, please contact the data protection regulator in your jurisdiction. If you reside in the EU, then you can find your data protection regulator [here](#).

Worldcoin

This is the Exhibit Marked " LS-4 "
Referred to in the Annexed Affidavit Declaration
of Lempaa Suyianka
Sworn /declared before me
this 24 day of August 20, 23
@ Nairobi

Commissioner For Oaths



The Global Economy Belongs to Everyone

Worldcoin

- 1 Mission and Team**
What is our mission? What do we stand for? Who is on our team?
- 2 Technology**
What are we developing?
- 3 Privacy and Trust**
Privacy-by-design. Completely private. Forever.
- 4 Operations**
Who are those people in Worldcoin shirts and what are they doing?
- 5 A Global Initiative with a Local Focus**
How are we partnering in the community?
- 6 Questions**
What do you want to know?



Worldcoin

Mission

We aim to create universal access to the global economy regardless of country or background, accelerating the transition to an economic future that welcomes and benefits every person on the planet.

Values

Method

We are doing this by building the world's largest identity and financial network and giving ownership to everyone.

Team

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This is the Exhibit Marked ".....LS-4....."
 Referred to in the Annexed Affidavit Declaration
 of.....
 Sworn / declared before me
 this.....day of.....20.....
 at.....

Commissioner For Oaths




Mission
Values
Method
Team

We believe

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In the inherent worth and equality of every individual
In the right to personal privacy
In open and public collaboration



Mission
Values
Method
Team

How it works

World ID

The first technology to prove you are a real and unique person while fully protecting your privacy.

Worldcoin

The first token to be globally and freely distributed to people just for being an individual.

World App

The first app that enables payment, purchases, and transfers using Worldcoin, digital assets, and traditional currencies.



Mission

Values

Method

Team

Worldcoin is an open-source decentralized protocol, supported by a global **55 of 73** community of developers, individuals, economists, and technologists committed to expanding participation in, and access to, the global economy.

The Worldcoin Foundation is the steward, and will support and grow the Worldcoin community until it becomes self-sufficient. The Worldcoin Foundation holds the patents to the Orb technology, owns all user data, and issues all Worldcoin tokens (through a subsidiary).

Tools for Humanity helped launch Worldcoin and currently serve as advisors to the Foundation and operators of the World App. Tools for Humanity is headquartered in San Francisco, California (U.S. corporation) and Erlangen, Germany (GmbH) and has offices in San Francisco, Erlangen, and Berlin.



Goals

World ID

Worldcoin

World App

In order to achieve our objective of providing the world's largest identity and financial network and giving control over to everyone we need to do a few key things:

1. Allow individuals to validate their uniqueness in a secure, privacy protecting manner >> World ID
2. Create an easy-to-use method for value transfer across the world >> Worldcoin
3. Give everyone control over their own data >> World App

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Goals

World ID

Worldcoin

World App

World ID is a blockchain-based digital identity that proves you are a real and unique person while fully protecting your privacy. 57 of 73

Once you have a World ID, you can use it to anonymously prove that you are a real and unique person. Importantly, developers — including us — cannot see what you have used your World ID for in the past; they can just see what you are trying to use it for when you use it.

This is made possible by Zero-Knowledge Proofs, which prove both that your World ID is real and that you have never done the action you are trying to do before, without ever linking your World ID to you.



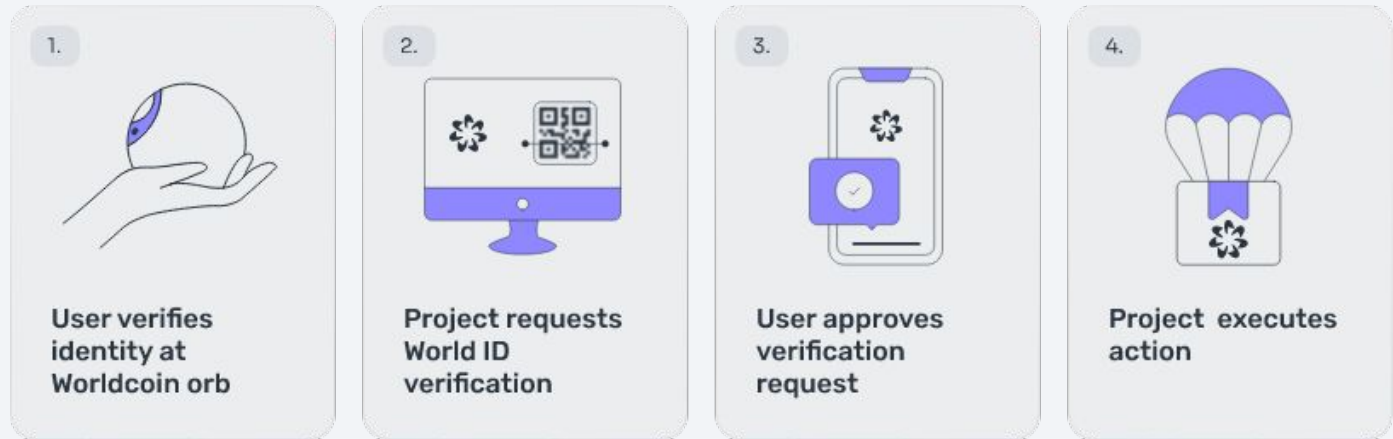
Goals

World ID

Worldcoin

World App

World ID unlocks a world of new opportunities for users. From receiving crypto asset drops to voting in a DAO election, from proving humanity to participate in social media to verifying one time eligibility for a service, World ID offers users and developers a self-sovereign, privacy-protected way to build the next generation of amazing opportunities.



Goals

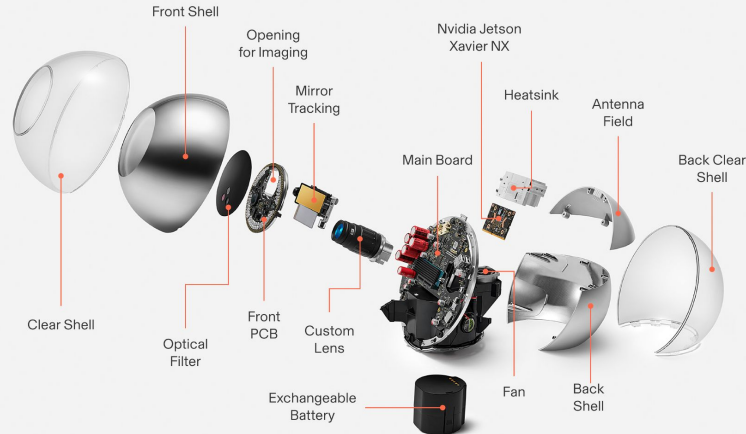
World ID

Worldcoin

World App

As part of our efforts to create universal access to the global economy, we need to ensure that each World ID sign up represents a live human being and that each person only signs up once. For this purpose, we have developed what we call “The Orb” an open-source hardware device that captures and processes images of you and your unique iris pattern. Since no two people have the same iris pattern and these patterns are very hard to fake, the Orb can tell you apart from everyone else without having to collect any other information about you.

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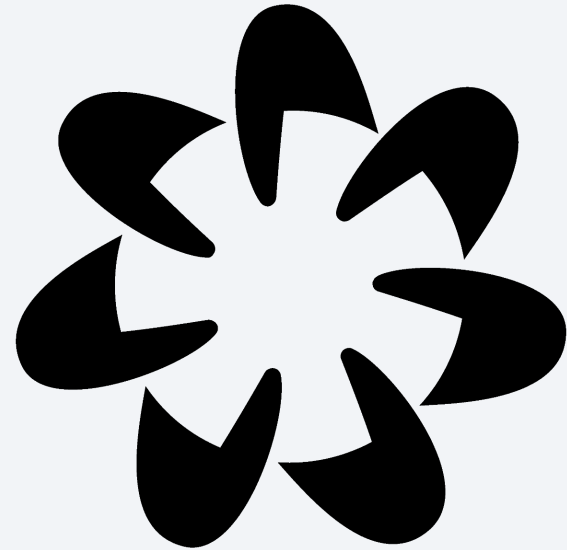
Goals

World ID

Worldcoin

World App

A key part of the Worldcoin ecosystem is the Worldcoin token itself. A layer 2 ERC20 token on the Ethereum blockchain, Worldcoin (WLD) will be distributed for free to everyone just for being a unique human and verifying at an Orb. Offered by the Worldcoin Foundation, WLD is currently offered in beta and is not yet tradeable. We expect the token to launch in H1 of 2023.*



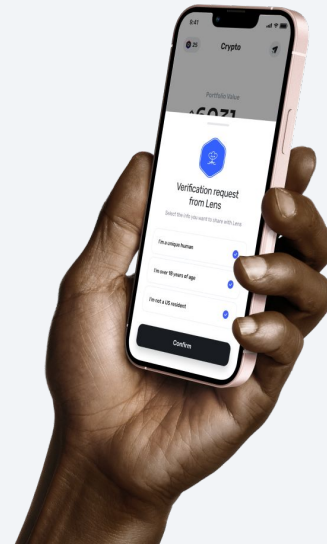
Goals

World ID

Worldcoin

World App

The World App (available in both the Apple and Android app stores) is the access point for the Worldcoin ecosystem and gives you control over your identity and financial investments. The World App allows anyone and everyone to utilize a privacy-protected, easy-to-use smartphone app that provides full access to the current and future functionality of the Worldcoin and World ID ecosystem.



Mission

World App

World ID

Privacy-by-Design. Completely private. Forever. 62 of 73

We believe privacy is a fundamental human right.

Every part of the Worldcoin system has been carefully designed to defend it. We don't want to know who you are, just that you are unique.



Mission

World App

World ID

No personal information required. No trust is required. It's your access to your identity and your assets.

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Your World App wallet is a layer 2, Ethereum blockchain-based self-custodial wallet. That means, just like a physical wallet, you hold your World ID, your WLD, and all other digital assets directly, without an intermediary, always accessible through your private key.

When we say we are building privacy and trust from the very start of the process, we mean it; ensuring that even if Tools for Humanity as a company were to disappear, everything will remain accessible and usable at all times thanks to the always-on nature of the Ethereum blockchain.



Mission

World App

World ID

In order to receive a World ID, a user must sign up at an Orb. The Orb uses biometrics to check you haven't signed up before and then issues a unique World ID credential. You choose whether any biometric images leave the Orb.

Without Data Custody:

Your biometric images are first processed locally on the Orb and then permanently deleted. The only data that remains is a message containing your IrisCode. This Iris Code is a non-reversible set of numbers generated by the Orb and is designed not to be linked to your World App or any of your personal information. As a result, it really tells us — and everyone else — nothing about you. All it does is stop you from being able to sign up again.

With Data Custody:

Your biometric data is first processed locally on the Orb and then sent, via encrypted communication channels, to our distributed secure data stores hosted by Amazon Web Service, where it is encrypted at rest. Once it arrives, your biometric images are permanently deleted from the Orb. Your biometric images are designed to not be linked to your wallet or other personal information. If you choose to backup your biometric image data with us, you may revoke your consent at any time and the data will be deleted. Worldcoin and Tools for Humanity operate are GDPR compliant and regulated by the Bavarian Data Protection Authority.

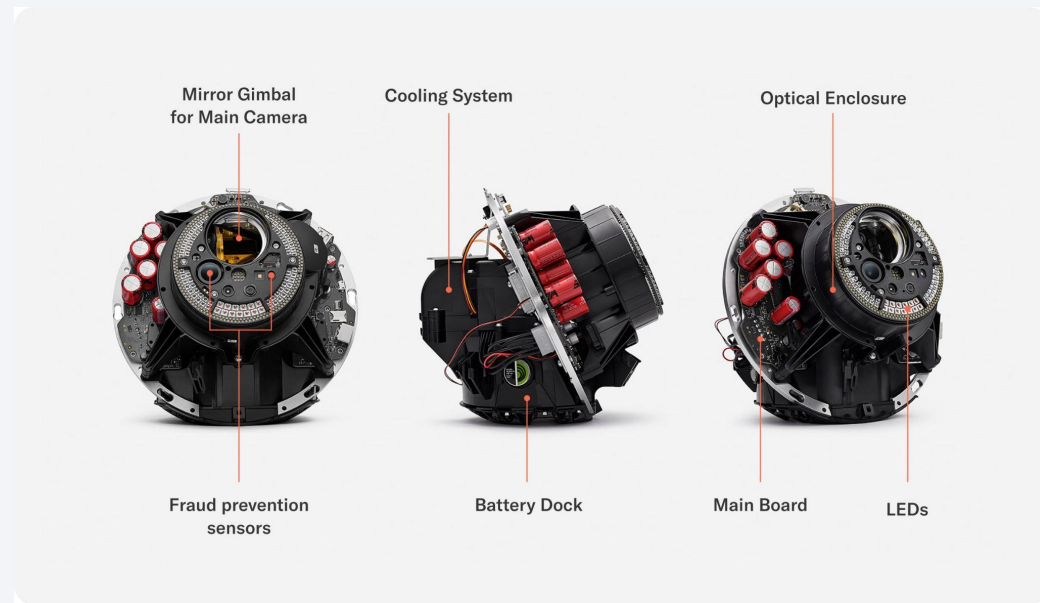


Mission

World App

World ID

The Orb itself and its very schematics are part of our privacy and trust efforts. By holding all hardware technology patents in the not-for-profit Worldcoin Foundation and transparently sharing the Orb hardware, firmware, and software processes we invite the global community to help us constantly improve the security of our systems and privacy for our users.



Mission

Operators

Why did Worldcoin choose Kenya to be part of its initial rollout?

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Kenya has always been at the forefront of adopting new technologies, as well as pioneering others like Mobile Money. In order to best assess the benefits and challenges associated with new technologies, the government set up a Distributed Ledgers and Artificial Intelligence Task Force in March 2018. The Task Force was mandated to evaluate applications of distributed ledger and AI in the public sector. Established by ICT Cabinet Secretary Joe Mucheru, the team consists of members from both private and public sectors,

With in-depth knowledge about blockchain and the cryptocurrency industries. The Kenyan government is currently assessing policy initiatives in light of the Task Force's recommendations. There are already different government agencies that are seriously considering implementing Blockchain technology to assist in the execution of their mandate for greater transparency and efficiency. The Kenyan government also announced in October 2018 plans to deploy blockchain technology to manage a government housing project of 500,000 units. The technology will create an efficient allocation of the houses to those who need it. The government hopes that the new technology will re-establish public trust in the government's housing initiatives.



Mission Operators

Worldcoin Operators can be seen on the street, in shopping malls, in transit stations, and wherever people of various backgrounds congregate and are easily identifiable by their branded clothing. Many times per day, Worldcoin Operators facilitate the World ID sign up process by helping users download the World App, set up their account, and become verified at an orb. Operators are also always available to answer questions and assist users with using the World App. Worldcoin also provides 24/7 support to users through our online help center and live customer support agents.



Mission

Kenya

While our ambitions are vast, we understand the sensitivity of what we are asking people to do and the challenging nature of the task at hand. That is why we are focused on ensuring our efforts are led by locals in every country where we operate and that we're complying with all local laws and regulations around data processing and security.

In each community we operate, we hire local leadership, build local partnerships, and translate all our materials to the local language. We ensure that we are respecting local sensitivities by meeting with relevant stakeholders both inside and outside of government before we sign up our first person at an Orb. If we're going to achieve our mission we need to bring the best global talent and technology to the table but also have to be present in the local community and tailor our approach to each community's goals and circumstances.



Mission

Kenya

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In Nairobi we're pleased to work with a number of local companies to bring our offerings to the local community.

One such company is Platinum DE Plus Ltd, run by Charles Mburu Wanjagi. Platinum DE Plus Ltd has been working with Worldcoin for nearly a year and Charles' led his team to process more than 15,000 signups. A professional sales executive leading sales at Jumia Kenya prior to joining Platinum DE Plus, Charles runs a team of 30 across multiple malls and events in Nairobi.

He is passionate about the mission of creating an inclusive financial system and spends time training teams and onboarding thousands of users to the Worldcoin network.



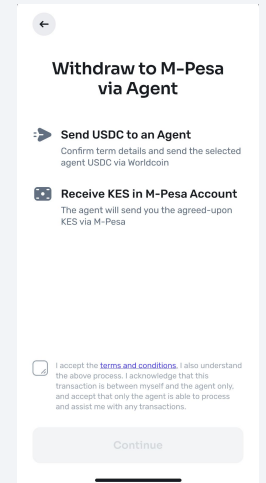
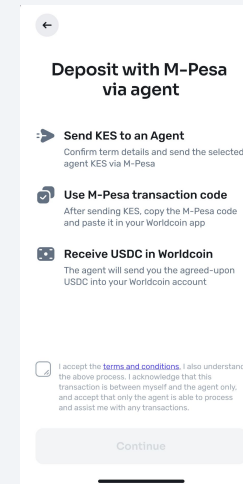
Mission Kenya

In response to local demands, Worldcoin has created a software platform that enables Kenyans to earn money by helping Worldcoin users swap between digital assets and Kenyan Shillings.

Since going live in November of 2022, the platform has supported over Ksh 8 million in volume and our Kenyan partners who facilitate the transactions have earned more than Ksh 400,000 in fees (as of January 2023).

As the Worldcoin network expands, our Kenyan partners will process more transactions and earn more fees.

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Questions?



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Market Manager - East Africa

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The Global Economy Belongs to Everyone

This is the Exhibit Marked "LS-5" 72 of 73
Referred to in the Annexed Affidavit Declaration
of Lempaa Suyianka



sworn / declared before me
this 24 day of August 2023
at Nairobi


Commissioner For Oaths

OFFICE OF THE DATA PROTECTION COMMISSIONER

PRESS RELEASE

ODPC Calls for Vigilance from the Public as It Engages with WorldCoin on Compliance with Data Protection Act, 2019

NAIROBI, Kenya, July 28 - The Office of the Data Protection Commissioner (ODPC) calls for increased vigilance from the public as it continues to engage with WorldCoin, an entity processing activities of iris data through an Orb, to ensure compliance with the Data Protection Act, 2019

The ODPC is aware that WorldCoin has now been launched and is processing sensitive personal data in a manner that requires a demonstration of proper safeguards under the Data Protection Act, 2019.

The Data Protection Act gives the Office functions and powers to conduct assessments and request information to ascertain whether personal data is processed in accordance with the Act.

As the ODPC conducts its assessment of WorldCoin's practices to ensure compliance with the law, Kenyans are urged to ensure that they receive proper information before disclosing any personal or sensitive data. Individuals are advised to thoroughly inquire about how their data will be used.

Commenting on the issue, Data Commissioner Immaculate Kassait, MBS, reaffirmed the Office's commitment to promoting data privacy and security in Kenya.

"It is the responsibility of data controllers to ensure that personal data is processed in accordance with the Data Protection Act. Failure to do so not only puts individuals' privacy at risk but also exposes an organization to legal and reputational consequences," she remarked.

The ODPC is committed to ensuring that entities processing personal data in Kenya comply with the Data Protection Act, 2019. The office will continue to engage with organizations to promote compliance with the law and protect the privacy of Kenyans.

For Media Enquiries:

Email: Communications@odpc.go.ke

DATA COMMISSIONER
P. O. Box 30920 - 00100,
NAIROBI



This is the Exhibit Marked "LS-6"
Referred to in the Annexed Affidavit Declaration
of Lempaa Suyianka
Sworn / declared before me
this 24 day of August 2023
at Nairobi
Commissioner For Oaths

PRESS STATEMENT

JOINT STATEMENT ON OPERATIONS OF THE WORLDCOIN IN KENYA

Nairobi 2nd August 2023

Since the launch of WorldCoin operations in Kenya, the Communications Authority of Kenya (CA) and the Office of the Data Protection Commissioner (ODPC) have undertaken a preliminary review and noted a number of legitimate regulatory concerns that require urgent attention.

The issues include:

1. Lack of clarity on the security and storage of the collected sensitive data (facial recognition and iris scans).
2. Obtaining consumer (data subject) consent in exchange for monetary reward which borders on inducement.
3. Uncertainty regarding consumer protection on cryptocurrency and related ICT services.
4. Inadequate information on cybersecurity safeguards and standards.
5. Massive citizen data in the hands of private actors without an appropriate framework.

These issues require comprehensive inquiry to enable regulators to advise stakeholders on appropriate measures to protect public interest.

Controversies around WorldCoin are not new. Similar concerns have been raised in other jurisdictions such as Germany, France, the United Kingdom, and India.

Arising from these preliminary observations, a multi-agency investigation is underway. Consequently, and as directed by the Government, the WorldCoin must cease its data collection activities in Kenya until further notice.

The public is advised to take caution when providing personal data to private actors. In the meantime, anyone with relevant information or a complaint on WorldCoin should report through the following communication channels: incidents@ke-cirt.go.ke and complaints@odpc.go.ke

Ezra Chiloba
Director General
COMMUNICATIONS AUTHORITY

Immaculate Kassait, MBS
Data Commissioner
OFFICE OF THE DATA
PROTECTION COMMISSIONER