

4TH EDITION NEWSLETTER

2023





A WORD FROM THE CHAIR

Dear Members,

I am delighted to welcome you to the fourth edition of our newsletter. As we gather here once again, I am reminded of the incredible journey we have embarked upon as advocates for justice, democracy, and human rights in Kenya.

In this edition, we continue to delve into issues that matter most to our society, our members, and the nation at large. We explore the intersections of democracy and the rule of law, we dissect the intricacies of economic justice, and we delve into the human rights challenges that persist in our country.

As we navigate the ever-evolving landscape of our nation, we must remember that our collective efforts have the power to shape a better future for Kenya. I urge each and every one of you to continue your dedication to the cause, to remain engaged, and to inspire positive change in your communities.

Thank you for your unwavering support and commitment to the ICJ Kenya family. Together, we will continue to make a difference in our beloved country.

Sincerely,

PROTAS SAENDE
CHAIRPERSON

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Democracy

**DEMOCRATIC
GOVERNANCE
AND RULE OF
LAW**





CONSTITUTIONAL REFORMS AND IMPLEMENTATION

Support safeguards, reforms and ensure adherence to progressive constitutional, legal, policy & institutional frameworks

During this period, the ICJ Kenya issued a [Press statement](#) supporting the Judiciary's decision and applauding their commitment to upholding the Constitution and the rule of law in **Petition No E080 of 2023, Eliud Karanja and others vs The Republic of Kenya and others, (Chief Administrative Secretary (CAS) case 2023)**

The court declared the CAS position unconstitutional. The statement denounced the political interference by the ruling party, highlighting the crucial need to adhere to the Constitution of Kenya 2010.

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As a Commission of Jurists, we welcome the recent judgment by the High Court on Petition 080 of 2023, declaring the position of Cabinet Administrative Secretary as unconstitutional. This landmark ruling reaffirms the principles of constitutionalism and upholds the integrity of our democratic system. The High Court's decision sends a clear message that adherence to constitutional provisions is paramount and that no position should be created or maintained outside the bounds of our constitutional framework. This judgment reaffirms the importance of separation of powers and the need to preserve the checks and balances that underpin our democracy

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Strengthened protection of civil-political and socio-economic rights through strengthened electoral management bodies, electoral processes, and electoral dispute resolution mechanisms.

ICJ Kenya participated in the National Elections Stakeholder Conference, which provided valuable insights into the conduct of the IEBC and offered constructive recommendations for its improvement.

In partnership with Katiba Institute, we organised the **Post-Election Civil Societies Conference**, which brought together diverse civil society organisations, activists, policymakers, and scholars to reflect upon the recent elections and discuss the significance of civil society in promoting democracy and civic engagement. The conference's outcomes and recommendations will provide a roadmap for empowering citizens, strengthening democratic institutions, and fostering inclusive governance post-election



JUDICIAL STRENGTHENING AND REFORMS

Support the establishment, strengthening or expansion of justice institutions and actors

ICJ Kenya sustained engagements with the Kenya Judiciary Academy by actively participating in a roundtable meeting organised by the Kenya Judges and Magistrates Association (KJA).

The objective of the meeting was to plan the execution of debriefing and learning sessions with judges and magistrates who presided over pre- and post-election matters.



ICJ Kenya engagement with the Kenya Judiciary Academy on the development of the Judiciary Benchbook on the Right to Health

Promote adherence to applicable standards/ best practices for judicial independence, transparency, integrity, and resourcing

The Commission, in collaboration with the Pan-African Lawyers Union (PALU), the African Judges and Jurists Forum (AJJF), and the Open Society Foundations (OSF), continued to hold strategy meetings to support Judge Kisaake, who was ousted from the Judiciary.

Her removal stemmed from her issuance of a dissenting opinion regarding the election of President Yoweri Museveni, and it represents a violation of judicial independence and a significant threat to the integrity of the Judiciary.

ICJ Kenya authored a newspaper article on Judicial Independence. The [article](#) emphasised the crucial role an independent judiciary plays in upholding democracy.



SECURITY SECTOR STRENGTHENING AND REFORM

Strengthen capacities of security sector agencies, institutions and supporting structures (e.g. police reform working groups).

To strengthen the capacities of security sector agencies, ICJ Kenya continued to monitor and [issue statements condemning acts of police brutality during the protests](#) called by the Azimio One Kenya Coalition. The statements were covered by various news agencies and reaffirmed the need for the National Police Service to adhere to the National Police Service Standing Orders.

“ICJ Kenya calls upon the state to respect and uphold the rights of all individuals to peacefully assemble, express their opinions, and engage in advocacy. The government should create an enabling environment for open dialogue, constructive engagement, and the free flow of information, which is essential for developing and strengthening a democratic society”



CRIMINAL JUSTICE

Decriminalization or re-classification of Petty offences in focus countries

ICJ Kenya, a member of the National Criminal Justice Committee, engaged in an initial review of the draft **Penal Code** and **Criminal Procedure Code** amendment bills developed by the Committee. The draft Penal Code Bill has made numerous amendments, with a bulk of the amendments geared towards decriminalising and reclassifying Petty Offences.

As a member of the Regional Campaign on decriminalising petty offences, ICJ Kenya virtually participated in the **32nd session of the United Nations Commission on Crime Prevention and Criminal Justice** in a session dubbed **"Justice for All: Global Action to Combat Discrimination and Inequality in Criminal Justice Systems"**.

ICJ Kenya made a paper presentation on the human rights violations and strain on criminal justice systems occasioned by the continued implementation of petty offences in the African Region.



Strengthened criminal justice institutions adequately respond to the needs of the poor and vulnerable in society.

In partnership with the World Coalition against the Death Penalty, ICJ Kenya convened the **Sub-regional English-Speaking Seminar on Best Practices for the Abolition of the Death Penalty and the 2023 General Assembly**.



ICJ Kenya presented the various reforms undertaken by the National Criminal Justice Committee towards the legislative reform on the death penalty following the Muruatetu decision and the legislative reforms undertaken in the National Assembly.





**HUMAN
RIGHTS**





ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS AND ATROCITIES

Increased accountability for human rights violations by concerned institutions/ actors

In the reporting period, ICJ Kenya contributed to accountability for human rights violations by monitoring the Transfer cases in Rwanda. ICJ Kenya continued to monitor and report on four genocide cases in Rwanda.

In addition, ICJ Kenya interacted with all the parties, including the accused and the interlocutors, and reported on their perspectives on the justice system in Rwanda.



Increased understanding of and demand for human rights by the public.

In the reporting period, ICJ Kenya contributed to accountability for human rights violations through Twitter messaging during the day on eliminating sexual violence in conflict. An article was published on the [ICJ Kenya website](#).



EQUALITY RIGHTS AND INCLUSION

Increased safeguard of rights of minority groups, especially LGBTQI persons & PWDs/ mental health challenges

In support of reforms & adherence to progressive laws, policies, and protocols for PWDs & other marginalised groups (including ensuring that critical justice & other key institutions are disability friendly), ICJ Kenya participated in numerous online strategy meetings with LGBTQI+ organisations to develop strategies to combat the Family Protection Bill. The Bill contains numerous provisions that violate the Right to life, human dignity, privacy and liberty.



Enhance access to justice and redress by indigenous communities, minority, and marginalised groups.

The National AJS Steering Committee on AJS Policy Implementation (NaSCI-AJS) convened its 2nd Annual AJS Conference from 26-28 June 2023 at Tangaza University College. This year's theme was **"AJS as culture and innovation in accelerating social transformation through access to justice"**. The conference brought together justice actors, practitioners, judicial officers, academia, policymakers, civil society actors, development partners, and all stakeholders of AJS. As a committee member, ICJ Kenya participated in the conference as a panel discussant and shared insights on AJS typologies.

Additionally, the ICJ Kenya six paralegal networks represented by the coordinators had an experiential learning opportunity on the Alternative Justice Systems in Kenya.



During the General Assembly of the World Coalition Against the Death Penalty (WCADP), ICJ Kenya presented the Trends in Jurisprudential Approached to the Death Penalty, highlighting the trends in judicial decisions in cases of women accused of capital offences.

ICJ Kenya further attended the gender workshop, a side event of the General Assembly of the WCAP, which delved into the plight of incarcerated women across the African region. As part of our advocacy strategies, we [interviewed a woman on death row to share her experience with the criminal justice system](#) and amplify the voices of incarcerated women. ICJ Kenya is in the process of developing research on the plight of women on death row.





CIVIC SPACE, DIGITAL RIGHTS, AND INDEPENDENT MEDIA

Protection and promotion of media freedoms

As a contribution to safeguarding media freedoms and independence, ICJ Kenya wrote an article on press freedom, appreciating that a free press is vital to any progressive democracy. The article emphasised the importance of standing up for media freedoms in Kenya in light of the sentiments made by the Cabinet Secretary for Trade and Investments on the Nation Media Group. The article was featured on [Capital News](#) and the [ICJ Kenya website](#).

Additionally, ICJ Kenya, in collaboration with **Joseph Kihanya**, a media law scholar, conducted a four-part media laws interview series in the form of a podcast. The interview amplifies the need to promote media freedom while creating awareness of Kenya's Media Laws



“...ICJ Kenya remembers journalist's individual sacrifices to unearth the truth. We remain conscious that journalists worldwide continue to face significant challenges in their work. ICJ Kenya continues to advocate for free and independent media.



ECONOMIC JUSTICE



ECONOMIC AND SOCIAL COUNCIL (ECOSOC) RIGHTS

Increased public participation in processes and decisions affecting the citizens' livelihoods and culture.

Contributing to strengthening public participation frameworks for effective governance and public services delivery, ICJ Kenya convened a webinar discussion titled **"Right to Health Legal and Policy Framework: Gaps, Challenges, and Recommendations."**

The webinar provided an informative platform to enhance awareness of the Right to health and equip participants to better engage with emerging issues relating to the Right to health. Key issues that arose in the webinar were documented in the communique.



Increased access by vulnerable and minority groups to basic services.

ICJ Kenya continues to hold the State accountable on prioritisation and budgetary allocations towards priority basic services. During the reporting period, ICJ Kenya engaged the **Senate Health Committee** on the Right to health and how best to improve health service delivery.

The meeting discussed the findings and implementation of the recommendations of the review of existing policy and legislative frameworks that inhibit access to health rights in Kenya.



Breakfast meeting with the Senate Justice Legal Affairs and Human Rights Committee for the presentation of the report on **Review of Legal & Policy Frameworks on the Right to Health**

Additionally, ICJ Kenya engaged journalists to report on the Right to Health on different media platforms, including print, television and radio. The media engagements aimed to disseminate the findings and recommendations of the knowledge product developed by ICJ Kenya dubbed **A Review of existing legal and policy frameworks that inhibit access to health rights**. The media engagements led to an increase in awareness of the Right to health.

Strengthened protection of social, economic, and cultural rights of minority groups

ICJ Kenya aims to Invest in protecting the rights of the most vulnerable groups, such as indigenous persons, ethnic minorities and forest communities.

ICJ Kenya is collaborating with the **Center for Reproductive Health Rights (CRR)** is developing a bench book to guide judicial officers in adjudicating Right to health issues. The CRR is authoring a chapter on reproductive healthcare that will enrich the content of the bench book. .



CORPORATE AND PUBLIC SECTOR ACCOUNTABILITY

Increased public engagement in planning, use, and accountability of public financial resources

In order to promote citizen driven social accountability ICJ Kenya participated in the **Open Government Partnership (OGP) Week: Open Contracting Cluster Meeting on 11 May 2023**.

The meeting was held in preparation for the next **National Action Plan (NAP)** to review the commitments and overall goal of a "national end-to-end e-government system adopting the **Open Contracting Data Standard (OCDS)** to cover all stages of public procurement in Kenya." The event included a status report from PPRA on e-GP implementation and an inclusive dialogue on the cluster's next steps and priorities.

As a build-up to this meeting, ICJ Kenya participated in the forthcoming **Open Government Partnership (OGP) Kenya Induction Workshop and 2023 Global Summit Briefing on 26 July 2023**.

LAND, ENVIRONMENT & CLIMATE JUSTICE

Ensuring natural resources are responsibly managed, conserved, sustainably used, and equitably shared

The ICJ Kenya supported reforms and implementation of legal policy or institutional frameworks governing land, environment, and climate justice ICJ Kenya responded to the call for abstracts by LSK for papers to be presented at this year's **LSK Annual Conference** under the theme, **'Climate Change: From Theory to Action, The Role of the Legal Profession in Climate Justice.'** The abstract was successful.

Participating as a panelist in the Annual Conference to discuss climate change issues carries immense value. It will provide a platform to engage with legal professionals and activists, fostering a collaborative environment for meaningful dialogue. Additionally, as a panelist, ICJ Kenya will share expertise, insights, and research on the legal aspects of climate change, highlighting the significance of addressing this pressing issue and the role of advocates in the discourse.

ICJ Kenya commemorated World Environment Day on 5 June 2023 through online advocacy and messaging to raise awareness and mobilise a global audience for environmental causes. By leveraging local and online advocacy, we can collectively become powerful catalysts for generating global environmental consciousness and inspiring meaningful action environmental conservation, towards a greener future World .



UPCOMING EVENTS



The Annual Jurists Conference organized by the Kenyan Section of the International Commission of Jurists brings together members of the Bench and the Bar as well as other participants from the African continent and around the world to discuss various issues.

The 2023 AJC will be held from 16th to 19th October.

Registration is currently ongoing and closes on 11th October, 2023 ([Register Here](#))

The Jurist of the Year Award (JOYA) is an annual award that seeks to give recognition, acknowledgment and encouragement to jurists who have consistently, fearlessly and impartially promoted the rule of law and human rights in Kenya during the year.

The 2023 JOY Awards will be held on 8th December, 2023



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