

NEWSLETTER



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Table of Contents

**DEMOCRATIC GOVERNANCE AND
THE RULE OF LAW 05**

HUMAN RIGHTS 27

ECONOMIC JUSTICE 37

CHAIRMAN'S NOTE



Dear ICJ Kenya Members, Partners and Friends,

I am pleased to share with you the third edition of ICJ Kenya's Newsletter 2024, providing you with updates on our recent endeavours in advancing justice, human rights, and the rule of law in Kenya.

During the third quarter of the year, ICJ Kenya has actively participated in various activities aimed at promoting and strengthening judicial independence, constitutionalism and the rule of law.

We have also actively advocated for police reforms while condemning incidents of arbitrary arrests and detention, enforced disappearances and extrajudicial Killings during the recent nationwide protests by youth demanding good governance and accountability. Notably, we have devoted substantial efforts to producing knowledge products such as, the 2022 elections compendium and the Fact Sheet on climate change and right to health in Kenya.

I extend my heartfelt appreciation to our devoted team, partners, and ICJ members, whose invaluable contributions have been fundamental in the success of these initiatives.

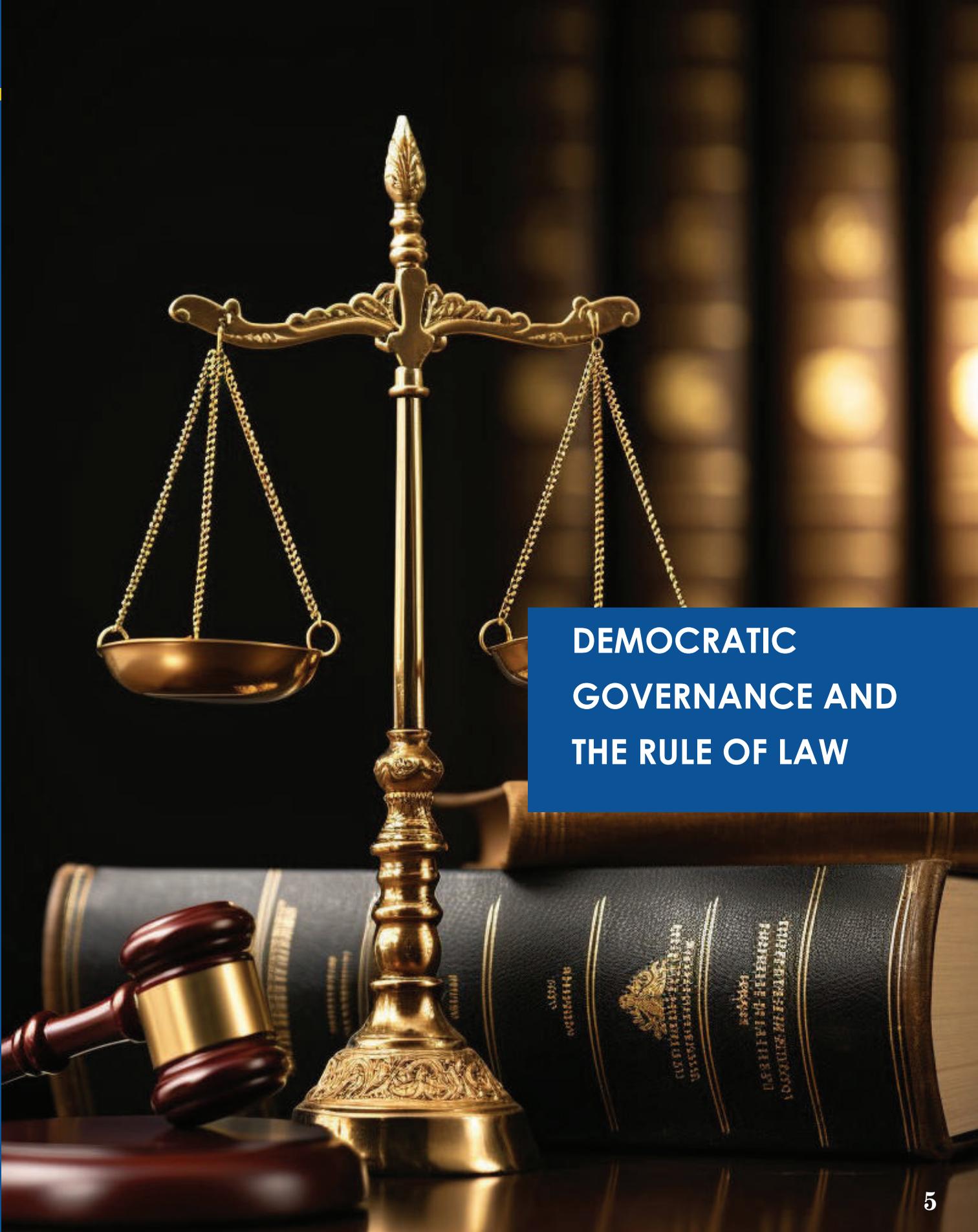
Thank you for your unwavering support, and I encourage you to delve into this year's third newsletter to gain further insights into our recent activities and accomplishments.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Protas Saende', written in a cursive style.

Protas Saende,

ICJ Kenya Chairman.



**DEMOCRATIC
GOVERNANCE AND
THE RULE OF LAW**

DEMOCRATIC GOVERNANCE AND THE RULE OF LAW

Constitutional Reforms and Implementation

NOREC Exchange Programme Meeting

On 10th September 2024, ICJ Kenya hosted a Norwegian Agency for Exchange Cooperation (NOREC) Programme meeting in Nairobi. The aim of the meeting was to discuss and re-align the results framework of the exchange programme to be in sync with the NOREC mission and its future plans for the region programme. The meeting consisted

of NOREC Exchange fellows hailing from Kenya, South Africa, Zimbabwe and Uganda as well as partners such as Human Rights Foundation Initiative Uganda, Africa Judges and Jurists Forum South Africa and Legal Resources Foundation Zimbabwe.

The exchange programme seeks to foster an interactive learning community of practice for young legal professionals below 35 years in the East and Southern African region.



Unwanted Witness Moot Court Competition

ICJ Kenya in partnership with the Unwanted Witness organized a moot court competition at Daystar University which was preceded by a Pre-Conference. The Pre- Conference was held on 12th September 2024. The theme of the pre-conference was Upholding Voter Privacy in Democratic Processes. The conference sought to highlight the importance of data protection during electoral processes.

The moot sessions which took one week were judged by ICJ Kenya members with finals being Judged by Justices Lydia Achode, John Mativo and Weldon Korir. The moot provided an opportunity for ICJ Kenya to strengthen its Partnership with Daystar University and the Unwanted Witness.



Moot Court Finale

On September 20th, ICJ Kenya Chairperson Protas Saende ushered in judges during the finale of the Unwanted Witness Moot court competition held at Daystar University Nairobi campus.

Under the theme of Upholding Voter Privacy in Democratic Processes, the competition showcased various talents of aspiring legal minds grappling with critical issues surrounding data privacy. Participants from various educational institutions had the opportunity to enhance their research and litigation skills, fostering a deeper understanding of legal frameworks related to data privacy in the digital age.

Daystar University emerged the winners of the competition.



Validation of the 2022 Elections Compendium

On 9th August, ICJ Kenya continued with its noble endeavour to support policy, legal and institutional reforms relating to elections in Kenya, by kicking off in earnest the validation exercise for the 2022 Elections Compendium.

Drawn together for this critical exercise were, representatives from our development partners, government, the Judiciary through the judiciary Committee on Elections (JCE), Civil Society, Jurists and members of Academia.



2022 Elections Compendium Launch

ICJ Kenya in partnership with the Kenya Judiciary Academy launched the 2022 Elections Compendium on 19th September 2024 in a colourful event graced by the Danish Ambassador to Kenya, H.E Stephen Schonemann, SCOK Justice and Director General ,Kenya Judiciary Academy Dr. Smokin Wanjala and SCOK Justice and Chairperson Judiciary Committee on Elections, Mohammed Ibrahim.

ICJ Kenya chairperson Protas Saende in his opening remarks reiterated our unwavering

commitment to promoting electoral justice and the rule of law in Kenya and across Africa, noting that the compendium serves as an important educational tool for all stakeholders involved in election management.

The compendium compiles decisions from the magistracy to the Supreme Court, offering readers the advantage of understanding the written law and how various players within the Election Dispute Resolution system have interpreted and applied it.





Judicial Strengthening and Reforms All Africa Judges and Jurists Summit



ICJ-Kenya in collaboration with Africa Judges and Jurists Forum (AJJF) hosted the All Africa Judges and Jurists Summit on the 17th-19th September 2024 in Nairobi, Kenya. The theme of the conference, titled “Pivoting judiciaries for the transformation of Africa into the global powerhouse of the future”, sought to contribute to the achievement and aspiration of Agenda 2063 on enforcement of the rule of law, protection of human rights, upholding good governance and democracy.



The conference resolved to promote Judicial Independence by pushing back on authoritarianism as well as commit to promoting Judicial Financial Independence. Delegates also noted that the summit came at a critical time, providing a vital platform for key stakeholders in the legal field to reflect on and discuss pressing issues of governance, democracy, human rights, and the rule of law in Africa



Southern and Eastern Africa Chief Justices Forum

ICJ Kenya supported and participated in the Southern and Eastern Africa Chief Justices Forum (SEACJF) annual conference and AGM held in Uganda, between 31st September and 4th October. The forum focused on enhancing access to justice across the continent, with discussions addressing key challenges facing judicial systems in Africa, including judicial independence and accountability.





ICJ Kenya was able to network with over 15 Chief Justices in attendance including the Chief Justice of Kenya, Hon. Martha Koome, who shared valuable insights into judicial reforms and her efforts to strengthen justice in Kenya. The conference reinforced the shared mission of ICJ Kenya and SEACJF to promote a justice system that is accessible, transparent, and impartial across Southern and Eastern Africa.



Africa Litigation Surgery Conference

The Africa Litigation Surgery Conference kicked off in earnest with delegates from across the continent converging in Kenya's capital Nairobi between 29th July and 31st July 2024.

Under the theme, pushing back against authoritarian regimes, the conference provided a unique and enlightening experience on how Public Interest Litigation (PIL) can be used to resist and counteract authoritarian regimes across the continent.

The conference resulted in the formation of a constitutional watch group with the mandate of monitoring instances of authoritarianism and pushing back through advocacy and strategic litigation.



“ “ Judicial Officers’ Safety

On 16th September 2024, ICJ Kenya issued a statement condemning the intimidation and withdrawal of the security detail assigned to High Court Judge, Justice Lawrence Mugambi.

This development followed Hon. Mugambi’s judgement delivered on Friday 13th September 2024 where he sentenced Acting Inspector General of Police, Gilbert Masengeli, to six months imprisonment for contempt of court. This act of retaliation violated judicial independence and threatened the principle of separation of powers, which are a cornerstone of Kenya's democracy.



Security Sector Strengthening and Reforms IG Police Recruitment

ICJ Kenya under the auspices of the Police Reforms Working Group published a statement calling for the competitive recruitment of the Inspector General following the resignation of former IG Japheth Koome.

ICJ Kenya called on president William Ruto to restore the National Police Service Commission’s (NPSC) role in recruiting all senior police officers as provided for under Article 245 (2a and b), the appointment of a progressive Inspector General who will exercise independent command over the National Police Service.



CALL FOR THE COMPETITIVE RECRUITMENT OF NEXT POLICE INSPECTOR GENERAL AND ESTABLISHMENT OF A CULTURE OF COMMAND RESPONSIBILITY

STATEMENT 17 JULY 2024.

Call for the Competitive Recruitment of the next Inspector General

The Police Reforms Working Group (PRWG-K) acknowledges the resignation of the Inspector General of the National Police Service, Japheth Koome, amid the several cases of deaths, serious injuries and abductions in the context of the protests that began as Anti-Finance Bill protests. These protests were marked by several cases of human rights violations by the National Police Service (NPS), including extra-judicial killings, abductions, torture and other ill-treatment, and arbitrary arrests.

In November 2022, following his nomination, the PRWG-K submitted a detailed memorandum opposing the appointment of Former IG Japheth Koome, citing concerns about his integrity and accountability during his time as Nairobi County Commander. These concerns were ignored, and Parliament proceeded to appoint him based on the nomination of President William Ruto.

As the process of appointing the next Police Inspector General begins, it is important to note that Kenya's struggle for democracy, the rule of law, and human rights has been marred by gross human rights violations. It was the violations highlighted in the Prig Vaisi Report on Post-Elections Violence and the Opari-Ransby Report on Police Reforms which led to the current policing framework under the Constitution of Kenya 2010.

The Waki and Ransby reports and the Constitution advocated for democratic policing focused on community engagement, accountability, professionalism, and human rights. As part of the reforms introduced after 2010, several institutions were established. The National Police Service Commission (NPSC) was established to handle human resources issues and exercise disciplinary control over members of the NPS. The Office of the Inspector General of the NPS was created to lead the Service with an Internal Affairs Unit to receive and investigate complaints and disciplinary matters against the police. The Kenya Police Service and Administration Police Service were made independent, and the Independent Policing Oversight Authority was formed to provide civilian oversight by and investigate serious complaints against police officers.

Initially, Section 12 of the National Police Act mandated the NPSC to competitively advertise, shortlist, interview, recruit the Inspector General following parliamentary vetting. The 2014 Security Laws Amendment Act altered this process, giving the President sole authority to nominate the IG for parliamentary vetting, bypassing the NPSC. The amendment also changed the procedure for the removal of the IG-NPS, leaving the President with little power in law to remove the Inspector-General from office.

This change continues to undermine police independence, accountability and the spirit of the constitution. It has fueled widespread and systemic police corruption, extortion, criminality, widespread human rights violations and lack of public accountability. The Moraga National Taskforce on Police Welfare and Reforms whose report has been submitted to the President recommends the reinstatement of competitive recruitment processes for the IG, Directors of Internal Affairs and Criminal Investigations, and Deputy Inspector Generals of KPS and AP.

We call on His Excellency Dr William Samoei Ruto to act on this recommendation and competitively recruit for the next IG and restore NPSC's role in recruiting all senior police officers. As provided for under Article 245 (2a and b), the appointment of a progressive Inspector General who will exercise independent command over the National Police Service and perform any other functions prescribed by national legislation remains in the public interest.

Military Deployment

ICJ Kenya issued a joint statement with Amnesty International-Kenya noting that after the military's deployment on 27th June, there was increased unlawful dispersal of peaceful gatherings, arbitrary arrest of protesters and their ill-treatment (including stripping protesters semi-naked).

Both human rights organizations documented members of the public, content creators and press officers harassed and arbitrarily arrested for taking videos or photographs of the protests in different counties across Kenya.

In addition to being against international human rights instruments, these acts subverted democratic ideals and the rule of law.

Human rights-based guidelines on the deployment of the Kenya Defence Forces in the context of protests in Kenya
Statement

Nairobi, 27 June 2024: This statement is released by Amnesty International Kenya and the Kenyan Section of the International Commission of Jurists (ICJ Kenya) to remind the Kenya Defence Forces and the National Police Service that the laws of Kenya have not been suspended and Kenya is not in a state of emergency.

The situation in Kenya must not be interpreted as a conflict and the military should not generally be deployed to police assemblies. The Kenyan army and all security apparatuses remain bound by the Bill of Rights in the Constitution of Kenya and international human rights law including the International Covenant on Civil and Political Rights.

Following the 25 June gazette notice by Defence Cabinet Secretary Asani Duale and the National Assembly's approval on 26 June, the army was deployed to support the National Police Service. After the military's deployment on 27 June, human rights observers have documented the unlawful dispersal of peaceful gatherings, arbitrary arrest of protesters and their ill-treatment (including stripping protesters semi-naked). Our organizations have documented members of the public, content creators and press officers harassed and arbitrarily arrested for taking videos or photographs of the protests in different counties of the country.

Most worryingly, military/police officers in plain clothes are arresting protesters and bystanders and forcing them into unmarked vehicles. Further, we are gravely concerned by tear gas use in a Nairobi medical center set up to provide emergency medical services for the injured and the confiscation of patient lists.

We acknowledge the courts order upholding the decision to deploy the military and requiring the State to take necessary measures to define the scope for deployment. We note the important provision that the Judiciary shall remain available to hear any public complaints arising from the conduct of the military during this deployment.

Within this context, we call on the Kenya Defence Forces and the National Police Service must adhere to the following guidelines:

Guideline 1: The principle of command responsibility

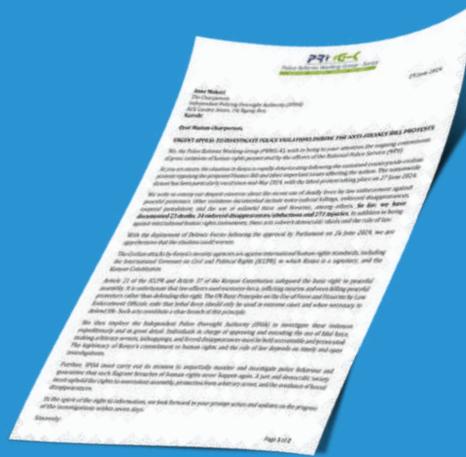
1. The President of the Republic of Kenya is the Commander-in-Chief of the Kenya Defence Forces. The Inspector General of the National Police Service is accountable for all policing functions under the Police Act. The Police Act provides guidelines for the conduct of police officers and who they are accountable to.
2. Military deployment to manage public order and to police the right of assembly is both unprecedented in Kenya and generally contrary to international human rights law and standards.
3. Where, exceptionally, military forces are deployed, their role should be limited to supporting the law enforcement agencies and be preceded by appropriate training.
4. The established chain of command must clearly reflect this supporting role, and it is critical that the Chief of Kenya Defence Forces publicly announces who bears command responsibility for

Human Rights Based guidelines on the deployment of the Kenya Defence Forces in the context of Protests in Kenya | Page 1

Letter to IPOA

ICJ Kenya on 29th June 2024 as members of the Police Reforms Working Group wrote to the Independent Policing Oversight Authority (IPOA) calling for investigations against police violations during the 2024 anti-finance bill protests.

The documented violations included the use of unlawful force and firearms, extra-judicial killings, enforced disappearances amongst others.



On July 12th, ICJ Kenya joined Human Rights Organizations and the Law Society of Kenya at the 'Citizen Assembly', an engagement with youth geared towards promoting human rights and justice amid calls for accountability, transparency and good governance in the country.

During the conference, victims of police brutality were given an opportunity to share candidly, first hand experiences amid concerted effort to ensure police officers that violated the law are arrested and prosecuted.

Citizen Assembly

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Cessation of Violations

On July 5th, ICJ Kenya led by our council chairperson Protas Saende and Vice chairperson Christine Alai alongside other human rights defenders, issued a statement in the lead-up to the commemoration of Saba Saba – a movement birthed in the 1990s to protest Government corruption and repression and agitate for democratic rule in Kenya.

Human Rights actors called on the government through state security apparatus to cease abductions, enforced or involuntary disappearances as well as the threatening of human rights defenders. The HRDs also called for the immediate release of individuals arbitrarily arrested and detained for participating in protests.



Cessation of Violations

On July 20th, We issued a joint statement in solidarity with Civi society Organizations, expressing concerns over statements by the Government of Kenya implying CSOs fund and support unlawful behaviour and unruly protests.

As a founding NGO in Kenya, ICJ Kenya called upon the government and all stakeholders to protect the Kenyan civic space further noting that CSOs must be allowed to operate without undue interference or baseless accusations.

Press Statement: Defending the Vital Role of Civil Society Organizations in Kenya

FOR IMMEDIATE RELEASE
20th July 2024

For decades, Civil Society Organizations in Kenya have been the backbone of our nation, tirelessly safeguarding democratic values and principles, amplifying the voices of vulnerable communities, promoting transparency and accountability, and ensuring the rights of all Kenyans are upheld. Their contributions have been instrumental in our nation's growth and stability, and their efforts have consistently upheld the principles of justice and democracy.

In the last three months, civil society and the media have engaged robustly in pushing for public finance management accountability, including public debt, protection of human rights, especially freedom of expression and the right to assemble, including protest, active citizenship, end of extrajudicial executions, enforced disappearances, abductions, and even theft of public resources.

Kenyans share these concerns and are now pushing for an accountable government at all levels, especially the executive and legislative arms. The continued neglect of the need for an accountable and transparent government that respects and values the voices of the people of Kenya is the reason for the continued protests across several parts of the country.

Against this background, we are deeply concerned by the recent letter from the Government of Kenya implying that CSOs fund and support unlawful behaviour and unruly protests, which starkly contradict our work. We categorically repudiate these unfounded accusations and reiterate our call for the government to remain true to the constitution and protect independent civil society organisations and media in Kenya. CSOs have been instrumental in Kenya's development and play a pivotal role in protecting human rights, upholding the rule of law, promoting good governance and fostering social and economic progress.

We unequivocally condemn any unlawful acts during protests. The allegations that CSOs are complicit in promoting illegal activities are false and undermine the invaluable work they do to strengthen our society and are aimed at tarnishing the perception of CSOs to the citizenry we serve. In recent months, CSOs have risen to initiate rapid response interventions to meet the pressing and overwhelming needs and concerns of Kenyans affected by the crisis through providing legal aid for those arrested or abducted, medical assistance for those injured, and psychosocial support for individuals and families affected. Furthermore, they have continued to amplify advocacy on the human rights and governance concerns presented by Kenyans. These actions, which CSOs have championed over a long period, should not be misconstrued as support for the acts of lawlessness and violence meted against Kenyans and which CSOs have consistently called out all through the protests.

The suggestion that young people, particularly the GenZ, are being funded to speak up and use their voices devalues their genuine contributions to Kenya's development. Young Kenyans have shown remarkable

dedication and initiative in advocating for positive change. Their voices are not just essential but inspiring in shaping the future of our nation, and they deserve to be heard and respected.

We are alarmed by the unprecedented violent crackdowns, abductions and disappearances of Kenyans who have expressed concern over the state of governance and human rights in Kenya. We see the CSOs as an extension of the ongoing general repression against civic space and human rights defenders. In recent weeks, prominent human rights organisations in the country have been subjected to an increase in acts of intimidation, harassment, and threats by the authorities, as well as threats against partners that fund their human rights work. These attacks and threats have also been unleashed upon the media and individual journalists.

We call upon the government and all stakeholders to protect the Kenyan civic space. CSOs must be allowed to operate without undue interference or baseless accusations. The constitution of Kenya guarantees the right to peaceful protest and freedom of expression. These rights must be protected and honoured, not only for CSOs but for every Kenyan.

We reiterate the calls from young people and other advocates for the Constitution of Kenya to be followed to the letter. Unlawful actions by goons, police, and other state agents must cease immediately. We demand strict accountability in the budget-making process, a thorough constitutional audit of public debt that has impeded service delivery, and the interdiction and prosecution of all people accused of corruption and theft of public money. The rule of law is paramount, and all parties must be accountable for their actions.

In conclusion, we reaffirm our unwavering commitment to supporting democracy, human rights, and the rule of law. We stand in solidarity with the civil society organizations that continue to champion these values, and we urge the government to recognize and respect their indispensable role in our nation's progress. In closing, we continue to urge that Kenyans stay woke and continue their role as active Citizens as the people with direct power on the affairs of the Kenyan state and, in turn, call on the government to keep all channels for direct participation of the people open even when they are cause discomfort to those in authority.

Name the organisations

1. Action Aid International Kenya
2. Africa Centre for Open Governance (AFRICOG)
3. African Forum for Debt and Development (AFRODAD)
4. Amnesty International Kenya
5. Article 19 Eastern Africa
6. Budiji Africa
7. Bajeti Hub
8. Centre for Enhancing Democracy and Good Governance
9. Centre for Rights Education and Awareness (CREAW)
10. CRAWN Trust
11. Civic Freedom Forum (CFF)
12. Christian Aid International Kenya
13. Coalition for Grassroots Human Rights Defenders



Media Complaints Commission



On July 31st, ICJ Kenya congratulated, our Deputy Executive Director, Demaskiprono on his swearing-in as the Chairperson of the Media Complaints Commission. This prestigious appointment is a testament to his unwavering dedication, exemplary leadership, and steadfast commitment to justice and media freedom.

As a commission of jurists, we expressed our utmost confidence that he will lead the Commission with integrity, fostering a balanced and just media environment that respects freedom of expression while maintaining high ethical standards.





Contempt of Court

ICJ Kenya on 10th September 2024 expressed strong condemnation following the continued defiance of Acting Inspector General of Police Gilbert Masengeli, who failed to appear in court for the seventh time. The court had summoned Masengeli to explain the whereabouts of Jamil Longton Hashim, his brother Aslam Longton, and activist Bob Michemi Njagi. The three individuals were reportedly in Kitengela. The incident drew widespread public concern, with rights groups demanding accountability and transparency in the case.

ICJ Kenya voiced disappointment over Masengeli's non-compliance, labeling it as a disregard for judicial authority, further calling on the police leadership to uphold the rule of law and cooperate with ongoing investigations.



Engagement on Police Reforms

ICJ Kenya on 18th September 2024, attended the launch of the Strategic Framework for implementation of the terms and conditions of service and other reforms for members of the National Police Service, Kenya Prisons Service and National Youth Service. During the launch, ICJ Kenya's Deputy Executive Director Demas Kiprono made a presentation on behalf of Civil Society organizations.



Decriminalization and Reclassification of Petty Offences

ICJ Kenya met with the UN Special Rapporteur on Extrajudicial Summary and Arbitrary Executions and the UN Special Rapporteur on Torture.

ICJ Kenya in both meetings highlighted the challenges experienced in protection of the right to life among other rights that are in constant violation. ICJ Kenya presented the importance of state visits by the rapporteurs as well as committed to engage the rapporteurs through their communications mandate.

Media Coverage

Standard Media: <https://www.standardmedia.co.ke/health/opinion/article/2001497543/law-protects-peaceful-demonstrators-from-harassment-by-police-officers>

Nation Africa: <https://nation.africa/kenya/blogs-opinion/blogs/ratify-the-convention-on-enforced-disappearances-4690540>

The Star: <https://www.the-star.co.ke/opinion/2024-08-01-nderu-abductions-have-no-place-in-kenya>



Standard Media: <https://www.standardmedia.co.ke/health/opinion/article/2001501042/baby-pendos-pending-trial-could-reshape-police-accountability-in-kenya>

Standard Media: <https://www.standardmedia.co.ke/opinion/article/2001499657/theres-urgent-need-to-operationalise-the-national-coroners-service-act>

Standard Media: <https://www.standardmedia.co.ke/health/opinion/article/2001497543/law-protects-peaceful-demonstrators-from-harassment-by-police-officers>

Criminal Justice

Journalist's Capacity Building

In line with our objective to campaign for the abolition of the death penalty in Kenya, ICJ Kenya conducted a capacity building with journalists further analyzing Kenya's history with the death penalty as well as statutes that prescribe it as a form of punishment.

During the training which led to vibrant discussions, journalists analyzed various case studies while being equipped with useful tips to adopt in storytelling.

ICJ Kenya, a member of the world coalition against the death penalty is committed to strengthen the international dimension of the fight against the death penalty as it gears towards its objective of universal abolition.



Law Students Capacity Building

On August 7th, during an engaging session on the abolition of the death penalty campaign in Kenya, we conducted a capacity building exercise with Law students from Riara University.

Students were able to dissect key rulings, such as the one rendered by the Supreme Court that declared the mandatory nature of the death penalty unconstitutional.

Further discussions centered around the penal code (amendment) bill 2023 that seeks to abolish the death penalty and substitute it with life imprisonment as an alternative punishment.



Engagement on Police Reforms

Dullah Omar Institute, University of the Western Cape, South Africa in partnership with ICJ Kenya and Commonwealth Initiative for Human Rights, Africa Office, Ghana held a two-half day consultative workshop focusing on women working in public spaces, in Johannesburg, South Africa, Accra, Ghana and Nairobi, Kenya.

The two half day sessions were attended by women who were in public spaces such as: street cleaners, vendors, reclaimers, women migrants and market traders. This session, as guided by preset questions, allowed the women to share

their experiences working in public spaces, and their participation in policy making stage by municipal councils.

In addition, there were discussions on law enforcement, habitation and what changes they would prefer being pushed for by the municipal and national authorities. The women made recommendations on how to properly address the plight of women working in public spaces.



World Coalition on Death Penalty Workshop

“ ICJ Kenya joined the global movement to discuss strategies to amplify the voices of abolitionists in Philadelphia, USA from 27 September to 2 October 2024.

Apart from discussing the plight of women on death row and the role of survivors/exonerees in the campaign, the participants were trained in financial reporting and monitoring and evaluation of the FFPA grant.

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**HUMAN
RIGHTS**

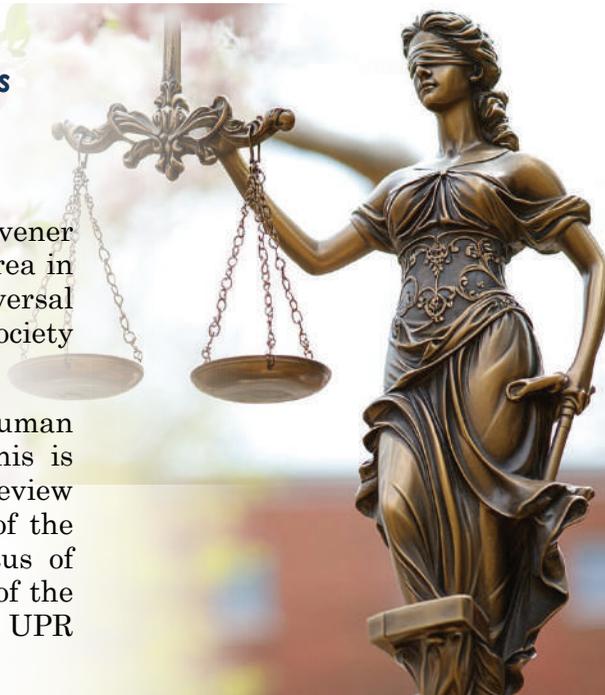
HUMAN RIGHTS

Accountability for Human Rights Violations and Atrocity Crimes

UPR Civil Society Report

ICJ Kenya participated as the convener of the Access to justice thematic area in drafting of the 4th cycle Kenya Universal Periodic Review (UPR) Civil society report.

The report highlighted the human right situation in the country. This is in preparation for the upcoming review of Kenya by the members states of the United Nations (UN) on the status of human right and implementation of the recommendations during the third UPR cycle.



Rwanda Genocide Transfer Cases

“ In the reporting period, the organization continued monitoring of the Rwanda genocide transfer cases. Specifically, we continued monitoring the case of Dr RUTUNGA Venant which has since concluded, and he was convicted for 20 years for the crime of complicity to commit genocide. During monitoring, the monitor met the interlocutors and the embassy to discuss the outcome of the case. Further, ICJ-Kenya also attended the appeal hearings of Mugimba and Iyamuremye. ”



Implementation of the ICCPR Recommendations

Kenya's review on the implementation of the International Covenant on Civil and Political Rights (ICCPR) recommendations was recently conducted during the 141st session of the Human Rights Committee.

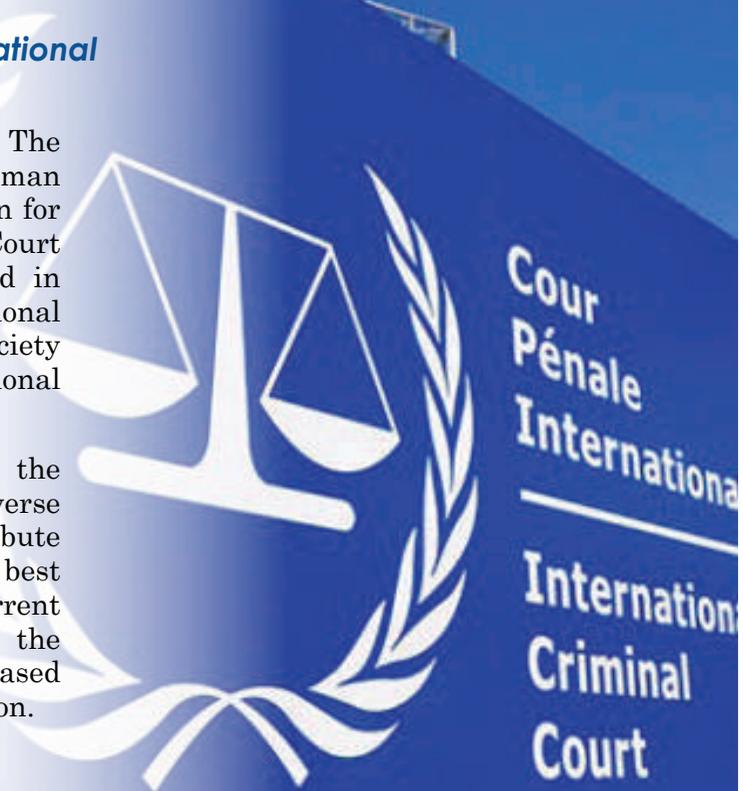
Considering the above, ICJ Kenya having been involved in drafting the civil society report that was submitted to the committee, attended a special virtual meeting with the special rapporteur on follow-up, to discuss the outcomes of the review.



Engagement with the International Criminal Court

Through the invitation of The International Federation for Human Rights (FIDH) and the Coalition for the International Criminal Court (CICC) ICJ Kenya participated in a series of two online cross-regional workshops focused on civil society engagement with the International Criminal Court (ICC).

During these workshops, the organization explored the diverse ways civil society actors contribute to the ICC's work, shared best practices, and addressed current engagement challenges with the aim to develop concrete action-based solutions to enhance collaboration.



Equality Rights and Inclusion

Validation workshop

ICJ Kenya organized a validation workshop on a report from the survey exercise conducted between February and April 2024 on “The Implementation Status of the Legal Aid Act 2016”.

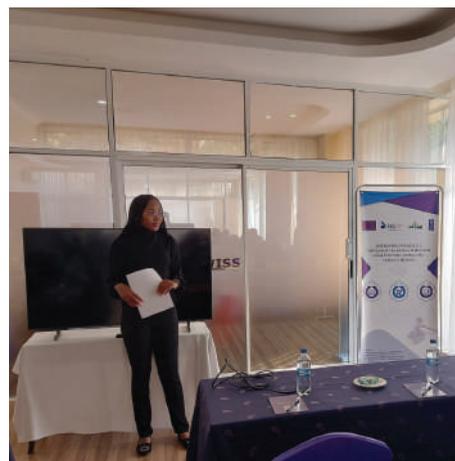
The validation workshop conducted in Nairobi on 26th August 2024 convened twenty-six stakeholders from the legal aid sector including paralegals, National Legal Aid Services (NLAS) and legal aid institutions. The stakeholders relayed their feedback on the report, which was used to enrich the national report.



Paralegal Chapters in the Western Kenya

“ ICJ Kenya, convened paralegals from Kisumu and Vihiga Counties from 7th to 8th August 2024 to engage them on the concept of strengthening paralegalism in the region through creation of self-regulating paralegal forums.

The two-day convening which hosted 30 paralegal coordinators established a paralegal chapter which has its own governing structure to strengthen paralegalism in the region by promoting collaborations and partnerships amongst the community-based organizations.

”

Validation workshop

ICJ Kenya conducted a two-day sensitization workshop in Kwale county which was attended by 27 paralegals on 15th and 16th August 2024. The workshop led to increased capacity of paralegals on Alternative Justice Systems (AJS) to facilitate access to justice in the resolution of disputes.

The workshop emphasized the effectiveness of the AJS approach in the resolution of disputes as it considers various cultural norms and addressed the root cause of disputes.



Paralegal's Code of Conduct

ICJ Kenya on September 5th actively participated in a validation workshop at the Kenya School of Law for the code of conduct for community paralegals bringing together 94 partners from different organizations to discuss key issues around access to justice in communities.

Our programme officer Damaris Kemunto during the event, reiterated the critical role paralegals play in facilitating access to justice and legal aid delivery.



UN Working Group on Discrimination Against Women and Girls

ICJ Kenya participated in a brief to the UN working group experts on discrimination against women and girls on 6th September 2024. The brief was organized by ICJ Kenya, the Advocates for Human Rights, the Cornell Center on the Death Penalty Worldwide, the International Network of Formerly Incarcerated Women, Women Beyond Walls and The World Coalition Against the Death Penalty.

The objective of the brief was to inform the UN working group on the situational context on access to justice for women in select countries and make recommendations to enhance access to justice.

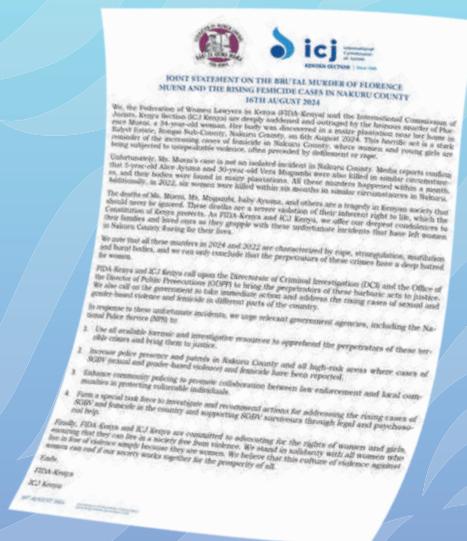
ICJ Kenya focused on the intersectional discrimination faced by women in the judicial process from the point of arrest to sentencing and in prison. Additionally, ICJ Kenya implored on the need to enhance legal aid mechanisms especially to women from economically disadvantaged backgrounds who are in conflict with the law.



Femicide Cases in Nakuru County

ICJ Kenya published a joint statement with FIDA Kenya in light of the femicide cases that were on the rise in Nakuru in August 2024. The statement called out the Office of the Director of Public Prosecutions (ODPP) and the Director of Criminal Investigations (DCI) to bring the perpetrators to justice.

Further it urged the government to take action address the rising Gender Based Violence (GBV) cases and femicide in other parts of the country. As a result, the DCI through its digital platform X, announced the arrest of the main perpetrator. ICJ Kenya is closely following the matter to ensure that justice is served.



Media Coverage

ICJ Kenya: <https://icj-kenya.org/news/alternative-justice-system-paralegals-in-kwale-aiding-access-to-justice/>

Civic Space, Digital Rights and Independent Media Kenya and Artificial Intelligence

“ ICJ Kenya analysed the Proposed Demonstrations and Assembly Act 2024 by assessing the impact of existing laws and policies on digital rights and civic space through surveys, case studies, and empirical data collection. ”



Data Protection Act

ICJ Kenya drafted research analysis of Data Protection Act of Kenya, which resource material being published on the ice Kenya website. The analysis focused on highlighting freedom of expression in relation to data disclosure by relevant public authorities.



Public Statements on the importance of Safeguarding Civic Freedoms

During the anti-government protests led by the Gen Z movement, ICJ Kenya issued several public statements intended to highlight the importance of safeguarding civic freedoms, such as the rights to peaceful assembly and expression.

These statements, issued in collaboration with allied organizations and media partners, condemned any form of excessive use of force by law enforcement and called for adherence to international human rights standards.

Media Coverage

Standard Media: <https://www.standardmedia.co.ke/business/opinion/article/2001498841/implications-of-assenting-to-the-appropriations-bill-on-country>

Citizen Digital: <https://www.citizen.digital/opinion-blogs/opinion-promote-digital-rights-for-a-thriving-democracy-n348250?preview=true&userid=1037>







**ECONOMIC
JUSTICE**

ECONOMIC JUSTICE

Corporate and Public Sector Accountability

Assessing the Implementation of Access to Information

ICJ Kenya's involvement in the meetings with the Commission on Administrative Justice (CAJ) and other partners was crucial for evaluating the effectiveness of access to information laws in Kenya. The intended outcome is to enhance public access to information, promote governmental accountability, and strengthen the legal framework that supports transparency and citizen engagement in Kenya's governance.



Data Protection Act

In Petition 218 of 2020, ICJ Kenya, as one of the petitioners, challenged the Cabinet Secretary for Health's failure to provide crucial information, highlighting the case's significance in upholding the right to access information. This case underscores the importance of transparency in governance and the accountability of public officials. The intended outcome is to reinforce the legal framework supporting access to information, ensure compliance with transparency standards, and promote public trust in governmental processes.



ECOSOC RIGHTS

Emerging Jurisprudence on the Right to Health

ICJ Kenya simplified recent court judgements relating to the right to health into case summaries for ease of understanding by members of the public and disseminated them for greater reach.

The two case summaries are accessible via the links below.

- **Unconstitutionality of Social Health Insurance Act, Primary Health Care Act, Digital Health Act**

<https://icj-kenya.org/news/sdm-categories/case-brief/>

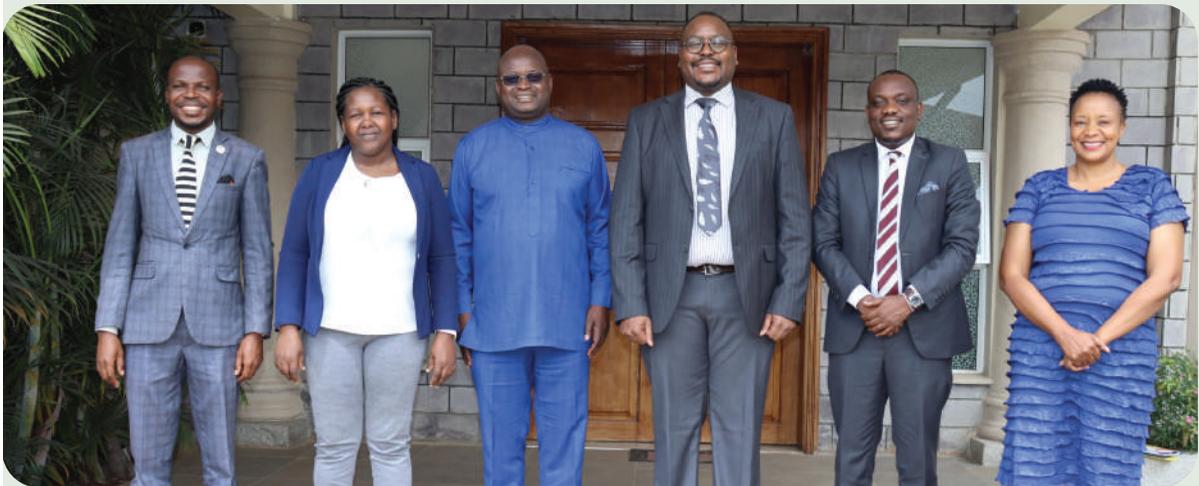
- **Right to respectful maternal health**

<https://icj-kenya.org/wp-content/uploads/2024/07/Case-Brief-Right-to-Maternal-Health-Care.pdf>



ICJ-Kenya - Kenya National Union of Nurses Engagement

“ On September 19th the leadership of ICJ-Kenya and the Kenya National Union of Nurses (KNUN) convened a consultative meeting involving ICJ Kenya's Deputy Executive Director and KNUN's Secretary-General, Seth Panyako. The discussions focused on strengthening collaboration and partnership between the two organizations to promote research and effectively map the right to health in Kenya.



ICJ-Kenya - Kenya National Union of Nurses Engagement

On September 19th, ICJ Kenya kicked off a two-day community engagement workshop on healthcare governance under the theme "Amplifying Civil Society's Voice in Healthcare Governance." In Makueni county.

During one of the sessions, focus was on raising awareness about the rights and responsibilities linked to the right to health, as residents voiced the challenges they face in accessing healthcare services. Through focused group discussions, participants collaboratively identified solutions to these pressing issues.

The community engagement also strived to create awareness about the new health laws and the ongoing transition from the National Health Insurance Fund (NHIF) to the Social Health Insurance Fund (SHIF).



Land, Environment & Climate Justice

Climate Justice

While emphasizing the urgent need for sustainable practices, community resilience, and political accountability in addressing climate change, we published several climate justice articles.

Through detailed discussions, we explored various facets such as the role of digital activism, the complexities of the Finance Bill 2024 in balancing economic growth with environmental stewardship, and the importance of land restoration in combating global warming.

The articles aim to inspire action by highlighting both local and global efforts, underscoring the necessity for collective responsibility in building a sustainable future. They call for policy reform, grassroots movements, and international cooperation.

Factsheet on Climate Change and the Right to Health

The factsheet on climate change and the right to health is crucial for ICJ Kenya's advocacy efforts, as it highlights the interconnectedness of environmental degradation and public health.

By emphasizing the legal framework that supports the right to a healthy environment, the factsheet aims to equip the public with the knowledge to advocate for stronger climate actions. The intended outcome is to foster informed dialogue, influence policy reforms, and strengthen Kenya's legal response to climate induced health challenges.



Research on Carbon Credits

ICJ Kenya developed two research papers on carbon credits and public land dispossession. The papers are vital for ICJ Kenya's focus on social justice and environmental accountability. The Quick Guide on Carbon Credits addresses ethical concerns, ensuring that climate initiatives do not exploit vulnerable communities. Meanwhile, the research paper on land dispossession and the Affordable Housing Project seeks to expose potential human rights violations linked to land use policies.



The intended outcome is to inform legal advocacy, promote transparency, and ensure equitable implementation of housing and environmental programs in Kenya.

Climate Change Working Group

ICJ Kenya participated in the Kenya Climate Change Working Group workshops on Loss and Damage, Climate Security, and Engendering Climate Action underscoring its commitment to addressing the multifaceted impacts of climate change.

These meetings provided valuable insights into policy frameworks and gender-sensitive approaches to climate programming. The intended outcome is to strengthen ICJ Kenya's role in shaping climate policies that ensure justice, equity, and security while promoting inclusive participation in climate action at both national and regional levels.



LAW

Baby Pendo's pending trial could reshape police accountability in Kenya

In July 2024, a landmark ruling by High Court Judge Hanyi Kinondo ordered 11 Senior Police Officers to take plea over the death of the month-old Baby Samuella Pendo, who lost her life during police operations in Kiambu following the 2022 General Election.

This ruling represents the first time that the ICJ has been applied in Kenya, setting a precedent for future cases involving serious human rights violations.

During that time, there were widespread protests, particularly in opposition to strongholds such as Nyandarua and Nyeri in the Rift Valley. These protests prompted heavy police operations, which reportedly led to numerous human rights violations, including tortures and extrajudicial killings.

The ICJ became involved after an Independent Panel for Future Cases Involving Serious Human Rights Violations, which was established by the Kenyan government in charge of operations at the Kikuyu Estate in Nyandarua on the night of August 11, 2022, should be held liable for the infant's death.

In response to these findings, the ICJ issued the ICJ, a law that provides for the punishment of certain international crimes, including genocide, crimes against humanity, and war crimes. These crimes are characterized by widespread or systematic criminal acts committed on or behalf of a state, which greatly violate human rights. The use of the ICJ, in this case, represents a shift from the traditional focus on individual responsibility to the broader concept of superior or command responsibility.



DEMAS KIPRONO,
Ag ED - ICJ Kenya

The doctrine of command responsibility holds that superiors can be held criminally liable for crimes committed by their subordinates if they fail to exercise proper control over their forces. This principle is based on the rationale that superiors have the power to control the actions of those under their command and, therefore, bear responsibility for preventing the commission of crimes.

The ruling by Kinondo endorses the potential of the ICJ as a powerful tool for accountability and transparency in law enforcement, particularly in addressing the legacy of policing in Kenya. As the ICJ Senior Police Officers prepare to take their plea, the country is also closely aware that the outcome of this case could have far-reaching implications for the future of justice and human rights in Kenya.

has fostered a culture in which police officers feel emboldened to use excessive force against protesters or bystanders. The ruling, however, they will be shielded by their superiors.

Many observers see the application of the ICJ as a critical step towards breaking this cycle of impunity by establishing the criminal liability of police superiors, by holding those in command responsible for the actions of their subordinates, the law could serve as a potent deterrent, encouraging superiors to exercise greater oversight and control to prevent the commission of crimes.

Additionally, the ICJ may address the accountability challenges faced by oversight bodies like the Independent Policing Oversight Authority (IPOA) and the ODP during the recent "Sun 2" protests in holding individual officers accountable for violations. This challenges in due diligence and police officers' readiness during operations, such as covering their faces, failing to wear uniforms, and using tearwater, making it difficult to identify perpetrators for prosecution.

Notably, this week, the High Court ordered the police to use during these clearing tactics in the context of policing protests. This order, combined with the potential application of the ICJ, signals a move towards greater accountability and transparency in law enforcement, potentially reshaping the landscape of policing in Kenya. As the ICJ Senior Police Officers prepare to take their plea, the country is also closely aware that the outcome of this case could have far-reaching implications for the future of justice and human rights in Kenya.

LAW

Ensure the review process streamlines media regulation in Kenya

Kenya's media landscape is often hailed as one of the most vibrant and diverse in Africa. The freedom of expression is robustly protected, allowing individuals from diverse backgrounds to voice their opinions and critique the government, including powerful figures, with minimal repercussions.

This environment is enshrined in the Bill of Rights, which enshrines freedom of expression, the right to information, and the freedom and independence of the media. Furthermore, public participation is recognized as a legislative and governance principle by a Constitutional Value under Article 10 of the Constitution. The judiciary, a key pillar of Kenyan democracy, has played a pivotal role in upholding these freedoms. Through various landmark rulings, the courts have reaffirmed the right to free speech and press. Over the years, the courts have struck down numerous laws that infringed on these rights, both those preceding and following the 2010 Constitution.

In 2023, the High Court declared Sections 94 and 132 of the Penal Code, which criminalized defamation and "unsubstantiated" statements of public officers, as unconstitutional. These provisions were deemed unjustifiable in an open and democratic society, as they stifled public discourse on government. Similarly, the courts struck down Section 23 of the Kenya Information and Communication Act, which criminalized the "misuse of a licensed telecommunication facility" to target journalists and bloggers critical of those in power. In 2015, parts of the Security Laws Amendment Act, including a clause require-



DEMAS KIPRONO,
Ag ED - ICJ Kenya

ing journalists to seek permission from the Inspector General of Police before publishing uncorroborated content, were also annulled.

However, the journey has not been smooth. The enactment of the Computer Misuse and Cybercrimes Act in 2018 introduced provisions aimed at criminalizing online and cyber-related activities, including under Section 22 and 23. The High Court upheld these sections, upholding an appeal that remains pending. This highlights the ongoing tension between safeguarding freedoms and addressing legitimate concerns about misinformation and harmful content.

It is essential to recognize that freedom of speech and press, as articulated under Article 32(2) of the

Constitution, comes with responsibilities. This article explicitly prohibits hate speech, incitement to violence, propaganda for war, and advocacy for discriminatory practices. Moreover, it emphasizes the importance of respecting the rights and reputations of others. This is not a limitation but a call to exercise these freedoms responsibly and constructively, recognizing the gravity of these responsibilities.

The media space in Kenya is regulated by approximately 21 laws, including the Media Council Act, the Kenya Information and Communication Act, the Access to Information Act, the Penal Code, and the Computer Misuse and Cybercrimes Act. An ongoing review aims to further align these laws with the Constitution and eliminate any duplications or gaps. This review addresses concerns about the regulatory functions of the Media Council of Kenya, the Media Complaints Commission, the Communications and Multimedia Appeals Tribunal, and the Communications Authority, ensuring a coherent and efficient legal framework.

Journalists and media entrepreneurs benefit from a code of conduct under the Media Council Act. This code upholds ethical standards such as accuracy, fairness, independence, integrity, respect for privacy, and the protection of marginalized groups' anonymity. The Media Commission's current efforts to refine the code ensure that ethical standards are maintained. As the media landscape evolves, ongoing legal reviews remain a cornerstone of democracy.

10



Ratify the Convention on enforced disappearances

The past few weeks we have witnessed peaceful protests in Kenya where the Kenyan People are demanding the Convention to be ratified. The Convention is a key instrument for the protection of the human rights of victims of enforced disappearances. It is a landmark treaty that sets out the obligations of states to prevent, investigate, and punish such acts, and to provide redress to victims and their families.

Some of those abducted have since been released after negotiations. However, many others remain missing. In some cases, their whereabouts are unknown. The Convention provides that measures must be taken to ensure that enforced disappearances are effectively prevented. It also sets out the obligations of states to investigate and punish such acts, and to provide redress to victims and their families.

Enforced disappearances are often used as a tool of repression and to instill fear in the population. They are a violation of international human rights law and a crime under international law. The Convention provides that measures must be taken to ensure that enforced disappearances are effectively prevented. It also sets out the obligations of states to investigate and punish such acts, and to provide redress to victims and their families.

Unfortunately, there are those who are yet to be found while others, sadly, are now deceased.



Wallace Nderu | Advocate of the High Court

It is crucial that the Kenyan government ratify the Convention on Enforced Disappearances. This would ensure that the Kenyan government is held accountable for any such acts, and that victims and their families are provided with the necessary support and redress.

The Convention on Enforced Disappearances is a landmark treaty that sets out the obligations of states to prevent, investigate, and punish such acts, and to provide redress to victims and their families. It is a key instrument for the protection of the human rights of victims of enforced disappearances. The Convention provides that measures must be taken to ensure that enforced disappearances are effectively prevented. It also sets out the obligations of states to investigate and punish such acts, and to provide redress to victims and their families.

Unmasking the political trickery in bipartisan talks

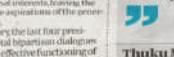
Political bipartisanship talks have become a familiar sight in Kenya's political landscape, often heralded by a sense of optimism and hope for a more stable and democratic future. These talks, often portrayed as a path to national reconciliation and progress, frequently serve as a backdrop for a complex interplay of power and self-interest, leaving the public to question the sincerity and effectiveness of the process.

Throughout Kenya's history, the last few presidents have engaged in pivotal bipartisan dialogues to ensure the seamless and effective functioning of the government. Moi's era saw the establishment of the Cooperative Government, a term coined by the deliberative approach to governance. Kibaki's tenure introduced the Coalition Government, a term coined by the "business as usual" government, reflecting a shared power arrangement. Subsequently, the MwKibaki Government emerged under Uhuru's leadership, emphasizing the importance of unity and collaboration. Presently, Ruto's coalition with the opposition has been a key feature of his administration.

As illustrated above, at the heart of political bipartisan talks in Kenya lies an intense power struggle among the political elite. The underlying motivations often revolve around the distribution of resources, control over government institutions, and the advancement of personal and party agendas. Political bipartisanship in Kenya has been utilized as a tool to quell dissent and silence alternative voices, particularly those calling for accountability and opposing government actions that are shrouded in secrecy and lack transparency when political elites engage in these talks, they often do so to create an appearance of unity and cooperation, which can serve to marginalize and discredit critics.

By framing dissenting voices as obstacles to progress and national unity, the political elite effectively undermines legitimate concerns and stifles debate. However, the Kenya Kwanza government, led by President Ruto, now finds itself navigating uncharted waters, confronted by the formidable challenge

Kenians understand that when political elites retreat behind closed doors, the free exercise of democracy is compromised.



Thuku Mburu | Politician

The Kenyan people themselves. Ensuring their sovereignty directly Kenyans are holding the government to account and calling out actions that do not resonate with the masses.

Unlike previous movements, this uprising is fearless and leaderless; it is a genuine people's initiative. With no figureshead to negotiate or hold dialogue with, the traditional avenues of negotiation are effectively blocked.

The Kenyan people have made their stance clear: there is no need for dialogue to address issues that are straightforward and demand immediate action. Any should it be dialogue to crack down on corruption is a round-table discussion required to implement austerity measures, hire Junior Secondary school teachers, or post medical internists. Must we convene a dialogue committee to reconduct the JEE, or wait our public debt? Do we need endless debates to end incompetency and poor service delivery? These are questions that highlight the absurdity of the government's call for dialogue on matters that require decisive action, not endless negotiations.

Kenyans are acutely aware that these backroom deals do not serve their interests. They understand that when political elites retreat behind closed doors, the true essence of democracy is compromised.

Mr Mburu is a lawyer and a programme officer at the Kenyan Section of the International Commission of Jurists (ICJ Kenya).



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