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International  
Commission  
of Jurists

**KENYAN SECTION** | Since 1959

# 2013 Impact Report



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of Jurists

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# *2013 Impact Report*





**The Kenyan Section of the International  
Commission of Jurists (ICJ Kenya)**

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## Feedback from various Stakeholders

### “Legislations on Access to Information and Data Protection

The Ministry wishes to register much appreciation for the support and collaboration that your organization has extended in this process culminating in the drafting of the Access to Information Bill, 2014 and Data Protection Bill, 2014 which are now ready for submission to Parliament.

In this regards, the Ministry is calling for continued partnership with yourselves in terms of further contributions and an enhanced public participation process going forward.”

**Dr. Fred Matiang’i, Cabinet Secretary,**  
*Ministry of Information, Communication and Technology*

### “Invitation to the NCIFBA/IJR Policy Briefs Seminar

In recognition of the role and potential that your organization has in the overall reconciliation agenda, NCIC and its partners will be highly honoured by your participation or representative in the seminar.”

**Hassan S. Mohammed,**  
*OGW, Commissioner National Cohesion and Integration commission.”*

“The Authority recognizes you as a major stakeholder in the implementation of its mandate and functions.”

**Maina Njorge,**  
*Ag. CEO/Director, Independent Policing Oversight Authority (IPOA)*

“On behalf of the University of Nairobi School of Law, I wish to thank you most sincerely for your participation during the Legal Aid Clinic held on 4th October, 2013. The services you provided to all the staff, students and the general public will lead to their deepened understanding of the constitution and enlightenment on how to deal with various legal issues that may affect them.”

**Patricia Kameri-Mbote,**  
*SC, Professor of Law/ Dean, School of Law, UON*

“The USIU Library acknowledges with special thanks, the receipt of your kind donation of the publications as per the attached books schedule. We wish to assure you of their invaluable contribution to the teaching and research program of USIU.”

**Dr. Sylvia Ogola, USIU Librarian**

“We appreciate the good working relationship with your esteemed office and look forward to more strengthen collaboration in future.”

**Peter Kiama,**  
*Executive Director, Independent Medico-Legal Unit*

“

*ICJ Kenya played a key role in supporting the TJRC process, including through numerous independent critiques of procedural elements of the process, as well as expert testimony on thematic issues which the commission addressed. ICJ Kenya was also part of a civil society coalition that contributed to the framing of the chapter on reparations, which was finally adopted by the commission.*”

**Ken Nyaundi**  
Chairman

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## Abbreviations

ACHPR	:	African Commission on Human and Peoples Rights
AU	:	African Union
ASP	:	Assembly of States Parties
CSOs	:	Civil Society Organisations
CUCS	:	Court Users Committees
DRC	:	Democratic Republic of Congo
EACC	:	Ethics and Anti Corruption Commission
EAMJA	:	East Africa Magistrates and Judges Association
ICC	:	International Criminal Court
ICJ GENEVA	:	International Commission of Jurists Geneva
ICJ KENYA	:	The Kenyan Section of the International Commission of Jurists
JSC	:	Judicial Service Commission
JWCEP	:	Judiciary Working Committee on Electoral Preparations
KLRC	:	Kenya Law Reform Commission
KPTJ	:	Kenyans for Peace with Truth and Justice
KTJN	:	Kenya Transitional Justice Network
NALAEP	:	National Legal Aid and Awareness Programme
OGP	:	Open Government Partnership
OMCT	:	Organisation Against Torture
TOT	:	Training of Trainers
PRWG	:	Police Reforms Working Group
SGBV	:	Sexual and Gender Based Violence

## Acknowledgement

I wish to thank all those who contributed towards the successful publication of this report. This report is produced solely by ICJ Kenya and the organization is indebted to all its donors who have continued to support our work over the years. In addition, ICJ Kenya is grateful to our network partners for their collaboration in the implementation of our programmes and activities.

My special thanks go to the ICJ Kenya staff, the governing Council for their guidance and leadership and to the entire membership for their continued support in the achievement of the ICJ Kenya goals and objectives.

It is our hope that this report will give you an indication of the organization's performance during the year under review.



George Kegoro  
Executive Director

## Message from the Chairman



During 2013, ICJ Kenya contributed towards Kenya's troubled transitional process aspects of which have included the Truth Justice and Reconciliation Commission (TJRC) and the search for justice for the victims of the post-election violence (PEV).

A significant occurrence was the conclusion of the work of the Truth Justice and Reconciliation Commission which released its report in June. The release of the report marked the end of Kenya's problematic process to create a record of historical injustices which, it is hoped, will assist the country to move forward. The final difficulty in this process, which had been hampered by credibility issues arising from the questioned leadership of the chair of the commission, Bethuel Kiplagat, showed up in the manner in which the report was released, after some of its contents had been altered, allegedly due to pressure from the office of the president. It was alleged that the office of the president was unhappy with aspects of the report and prevailed on individuals in the commission to change the report before this was handed in. These changes did not involve all the commissioners, and were done without compliance with a pre-agreed protocol on how such changes could have been made.

ICJ Kenya had played a key role in supporting the TJRC process, including through numerous independent critiques of procedural elements of the process, as well as expert testimony on thematic issues which the commission addressed. ICJ Kenya was also part of a civil society coalition that contributed to the framing of the chapter on reparations, which was finally adopted by the commission.

There, however, followed much opacity in the management of the report, after its release to the public amid reports that the National Assembly was preparing to amend the governing law to allow itself powers to alter contents of the report. The fear is that if such an amendments is achieved, it will lead to the alteration of the report to remove aspects with which elites in Kenya are in disagreement.

While the process and report of the TJRC was far from perfect, ICJ Kenya hopes that the process of implementing the report will commence in the coming months. ICJ Kenya, has, therefore, been urging the government to ensure that the implementation process suffers no further delay.

The TJRC process was only one of several national mechanisms in Kenya for the management of the future of victims. The other significant process revolves around the search for justice for the PEV cases, which remains bleak and has been characterized by discordant positions among the public agencies on which responsibility in this area has been placed. The Judicial Service Commission continued in its push for the establishment of a special division of the High Court, the International Crimes Division, (ICD), to try crimes committed during the PEV, a process that apparently lacks the support of the Director of Public Prosecutions, and which faces many unanswered questions from civil society groups that have been working with victims of the PEV.

A consultative process to bridge differences between stakeholders was hampered by poor planning and unilateral decision-making by the JSC, which compelled civil society stakeholders to pull out of participating in a key consultative meeting. At the same time, the DPP

remained strongly opposed to the creation of the ICD arguing that it would be unconstitutional to create a parallel prosecution authority for the ICD, outside of his office.

Key questions raised by stakeholders remain unanswered, including which cases the ICD would prosecute in view of findings by taskforce established by the DPP that the case files opened by the police for criminal complaints arising from the PEV do not contain sufficient evidence to prosecute, leading to the fear that the ICD would remain idle after establishment.

An important process issue is the fact that the JSC has chosen to lead the discussions on the possibility of establishing the ICD. This is an unusual role because the judiciary has no power to determine whether or not the executive branch of the court will actually use the ICD. The process for the establishment of an ICD is bereft of demand. The judiciary will be left in an embarrassing position if nobody uses the court.

The difficulties facing the TJRC process and the search for justice for the PEV are representative of the problems facing transitional justice in Kenya, and demonstrates the size of the problems that ICJ Kenya and other stakeholders working in this area, must continue to confront

**Ken Nyaundi**  
Chairman

## Message from the Executive Director



The year 2013 was significant for Kenya because of the general elections that took place in the country. These followed the fateful 2007 elections which ended in failure when the results were disputed by the opposition. The resulting violence led to abominable crimes for which the International Criminal Court eventually

commenced prosecutions on the Kenyan situation, against personalities regarded as bearing the greatest responsibility for the violence.

Those facing prosecution before the court, Uhuru Kenyatta and William Ruto, had since become presidential running mates in the elections of 2013. There was understandable fear that the elections, like the previous one, would end in violence and failure. While violence did not break out, the elections had significant challenges following an extensive failure of the systems employed by the Independent Electoral and Boundaries Commission, which were aimed at ensuring the verifiability of the results.

Election petitions filed in the Supreme Court to challenge the results were all dismissed, except for a cross petition that sought an interpretation of how spoilt votes were to be treated when determining the presidential results, with the court agreeing with the petitioners that these were to be disregarded in the computation of the results.

The decision of the Supreme Court has since been criticized heavily on the grounds that the court did not provide clear rationale for the various choices it made,

and also that the court misinterpreted and misapplied the law governing election petitions.

Whatever their shortcomings, the elections succeeded in the smooth transfer of power, from the retiring president, Mwai Kibaki, to Uhuru Kenyatta, the new president, and went a long way towards confirming Kenya's basic democratic credentials.

The post election agenda seems to be an independent evaluation of the performance of the IBEC to determine the reasons for, nature, extent and effect of, the shortcomings experienced in the management of the elections, since it is only against a correct understanding of the problems faced that the preparation for the next elections can begin.

There is also a need to review the procedures and judgment of the Supreme Court, because one of the undoubted problems was the very short duration of time—14 days—that is provided for the resolution of presidential petitions.

While the country prepared for and voted in the elections of 2013, the ICC cases proceeded. Kenyatta and William Ruto, the new deputy president, who had assumed ultimate control of the Kenyan state, while facing charges before the ICC, had pledged that they would cooperate with the court even if they were elected to the high offices they sought.

Upon their assumption of office, the Kenyan state has mobilized the support of the African Union towards resisting the trials on, among others, the ground that serving heads of state should not be put on trial while in office.

A difficult relationship between the office of the prosecutor and the Kenyan state has characterized the cases, with the

prosecutor claiming a lack of cooperation by the Kenyan state towards the court. There have also been claims of witness tampering and proceedings commenced in the High Court for the extradition of a person suspected to have been involved in witness tampering have been bogged down in procedural technicalities.

Only the case against Ruto took off, with the one against Kenyatta still affected by procedural problems. As a result of a change of rules on presence at trial, Ruto has been able to skip a significant portion of the trial.

The difficulties faced by the Kenyan cases have led to the view that the playing field is not level, and that the efforts of the Kenyan state and the AU have skewed this significantly in favour of the accused persons. There will always be questions as to the kind of trial there would have been if the accused had not assumed ultimate control of the Kenyan state.

Domestically, the discussion on victims of the post election violence has receded with claims that this is because of the new leadership of the country, which is not keen on a continuing public discussion of this subject.

The abiding lesson from the Kenyan cases is that the constitutional provisions on conflict of interest have a meaning after all. In the case of the ICC cases, the assumption of office by Kenyatta and Ruto has placed the country's interests in conflict with the personal interests of the accused.

A handwritten signature in dark ink that reads "George Kegoro". The signature is written in a cursive style.

**George Kegoro**  
Executive Director

## Introduction

The Kenyan Section of the International Commission of Jurists (ICJ Kenya) is a non-governmental, non-profit and a member based organisation. ICJ Kenya is the only African national section affiliated with ICJ Geneva, although it operates autonomously. Founded in 1959 ICJ Kenya is the oldest human rights organization in Kenya. The main mandate of the organization is to promote and protect human rights, democracy and the rule of law to ultimately secure all human rights in Kenya. ICJ Kenya has observer status with the African Commission on Human and Peoples' Rights.

### VISION STATEMENT

Our vision is to become a premier organization in the promotion and protection of the rule of law, human rights and democracy for a just, free and equitable society.

### MISSION STATEMENT

As jurists, we shall promote and protect the rule of law and democracy in Kenya and across Africa through the application of legal expertise and international best practices.

### OBJECTIVES

The objectives of ICJ Kenya as stated in Article 3 of its Constitution are:

- (a) To develop, strengthen and protect the principles of the rule of law in the Republic of Kenya and in particular:
  - ❖ Develop, maintain, strengthen, and protect the independence of the judiciary and the legal profession;
  - ❖ Protect and promote the enjoyment of human rights as defined in the Universal Declaration of Human Rights, 1948.
- (b) To keep under review all aspects of the rule of law and human rights within the Republic of Kenya and take such action in promoting or ensuring their enjoyment.
- (c) To promote the provision of legal service in rural areas.
- (d) To assist in giving help to peoples in other territories to whom the rule of law and human rights may be denied.
- (e) To cooperate with any national or international body which pursues objects similar to or compatible with the aforesaid objects.

## The Governing Council

The organization is regulated by a Constitution and governed by a Council that comprises of seven members who are elected every two years. After the successful Council Elections held on 10th December 2013, the following members were elected to serve a two year term (2014/2015).



**Ken Nyaundi**  
*Chairman*



**Njonjo Mue**  
*Vice Chair*



**Mr. Jack Muriuki,**  
*Secretary*



**Protas Saende,**  
*Treasurer*



**Brenda Kamau,**  
*Council Member*



**Kelvin Mogeni,**  
*Council Member*



**Patrick Ngunjiri,**  
*Council Member*

# Membership

ICJ Kenya is a member based organization. Members are drawn from the legal fraternity in Kenya and are required to pay an annual subscription fee of KShs three thousands only. ICJ Kenya currently has over 400 members.

## The Secretariat

### Organisation Development Team

With the able leadership of the Executive Director, Mr. George Kegoro, a permanent secretariat comprised of professional and support staff members is charged with the daily implementation and administration of the programme and activities of the organization.



**George Kegoro**  
*Executive Director*



**Margaret Muriggu**  
*Finance Manager*



**Minnie Mang'eli**  
*Administrative Manager*



**Constance Furaha**  
*Finance Officer*



**Nancy Mwangi**  
*Administrative Officer*



**John Mwangi**  
*Office Assistant*



**David Kimani**  
*Logistics Officer*



**Festurs Musyoka**  
*Office Caretaker*

# Programmes Team



**Anne Nderi**  
Programme Manager,  
Democratisation Programme



**Stella Ndirangu**  
Programme Manager, International  
Cooperation Programme



**Miriam Chepchumba**  
Programmers Officer,  
Democratisation Programme



**Victor Kapiyo**  
Programme Manager, Human Rights  
Education Programme



**Anita Nyanjong**  
Programme Officer,  
Access to Justice Programme



**Edigah Kavulavu**  
Programme Officer, International  
Cooperation Programme



**Steve Ogolla**  
Programme Officer, Human  
Rights Protection Programme



**Maureen Omondi**  
Monitoring & Evaluation Officer



**Antony Kamaru**  
Programme Manager,  
Access to Justice



**Kathambi Rwito**  
Legal Research Assistant



**David Indenje**  
Communications Assistant



**Julie Mwangi**  
Legal Research Assistant



**Janet Milongo**  
Legal Research Assistant



**Linda Yegon**  
Legal Intern



**Maryanne Karani**  
Legal Intern

# Programme Work

The work of ICJ Kenya is divided into four main programmes:

1. *Democratization Programme*
2. *Access to Justice Programme*
3. *Human Rights Protection Programme*
4. *International Cooperation Programme*

## Democratization Programme

### 1. Supporting the Right to Access to Information in Kenya

#### 1.1 Implementation of the Right to Access Information

Since 2010, Kenya has established an enforceable right to information. This right is contained in the Constitution, which stipulates that a person has a right to information held by the state and the public authorities of Kenya and also information held by private hands if the information is needed to protect a private legal right.

The right to information was included in the Constitution at the culmination of a struggle lasting over a decade. This battle involved key actors in the Kenyan civil society who demanded the right to information be included under the law. The Kenyan Section of the International Commission of Jurists claims a significant contribution in the realization of this right.

ICJ Kenya was a founding member of the Kenyan Freedom of Information Network, the coalition of Kenyan civil society organizations that carried out a successful campaign for the inclusion of this right under the Constitution. ICJ Kenya continues to serve as the secretariat for the Network, a role that involves convening and coordinating activities of the Network. ICJ Kenya also serves as the contact point with government agencies on access to information forging a working relationship with the Ministry of Information and Communication, the focal government department on matters regarding access to information.

Although there is now a constitutional recognition of the right to information, challenges still remain. Two of the most important challenges are, first, there is still no

implementing legislation on access to information. In other words, the constitutional right lacks practical means of enforcement. In the absence of enforcing legislation, there is also an absence of procedural mechanisms to enforce the right. As part of this, it remains unclear how a citizen can initiate a request for information, how the relevant government departments should deal with requests for information that they may receive, or how grievances regarding delays or refusal to provide information requested for may be handled. Secondly, the attitude of public authorities, that bear the duty to comply with this new right, remains secretive supported by laws that still promote secrecy.

In this context, the work of ICJ Kenya during the last one year constituted of three distinct trajectories. First, the organization continued with its endeavors to promote the enactment of specific legislation that would give effect to the right to information. Secondly, ICJ Kenya continued with advocacy activities aimed at increasing stakeholder knowledge about the right to information. Third, ICJ Kenya continued to support activities that would seek to enforce the right to information by testing actual experiences with regard to the enforcement of this right.

During the year, the activities supporting the first of these objectives included dialogue with the Ministry of Information and Technology on the status of the Freedom of Information Bill. The enactment of the Bill would give legislative effect to upholding this right. In this regard, a meeting with ICJ Kenya Executive Director and the Minister for Information, Dr. Fred Matiangi, took place on 7th July, 2013 during which modalities for advancing the Bill were discussed. It was agreed that the Ministry would convene a stakeholder consultation on the Bill. The purpose of the consultation would be to agree on the text of the Bill to then be presented before the National Assembly. There were also discussions with the leadership of the National Assembly, including two individual members of the Assembly, Hon. Shakeel Shabir and Hon. Priscila Nyokabi. Agreement was reached to bring a private bill to be presented as an alternative to the bill expected from the Ministry. The rationale for the private bill is that this will hedge against unexpected difficulties with the government bill, and further, will motivate the government to remain on course with its own bill. In the coming year, it is expected that both these bills will be presented before the National Assembly.

With regards to activities promoting public knowledge on access to information, ICJ Kenya convened a freedom of information symposium in September 2013. The meeting brought together stakeholders including civil society organizations working on access to information issues, legal practitioners, the media, and government officials from the Ministry of Information and Technology. The current Cabinet Secretary for Information and Technology, Dr. Fred Matiangi graced the meeting with his attendance. The various actors present increased their knowledge and awareness on the right through the various presentations made. In addition, the non-state actors were able to get the government commitment through the ministry to ensure effective implementation of the right.

During this period, ICJ Kenya focused on establishing and supporting a devolved system of government to assimilate access to information capacities. Towards this end, ICJ Kenya carried out advocacy activities within the county governments of Nyeri and Laikipia on the right to information. As a sign of recognition to ICJ Kenya, the decision to work with these two county governments was demand-driven. Both Nyeri and Laikipia governments made specific requests to ICJ Kenya for capacity



*The Hon. Dr. Fred Matiangi, Cabinet Minister of Information and Technology addressing participants at the Freedom of Information Symposium held on 25th – 30th September, 2013*

building and legislative support to achieve access to information laws. In the coming year, this work will be furthered. If resources are available, ICJ Kenya will plan to work with other counties.

Lastly, ICJ Kenya supported litigation before the High Court that was brought by the Nairobi Law Monthly, a privately owned magazine, which sought the enforcement of this right against the Kenya Electricity Generating Company, (Kengen) a government corporation. Published in its lead story, the magazine asserted that the management of Kengen corruptly awarded billions of shillings worth of contracts to a number of foreign corporations. The magazine sought access to information regarding the affairs of Kengen to enable an independent verification of this claim. The case was eventually dismissed on the grounds that the right to information is provided to natural persons and that this excludes legal persons like the Nairobi Law Monthly.

## 1.2 Open Government Partnership

The Open Government Partnership (OGP) is a multilateral initiative that was formally launched in 2011, to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP emphasizes multi-stakeholder collaboration, and is overseen by a Steering Committee that includes representatives of governments and civil society organizations. Kenya is a member of the OGP and ICJ Kenya is one of a small number of Kenyan civil society organizations participating in the OGP process.

As part of ICJ Kenya's support for the OGP in Kenya, ICJ Kenya organized and took part in the first Africa regional meeting on OGP, held in Mombasa on 29th and 30th May 2013. The objectives of the meeting included: to outline the Africa agenda for open governance; promote OGP in Africa; and share and learn from experiences from different parts of the continent and beyond on open governance. Both government representatives and Civil Society Organizations in Africa attended the meeting. Aside from organizing the regional meeting, the ICJ Kenya supported the attendance and participation of various civil society organizations to attend the regional meeting from Nigeria, Tanzania, Liberia, Ghana, Uganda, Sierra Leone, Kenya, South Africa, Tunisia and Senegal.

Prior to this meeting, with the support of the African Freedom of Information Center based in Uganda, ICJ Kenya organized an awareness creation session amongst civil society actors on OGP. For ICJ Kenya the OGP process sits well with the organisation's access to information work, which has been going on for more than a decade.

### 1.3 The Devolved System and Access to Information

#### 1.3.1 Using Sports to create awareness on Access to Information



*(From left to right) George Kegoro, ICJ Kenya Executive Director, Dr. Sam Nthenya, Executive Director of the Nairobi Hospital, Hon. Bitange Ndemo and ICJ Kenya Chairman, Albert Kamunde during the 2013 Uwazi football Tournament.*

A unique avenue ICJ Kenya engages in to popularize its access to information campaign is its annual football tournament, the Uwazi Cup ("Uwazi" is Swahili for "openness"). In 2013, the thematic title for the tournament was "Effective Devolution Through

Access to Information." The tournament brings together actors concerned with access to information with a view of popularizing the right and building networks and alliances.

The 5th anniversary of the football tournament was successfully carried out, attracting twenty-five teams comprised of private, public and civil society sector stakeholders. Cumulatively, more than 1000 people attended the tournament and had messages on access to information. The increase in teams depicts that there is increased support and buy in on the right to access information. The tournament was graced and officiated by the then Permanent Secretary of Information and Technology, Dr. Bitange Ndemo.

#### 1.4 Access to Information and Citizen Empowerment



*Rift Valley Freedom of Information Network and the Freedom of Information Network members at a sensitization forum organized by ICJ Kenya on Access to Information on the 5-8th December 2011, in Nakuru.*

Working with grassroots networks continues to remain a priority area of ICJ Kenya with the purpose of strengthening capacities of grassroots networks and citizens to empower them to engage on governance issues. The Democratization programme works at the grassroots level with the Rift Valley Freedom of Information Network (RVFOIN) which is made up of various individuals from Community Based Organizations based in the former Rift Valley Province, the largest province in Kenya.

During 2013, ICJ Kenya continued to strengthen the capacity of the Rift Valley Freedom of Information Network on devolution and access to information. The Network in 2013 successfully concluded two petitions. First, the Network filed Petition No. 18 of 2012 through one of its member organizations, the Centre for Education in Democracy and Social Audit Advocacy. The case sought to obtain information on the utilization of funds for projects under the Constitutional Development Fund in Nakuru (Subukia Constituency) that was not properly accounted for. In its ruling, the Court recognized that the parties had a right to access the information on the funds. The court found that the Constitutional Development Fund Committee members were public officials and as such the petitioners could hold them accountable. The second case was the Nakuru High Court Petition no. 25 of 2013. The case sought to bar the newly elected Executive Committee of Nakuru from being sworn in on the grounds that the Governor of Nakuru County had not followed the proper procedures and process of constituting the Executive Committee. The Courts ruled that the process of selection and appointment was unconstitutional and the Governor had to start the process of selection and appointment as per the requirements of the Constitution.

## 2. Supporting the Legislature in Kenya

ICJ Kenya also implemented a project for strengthening the capacity of the legislature. The main focus was supporting select County Assemblies to develop and adopt standing orders that would govern their internal procedures. This support has been crucial because all such assemblies being new, they lack even the most basic capacity to conduct their legislative affairs. In this regard, ICJ Kenya drafted standing orders for the Laikipia County Assembly, which have since been

adopted and launched. Also, ICJ Kenya undertook a review of the standing orders of the Senate and the Interim standing orders of the County Assemblies of Nyeri and Laikipia to ensuring the legislative framework reflects the new constitutional requirements.

With regard to the second prong of parliamentary strengthening, ICJ Kenya undertook activities to enforce the ethical requirements of the Constitution of Kenya, 2010. Contained in Chapter 6 of the Constitution, the provisions seek to establish a higher threshold of accountability on the part of state officers and thereby to ensure that a higher level of probity is realized.

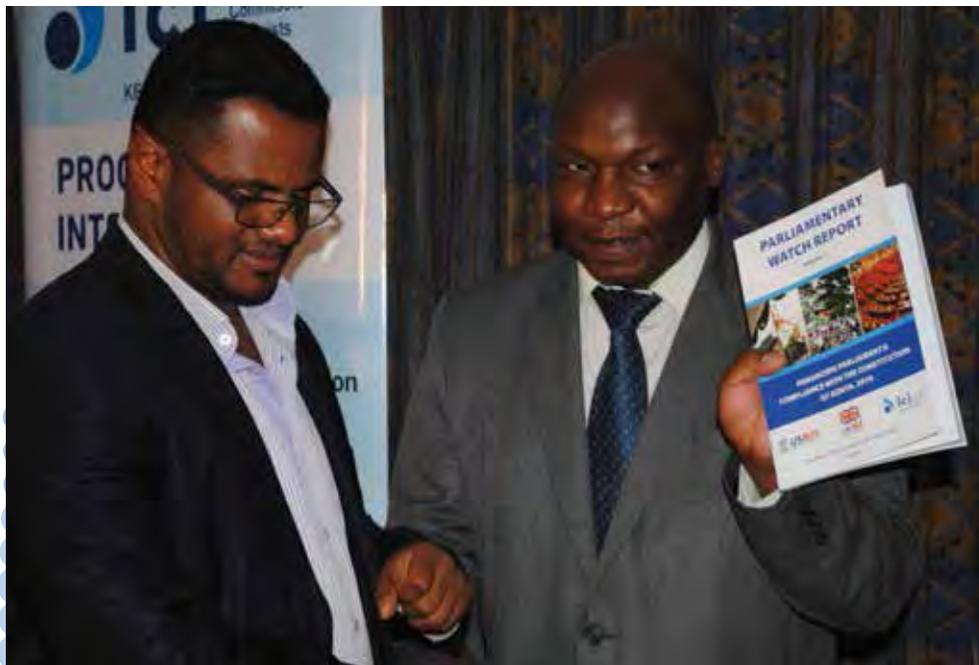
ICJ Kenya's contribution has been at two levels because the ethical regime under the constitution is still new and needs development. First, ICJ Kenya has engaged in research aimed at knowledge creation that will, in turn, support the practical attainment of this new regime. Secondly, ICJ Kenya has been involved in capacity building for relevant stakeholders regarding the content of this right.

With regards to knowledge creation, ICJ Kenya commenced what is hoped to become an authoritative resource on parliamentary affairs, *Parliament Watch Report*. The *Parliament Watch Report* is modeled on ICJ Kenya's well-known publication, the *Judiciary Watch Report*, which is an annual report published by the organization on the judiciary. Now in its 15th year, the *Judiciary Watch Report* has become an authoritative reference on issues surrounding access to justice. It is hoped in the years to come that *The Parliament Watch Report* will gain similar standing as that enjoyed by the *Judiciary Watch Report*. Titled *The Status of Democracy in the Kenyan Parliament and Comparative Research on the Legislature Bicameral system and Code of Conduct*, the first edition of the *Parliamentary Watch Report* covered issues arising from chapter 6 of the Constitution.

Presided over by Senator Hassan Omar Hassan, and attended by other political leaders, the launch of the publication provided a useful opportunity for a public discussion on the ethical issues affecting political leadership, specifically elected representatives. The launch was well covered by the media providing wider public access to these discussions. As a measure of its impact, the publication has

received significant interest from the Nairobi County Assembly whose Legal Affairs Committee has approached ICJ Kenya with a request for capacity support on the issues covered by the report.

Furthermore, ICJ Kenya relied on research conducted on ethics and integrity and acted with partners to make presentations to the Ethics and Anti-Corruption Commission (EACC) on the draft Leadership and Integrity Regulations, 2013. The views were informed by the research carried out on the Leadership and Integrity Act, 2012. It is hoped that the EACC would adopt the views to ensure the Regulations are in line with best practices on Ethics and Integrity and constitutional requirements.



*(From left to right) Hon. Hassan Omar, Member of the Senate Committee on Legal and Human Rights, and Senator of Mombasa County and George Kegoro, the Executive Director of ICJ Kenya, during the Launch of ICJ Kenya publication, Parliamentary Watch Report.*



*(From left to right) Hon. Hassan Omar, Member of the Senate Committee on Legal and Human Rights, and Senator of Mombasa County, Ken Nyaundi, the Chairman of ICJ Kenya and Hon. Jaffer Kassam, Chairperson of the Justice and Legal Committee of Nairobi County Assembly, during the Launch of ICJ Kenya publication, Parliamentary Watch Report.*

# Human Rights Protection Programme

The overall goal of the Human Rights Protection Programme is to improve human rights protection. In 2013, the programme advanced this goal by reaching out to policy makers and members of the public through several interventions geared towards improving their level of awareness on human rights and promoting the effective implementation of human rights. Additionally, the programme continued to leverage and build on the gains from the previous years.

## I. Legal Aid



ICJ Kenya's former Programme Manager, Sarah Muthiga welcoming Attorney-General Prof. Githu Muigai to the ICJ Kenya Legal Aid Stand at the LSK Legal Aid Week.

ICJ Kenya has achieved significant success in its advocacy towards the adoption of a policy and legislative framework for the provision of legal aid. Key achievements include its contribution to the development of the draft Legal Aid Bill and the draft Legal Aid Policy. The draft Legal Aid Bill and draft Legal Aid Policy seek to facilitate access to justice and social justice through the establishment of a national legal aid scheme to benefit indigent persons and disadvantaged communities in Kenya. ICJ

Kenya has continued to work closely with the Department of Justice, the National Legal Aid and Awareness Programme (NALAEP), the Kenya Law Reform Commission (KLRC), and the Paralegal Support Network (PASUNE). ICJ Kenya has supported civic education and engaged stakeholders in discussions on the draft Legal Aid Bill and draft Legal Aid Policy. Both are in the final stages of adoption by cabinet and tabling in Parliament by the Attorney-General.

Over and above the legislative process, ICJ Kenya has continued to support other initiatives towards the provision of legal aid. In this regard, ICJ Kenya leveraged on the Law Society of Kenya Legal Awareness Week held between the 23rd and 27th September 2013, in Nairobi; the University of Nairobi the Legal Aid Day held on 4th October 2013, in Nairobi; and the UNDP Amkeni Wakenya Civil Society



ICJ Kenya's Edigah Kavulavu offering legal advice to clients at the ICJ Kenya Legal Aid Stand at the LSK Legal Aid Week.

Organizations Week held between the 11th and 16th November 2013, in Meru to provide free legal aid. During the events, advocates from ICJ Kenya assisted more than 600 indigent persons with various legal problems. In addition, the events provided an opportunity to showcase and distribute ICJ Kenya's publications to lawyers and members of the public.



*Members of the public at the ICJ Kenya Stand during the UNDP Amkeni Wakenya CSO week in November 2013.*

## 2. Community Empowerment

ICJ Kenya's work with paralegals across the country continues to provide a vibrant forum for local engagement with a wide range of human rights and governance issues. The idea of community paralegals is inspired by the fact that there are a limited number of lawyers in the country (10,000 for a population of more than 40 million), who are concentrated in the big urban areas, where they are not easily accessible to the vast majority of the population, and also the fact that their fees are unaffordable to the majority of the population. The paralegals are community leaders who, with support from ICJ Kenya, including through lessons on basic legal literacy, serve as intermediaries between their communities and the legal system. They act

as a first point of call in their communities whenever members of the communities interact with legal issues that need the attention of lawyers or public authorities. ICJ Kenya's paralegal sites were founded more than 15 years ago, and have blossomed beyond imagination, serving as an incubation point for genuine grassroots leadership that covers the entire spectrum of human rights engagement.

A sign of their development is marked by the election of a local paralegal leader to the Laikipia County Assembly, where he is expected to remain an ambassador of the values that ICJ Kenya has imparted on the local site that he has been heading.

The network of more than 400 paralegals across six counties has charted new frontiers in advancing human rights within their localities in Meru, Laikipia Kitui, Transmara, Taita Taveta, Kinango, and Transmara. During the year in review, the community paralegals provided legal aid and referral in response to more than 1,000 cases relating to child abuse, land, domestic abuse, succession, and human-wildlife conflict. Currently, they also provide mediation and are represented in the Court User Committees (CUCs) in their localities.



*ICJ Kenya trained Paralegal Ms. Christine Vethi assists Martha Mbulungo the victim, in November 2013.*



*ICJ Kenya's Miriam Bomett training Paralegals at the TOT Workshop on ECOSOC Rights in August 2013.*

Notably, in Kitui, the paralegals led by Ms. Christine Vethi competently responded to the plight of Martha Mbulungo, a 17 year old school girl, whose arms were chopped off by a boyfriend in October 2013. The girl was taken to the Gender Based Violence Rescue Centre and treated at Nairobi Women's Hospital. Through their support, the story generated media attention leading to the subsequent arrest and prosecution of the offender for attempted murder. While the case is yet to be concluded, the paralegals continue to follow up to ensure that Martha gets justice.

Paralegals and community monitors trained by ICJ Kenya and one of its partners, the Coast Rural Support Programme, have been empowered to be active agents of social change in their areas. In 2013, ICJ Kenya conducted several training sessions on key issues such as devolution, economic and social rights, and social accountability. As a result, paralegals and community monitors have taken the lead in seeking accountability from government officers and remain actively involved in county planning where they monitor and contribute to local development.

In Kwale, for example, they identified and collected information about incomplete projects in the county. The information was presented to the newly elected members of Kwale County Assembly and Executive in April 2013. As a result, stalled projects such as the Mzizima health facility, Mabalani water project and Shimoni water project, have since been completed. Stephen Nodoro Chaka, Chairman of the Community Monitors CBO, formed out of the Lunga Lunga Joint Working Group, asserted "ICJ Kenya gave us tools so we knew how best to demand better services from our officials. Before, we were afraid to approach the government ministers, but because we learned about our rights, we were able to start getting results."



*Paralegals and Community Monitors from Kwale discussing incomplete projects with Members of County Assembly and Government Officials from Kwale in April 2013*

### 3. Transitional Justice

During the year, the Truth Justice and Reconciliation Commission released its report, which had been delayed for a long time. The release of the report was, however, mired in controversy that changes had been made to the final report, contents were deleted, and protocols that had been agreed on by the commissioners were not followed.

It also transpired that political pressure was being exerted for the legislature to change some of the content of the report. ICJ Kenya continued to monitor these developments and to demand for an explanation of how the unauthorized changes to the report were made.

ICJ Kenya has also continued to call for, among others, the full implementation of the report, institutional reform, healing and reconciliation, and a victim-centred approach in Kenya's transitional justice processes. ICJ Kenya has continued to work in partnership with other members of the Kenya Transitional Justice Network (KTJN), which is a network of civil society organizations collaborating towards the realization of transitional justice programmes in Kenya.

On a positive note, the proposals on the reparation of victims, which had been prepared by a group of civil society actors, and suggested to the TJRC, were incorporated into and now form part of the report. The next phase of the struggle is to campaign for their implementation

To decide on a collective position regarding the TJRC report, ICJ Kenya and other KTJN members convened a national conference on the Truth Justice and Reconciliation Commission (TJRC) process. At the end of the conference, a communique was produced calling for the implementation of the TJRC report. In addition, ICJ Kenya and KTJN members created and proposed a reparation framework for victims that were adopted in the final report. ICJ Kenya has also continued to advocate for the full implementation of the TJRC report through representations to the Attorney General and in other ways.

An innovative way of promoting awareness about the TJRC report was the use of the annual Safaricom Lewa Marathon. ICJ Kenya actively participated in and shared promotional information on the TJRC process. ICJ Kenya, also, used parliamentary committee hearings and the media to sustain the campaign on the TJRC report. Through these efforts, the TJRC report was tabled before Parliament. However, the report is yet to be formally adopted amid fears that its contents may be altered one more time.

#### 4. Equality and Non-Discrimination



George Kegoro, Executive Director ICJ Kenya (left) opening the Conference on Equality and Non-Discrimination in March 2013. Looking on is Dr. Rose Odhiambo Secretary/CEO NGEK and Jim Fitzgerald of the Equality Rights Trust.

Other aspects of ICJ Kenya's human rights work involved the discourse on discrimination and promoting equality. ICJ Kenya organized a conference held on March 26th and 27th in Nairobi in partnership with the National Gender and Equality Commission and The Equality Rights Trust. This conference brought together more than 60 participants including representatives from government, civil society organizations, and the public. In a communique developed in the conference, participating organizations called upon the government to introduce a comprehensive legal framework to embed and guarantee the rights to equality and non-discrimination in Kenya.

#### 5. Criminal Justice Sector Reforms

ICJ Kenya in partnership with members of the Police Reforms Working Group (PRWG) is involved in monitoring and supporting reforms in the criminal justice sector. ICJ Kenya participated in the development of the Police Vetting Tools and Guidelines. These guidelines are currently in use by the National Police Service Commission. In addition, ICJ Kenya conducted six civic education forums to raise awareness of members of the public on the police vetting process and the proposed reforms of the National Police Service. These forums generated substantial public debate on the issues. Also, ICJ Kenya contributed to the review of the National Police Service Act and the National Police Service Commission Act and as part of PRWG's presentation on a memorandum to Parliament critiquing the proposed amendments to the two Acts of Parliament. Subsequently, Parliament, in December 2013, rejected the proposed amendments to the two bills.

During the same year, ICJ Kenya commissioned a research study on municipal bylaws. The research study is expected to provide recommendations on the reform of unconstitutional practices in the criminal justice system focusing on the petty crimes created by municipal by laws.

ICJ Kenya continued with its work of upholding human rights while combating terrorism. Six Kenyan nationals, charged with terrorism in Uganda, marked their third year in prison with no trial still in sight. However, the Ugandan Court of Appeal finally appointed a new set of judges to commence the hearing on constitutional

challenges facing the prosecutions in Uganda. Prior to this, a pending appeal by the accused could not convene because the Court lacked quorum. In November 2013, ICJ Kenya highlighted in the media their protest through a slow down and hunger strike at the Luzira Upper Prison over the three year delay of their pending cases before Ugandan Courts since they were formally charged.

At the same time, ICJ Kenya continued to monitor the implementation of the Prevention of Terrorism Act and the cases.



*From left: Bright Theu, Lawrence Ngugi, Sarah Muthiga, Peter Ngumi and Solomon Sacco after the ACHPR hearing in Banjul, the Gambia.*

ICJ Kenya also sought state accountability for human rights violations in Kenya through regional and international mechanisms. In that regard, ICJ Kenya followed up on the communication before the African Commission on Human and Peoples Rights (ACHPR) in Banjul, the Gambia, regarding the serious human rights violations arising from Operation Okoa Maisha in Mt Elgon in 2008. More than 200,000 people were displaced, 4,000 people tortured and more than 200 people found dead. ICJ Kenya's responses to the State's submissions on Admissibility of Communication

No. 385 of 2010 were accepted by the Commission in April 2013, paving the way for the Commission to make a determination on admissibility. In addition, ICJ Kenya contributed to the development of alternative reports with partners under the Universal Periodic Review Process and under the African Commission on Human and Peoples Rights (ACHPR).

Lastly, ICJ Kenya participated in the 3rd Edition of the Freedom Online Conference held on 17th and 18th June 2013, in Tunis, Tunisia. The aim of the conference was to deepen the discussion on how freedom of expression on the internet is helping promote social, cultural, and economic development worldwide. ICJ Kenya was also represented at the Zinduka Festival held in Arusha, Tanzania between 30th May and 2nd June 2013. The festival sought to highlight opportunities and promote Pan-Africanism and regional integration among East Africa Community member states. At these conferences, ICJ Kenya called for greater respect for constitutionalism, human rights, and fundamental freedoms within the African continent.



*HRP training Meru paralegals on the Legal Aid Bill*

## Access to Justice Programme

ICJ Kenya works to promote access to justice under an independent, accountable judiciary in Kenya and around Africa. ICJ Kenya supports capacity building for judicial officers, trial observation, court monitoring and provision of legal resources such as texts of international treaties with a bias towards constitutionalism, human rights, and the rule of law. ICJ Kenya also strives to promote an increase in public confidence in the judiciary, the local application of international human rights instruments by judicial officers, and institutionalization of alternative dispute resolution mechanisms. As an example of its work in the period 2013, ICJ Kenya worked with partners including the World Organization Against Torture (OMCT) in its advocacy towards the absolute eradication of torture and related crimes in Kenya.

Having ratified the Convention Against Torture, Kenya is required to adhere to its provisions including reporting to the Committee established within the framework of the Convention on steps it has taken to eradicate torture in the country. ICJ Kenya led a coalition of Kenyan civil society organizations in the preparation of an alternative report to the Committee in preparation for the Committee's 50th session held in Geneva in May 2013. The Committee, subsequently, adopted and included most of the recommendations of the civil society alternative report in its concluding observations.

As a follow-up to this process, ICJ Kenya in partnership with OMCT held a high level consultation with representatives of the Kenyan government and also with Kenyan civil society to discuss the measures taken to implement the recommendations of the Human Rights Committee in relation to the absolute prohibition of torture and other cruel, inhuman, or degrading treatment or punishment. A key outcome of this process was a commitment by the Attorney General to submit the draft Prevention of Torture Bill for discussions by Parliament. This draft is currently undergoing review by the Committee on the Implementation of the Constitution which ICJ Kenya is monitoring.

Regionally, ICJ Kenya has continued to collaborate with the East African Judges and Magistrates Association (EAMJA). The East African Magistrates and Judges Association (EAMJA) is a voluntary association that brings together magistrates and judges from Kenya, Uganda, Tanzania, Rwanda, South Sudan and Burundi.

EAMJA has been recognized by the Chief Justices of each of the countries and is the leading voice of the judiciaries of those countries. On a biennial basis, EAMJA holds a showcase conference which is accompanied by its statutory meetings. The conference brings together the judicial leadership of the region and more than 200 judges and magistrates attend.

In 2013, ICJ Kenya supported the EAMJA conference in Zanzibar which discussed the right to life and the death penalty. ICJ Kenya had supported previous conferences in Uganda in 2011, and Rwanda in 2009. ICJ Kenya's chair and secretariat presented papers at the Zanzibar conference. This gave the organization the necessary visibility and recognition at the regional level. In addition, ICJ Kenya is currently heading the Kenyan Coalition on the Death Penalty, a network of Civil Society Organisations supporting the eradication of the death penalty in Kenya.

In partnership with regional judiciaries including those in Uganda, Tanzania, Rwanda, Burundi, and the East African Court of Justice, ICJ Kenya is working towards establishing an Online Legal Resource Center that will contain a database of judicial decisions of national and regional courts within the East African region, legal texts as well as statutes. These resources will be disseminated free of charge. The establishment of this Online Legal Resource Centre in East Africa is considered an important milestone in the development of regional jurisprudence as the region strives to compete globally. It is also intended that the project will foster partnerships amongst national and regional courts on case law and enhance more collaboration amongst partner states. This home grown approach can also provide and entrench judicial law reporting in East Africa and can improve access to justice and the rule of law in the region.

### 1. Electoral Justice

During 2013, ICJ Kenya played a leading role in the work of the the Judiciary Working Committee on Electoral Preparations (JWCEP). The JWCEP was established in 2012 by Chief Justice Willy Mutunga, as a forum through which the judiciary would process decisions on its preparations to participate in the general elections that were scheduled at the end of that year, but which ended up taking place in early 2012.

The JWCEP was a response to the massive criticism that had been heaped on the judiciary that it was ill-prepared to play its role in the catastrophic elections held in 2007. To forestall such accusations and to ensure that the judiciary identified and played its role correctly in the subsequent elections, the Chief Justice established the JWCEP to deal with all issues regarding the participation of the Judiciary in the elections. The Committee has made tangible progress and achieved the following milestones:

- i Development of working Committee's work plan
- ii Training schedule for all judicial officers on electoral disputes
- iii Curricular development
- iv Facilitating a peer learning exchange between Ugandan judicial officers and the Judiciary Working Committee members
- v Legislative amendment proposals of the Elections Act
- vi Drafting of Election Petitions Rules
- vii Drafting of Supreme Court Rules on Presidential Election Petitions

ICJ Kenya therefore notes the tremendous efforts made by the Kenyan judiciary in initiating institutional, administrative, and policy reforms designed to enhance service delivery. The appointment of the JWCEP by the Chief Justice with the mandate to design and execute a programme to build the capacity of the judges, magistrates and other judicial staff on the new electoral laws and design ways of working with stakeholders. ICJ Kenya was the first Civil Society Organization (CSO) to partner and assist the JWCEP establish its rules of operation. The committee noted the following in its 2012-2013 Judiciary Pre-Election Report launched by the Chief Justice on 28th February 2013:

*....with the support of ICJ Kenya for the work of the JWCEP began at its inception in mid-2012. This support has been resolute throughout the life of the JWCEP. ICJ-Kenya has played a key role in the development of The Elections (Parliamentary and County Elections) Petition Rules, 2013 (Election Petition) Rules by facilitating several validation workshops on the same. It was at these forums that comments on the rules were received and taken into account in arriving at the final draft.*

ICJ Kenya also hosted a round table meeting with the media on the state of preparedness of the Judiciary for elections in conjunction with InterNews in November 2012.

Furthermore, ICJ Kenya has been instrumental in the training programmes of the Judiciary. ICJ Kenya has not only attended these trainings, but it has also assisted the JWCEP in getting resource persons to facilitate certain sessions at the trainings.

The Committee further noted:

*....Moreover, for the training of magistrates and legal researchers, ICJ attended meetings organized by the JWCEP to validate the facilitator's manual that would be used by the trainers for the regional trainings. Their comments were useful in arriving at a final draft of the manual.*

The ICJ Case Digest on Election Petitions filed following the 2007 elections has been a useful and invaluable resource in training of judicial officers. The lessons learnt from the handling of cases in the past goes a long way in ensuring that any mistakes that occurred then are not repeated in this electoral cycle.

## 2. Judicial Reforms

In order to realize its objective as an independent and accountable judiciary in Kenya, ICJ Kenya's Access to Justice Programme in 2013, supported various initiatives that aimed to realize reforms within the judiciary. Firstly, as part of contributing to its knowledge base, ICJ Kenya trained 30 human rights lawyers on litigating socio-economic rights in Kenya including training on the Right to Education and Housing by focusing on enhancing Jurisprudence on socio-economic rights in Kenya. The trained lawyers have taken up cases on litigating socio-economic rights and ICJ Kenya continues to monitor the same.

Currently, ICJ Kenya in collaboration with the Judicial Review and constitutional division of the High Court has produced a compendium on select cases on socio-economic rights since the promulgation of the new constitution.

Secondly, the Constitution and the Judicial Services Act, 2011, gave credence to the Court Users Committees by providing opportunity to institutionalize them, clearly spelling out membership composition, and devolving structures to the counties.

ICJ Kenya supported Court Users Committees in Eldoret, Kisumu, and Mombasa. As a result of the work of the Eldoret CUC, they have replicated the work in other towns within Uasin Gishu including Kapsabet. A documentary on the Eldoret CUC was produced and translated into Swahili. This was subsequently aired in local channels including QTV and NTV. Here is the link to the documentary: <http://www.youtube.com/watch?v=fWTMBchLCWs>.



*ICJ Kenya Focus Group Discussion with members of the Kisumu Court Users Committee.*

ICJ Kenya also reproduced 2000 copies of Swahili and English versions of The Judiciary Transformative Framework. The Judiciary Transformative Framework stipulates the judiciary's objectives and pillars, and aimed at addressing a variety of challenges within the judiciary. These materials were used as guides during the trainings organized by the Programme with the Court Users Committees. These

guides effectively explained the pillars of the judiciary transformative framework. Additionally, access to justice also includes improving the functioning of justice institutions by broadening their accessibility and legitimacy while simultaneously making them more cost and time effective. Thus, the Programme also commissioned research on the Administration of Justice at the various city and municipal courts in Kenya including Mombasa, Eldoret, and Nairobi in 2012, in the wake of the institutional and administrative reforms undertaken in the judiciary.

These courts are part and parcel of the judiciary and are the overall administration of justice at the city and municipal levels with regards to petty crimes. Thus, ICJ Kenya monitored these courts operations as part of ICJ Kenya's work in monitoring Judicial Reforms. The report analysed the extent to which the judicial reforms have informed the operations at the city and municipal courts and recommended that the reform agenda be fully implemented within the city and municipal courts.

Ensuring rule of law and delivery of justice involves a multiplicity of institutions in addition to the judiciary. These include the office of the Director of Public Prosecutions, the Kenya Police Service and the Municipal and City Councils for the purposes of the City and Municipal Courts. These support institutions also must implement their own reform programmes to ensure efficient functioning of the judiciary.

## International Cooperation Programme

In 2013, ICJ Kenya continued strengthening accountability for international crime in Kenya, Uganda, Tanzania, the Democratic Republic of Congo, the Sudan, Rwanda, and Burundi. ICJ Kenya has also continued to build domestic will and capacity in Africa to embrace international criminal justice in Lesotho, Malawi, Zambia, Mauritius, and Kenya.

The International Criminal Court (ICC) came under severe attack from African countries that are parties to the Rome Statute. The government of Kenya led a campaign for non-cooperation with the ICC in order to stop the cases facing President Uhuru Kenyatta and Deputy President William Ruto at the ICC. The government of Kenya and her sympathizers used forums such as the Assembly of States Parties (ASP) and African Union (AU) summits to maximize opportunities to address this backlash. ICJ Kenya sought to counter the backlash by providing accurate information on the status of domestic prosecutions. ICJ Kenya participated in side meetings and main plenary discussions at the Assembly of State Parties and at the AU summit that were held at The Hague and Addis Ababa.

At the ASP the Kenyan civil society ran a high profile campaign against head of state immunity, an issue that came up for consideration, following pressure by the AU. The Kenyan Government was represented by a large team that included several senior officials and was unrelenting in its drive to achieve a resolution that would have endorsed head of state immunity consistent with a similar resolution that had been passed by the AU Extraordinary Summit in October. Kenyan civil society members opposed this campaign and pointed out the position of Kenyan law, which does not permit head of state immunity for international crimes. While the Kenyan negotiators effectively represented their president, including a decision that amended the Rules of Procedure and Evidence to provide for the excusal from presence at trial for persons exercising the highest responsibility of state, the Kenyan civil society did its best to counter the positions of the government and nobody was unaware of their presence at The Hague.

In order to ensure African states embrace international criminal justice, ICJ Kenya conducted high level dialogues with government officials in four target countries namely Zambia, Malawi, Mauritius, and Lesotho. The meetings were organized in



*George Kegoro, second from the left with Njonjo Mue, Vice Chair at ICJ Kenya and transitional justice expert, address participants at a side meeting in the Assembly of States Parties meeting.*



*Stella Ndirangu, fourth from the left, with members of journalists for justice and coalition for the International Criminal Court at the African Union Heads of State Summit.*



ICJ Kenya staff members and Transformation Resource Centre members meeting with the Lesotho Minister for Foreign Affairs and International Relations, seated third from the right.

partnership with local CSO partners. The focus of the meetings was to outline the need for the governments to increase support for international criminal justice. ICJ Kenya impressed upon the governments to consider domesticating the Rome Statute in the countries that have not. ICJ Kenya also recommended these countries ratify the Kampala amendments on the crime of aggression.

ICJ Kenya has continued to advocate for domestic accountability of international crimes in Kenya and to engage with emerging issues in the discourse on domestic accountability. ICJ Kenya conducted a review of the report of the Judicial Service Commission (JSC) on the establishment of an International Crimes Division of the High Court. In October 2012, a committee established by the JSC conducted research on the modalities for establishing the international crimes division and issued its recommendations in a following report.

ICJ Kenya assessed the committee's report and raised issues that would negatively and positively impact the establishment and effectiveness of the proposed division; such issues included the investigation, prosecution, trial, witness protection, and remedial functions. ICJ Kenya released a report critiquing the Judicial Service Commission report. The report enabled stakeholders to engage in the ongoing

debate of formulating an International Crimes Division of the High Court from a more informed perspective.

ICJ Kenya has also played a leading role in two public interest cases filed at the High Court of Kenya. One case seeks compensation for internally displaced persons as a result of the 2007/08 post-election violence (PEV). The second seeks justice for victims of sexual and gender based violence (SGBV) as a result of the same violence. These two cases demonstrate the need for governments to prosecute international crimes at the domestic level and also compensate victims of international crimes.

During 2013, ICJ Kenya continued campaigning to enforce the arrest of Sudanese President Omar Al Bashir, who has two arrest warrants issued against him by the International Criminal Court (ICC) for crimes against humanity, war crimes, and genocide in the Darfur situation.

In July 2013, when President Bashir made a surprise visit to Nigeria, ICJ Kenya supported the efforts of local civil society organizations, led by the Nigerian Coalition for the ICC, (CICC) to obtain an arrest warrant against him before the Nigerian Federal High Court. In the time sensitive proceedings that followed, ICJ Kenya shared with the Nigerian actors legal precedents that had been developed while obtaining a domestic arrest against Bashir in Kenya. Hearing of the possible arrest bid, Bashir left Nigeria immediately.

ICJ Kenya has since developed a publication that documents its experience and that of CICC Nigeria in seeking arrest warrants for President Omar Al Bashir. This publication will be a resource for stakeholders interested in promoting international criminal justice and seeking to replicate the actions by ICJ Kenya and Nigeria CSO's in limiting President Bashir's movement.

The media has played a pivotal role in disseminating information about the ICC cases. ICJ Kenya maintained a close partnership with journalists working on international criminal justice issues. In August 28th to 31st, 2013, ICJ Kenya conducted a media forum themed "Shifting the Accountability Narrative Towards a Victim Centered Approach." The forum was held in Kinshasa, the Democratic Republic of Congo. 37 participants attended the forum. A network of media from the Eastern African region

was created to enable journalists to continually share information on developments around the ICC involvement in Africa and international criminal justice.

ICJ Kenya continued collaboration with local and international partners through coalitions such as Kenyans for Peace with Truth and Justice (KPTJ) and the Coalition for the International Criminal Court (CICC). ICJ Kenya also partnered with strategic CSOs in various countries that work on international criminal justice. ICJ Kenya conducted its second International Criminal Justice Expert's Consultative Meeting in Tanzania on 9th and 10th November. There were 24 experts from different partner organizations in attendance. The meeting presented an opportunity for experts on international criminal justice to discuss the emerging issues facing the ICC and come up with strategies on how to strengthen international criminal justice.



Participants at the 2nd International Criminal Justice Experts' Consultative Forum held in Tanzania.



Rosemary Tollo of Journalists for Justice, in the middle, with journalists from Congo at a media forum in The DRC.



George Kegoro, Executive Director of ICJ Kenya, presenting a paper at the Media forum in the DRC.

## 2013 Jurist of the year Award

Each Year since 1993, the ICJ Kenya has recognized the achievements of one outstanding jurist who is dedicated to promoting and protecting human rights and the rule of the law. The award is given in commemoration of the International Human Rights Day which is celebrated worldwide on 10th of December every year. In the past, this award has been given to eminent judges, advocates and public officials whose work has led to significant improvements in the respect for human rights and the rule of law in Kenya.



2013 JOY recipient Lady Justice Mumbi Ngugi, reading her acceptance speech

The 2013 Jurist of the year was announced at a colourful ceremony on held 10th December 2013 and was presided over by the Swedish Ambassador H.E. Johan Borgstam.



Justice Mumbi Ngugi, the 2013 JOY recipient receiving the Award from the Swedish Ambassador H.E. Johan Borgstam and below with Njonjo Mue, (Left) and Albert Kaamunde (Right) former Chair of ICJ Kenya



## List of Funding Partners

The ICJ Kenya budgets include special project funds, administrative overheads and one off projects which are kindly facilitated by donors with a contribution from the ICJ Kenya membership.

ICJ Kenya is grateful to all its donors listed below for their support over the years.

- ◆ The European Commission
- ◆ DFID and Danida through Drivers of Accountability Project
- ◆ SUNY Kenya
- ◆ Integrity Action
- ◆ World Bank
- ◆ Humanity United
- ◆ Konrad Adeneur foundation
- ◆ The Royal Netherlands Embassy
- ◆ Open Society Institute East Africa
- ◆ American Jewish World Service
- ◆ French Embassy
- ◆ The United States Agency for International Development (USAID) through PACT, ACT Kenya and Kenya Transition Initiative
- ◆ The United Nations Development Programme (UNDP)
- ◆ The Embassy of Finland

# Pictorial



George Kegoro, together with the Attorney General Prof Githu Muigai, the Director of Public Prosecution Keriako Tobiko amongst others



Kenya's AG Prof Githu Muigai signing the visitors book when he toured our stand during the Legal Awareness week at the Supreme Court



ICJ Kenya's Executive Director George Kegoro and Amnesty International's Stephanie Barbour at a CSO forum at the Hague 2014 ASP



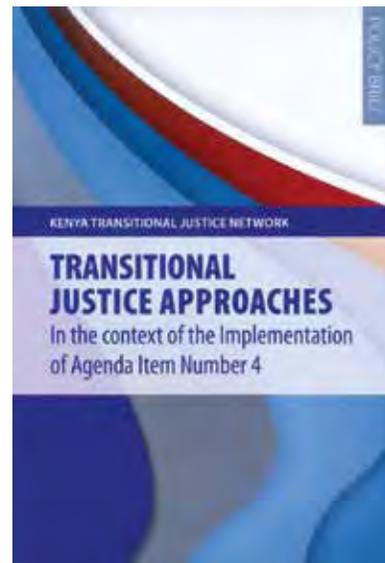
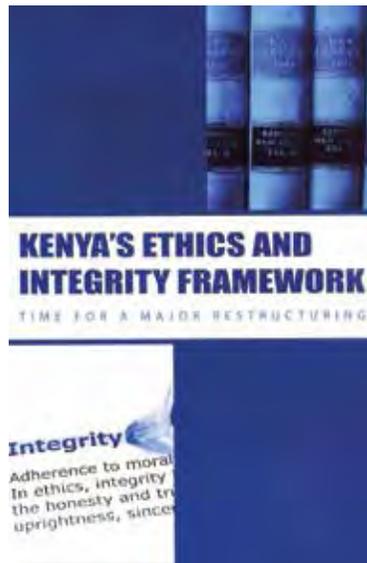
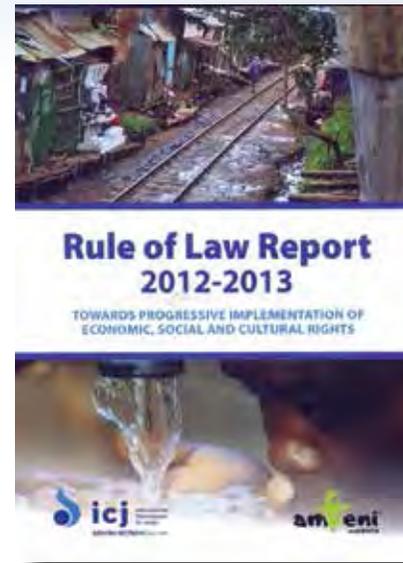
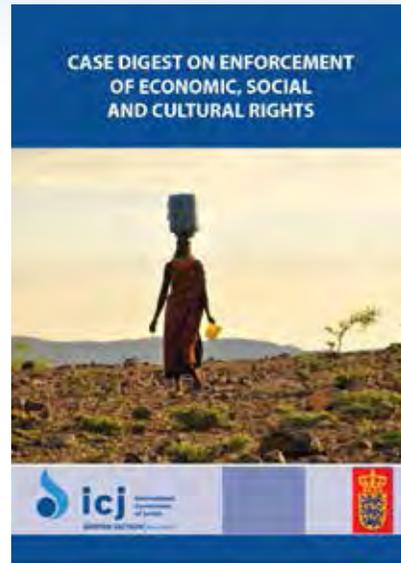
Sarah Muthiga formerly the HRP Program Manager at ICJ Kenya taking the Makuoni Sentaor Mutula Kilonzo through one of the organisation's publication during the Legal Awareness week at the Supreme Court



ICJ Kenya's Executive Director, George Kegoro together with the DRC partners during the August 2013 Media Forum held in Kinshasa, DRC

# IC J Kenya Publications

ICJ Kenya's dissemination policy allows us to share information with our shareholders, tertiary and institutions of higher learning in our country. Our resource centre is open for use by our stakeholders.



*Kenyan Section of the International Commission of Jurists  
Financial Statements extract  
For the year ended 31st December 2013*

**STATEMENT OF CASH FLOW FOR THE YEAR ENDED 31ST DECEMBER 2013**

	<b>2013</b>	<b>2012</b>
	<b>Shs</b>	<b>Shs</b>
<b>Cash flows from operating activities</b>		
(Deficit)/surplus for the year	(455,193)	456,971
Adjustments for:		
Depreciation	311,285	438,988
Amortization of operating lease	181,818	179,775
Loss on disposal of property, plant and equipment	-	150,395
Changes in operating assets and liabilities:		
(Increase) in receivables	(1,558,455)	-1,380,735
Increase / (decrease) in unexpended grants	32,177,876	-18,232,883
(Decrease) /increase in other payables	(141,399)	354,560
	<u>30,515,932</u>	<u>(18,032,929)</u>
<i>Net cash generated from (used in) operations</i>		
<b>Cash flows from investing activities</b>		
Increase in investment	-14,331	-20,787
Purchase of property, plant and equipment	(711,005)	-663,719
Proceeds on disposal of property, plant and equipment	106,000	30,000
	<u>(619,336)</u>	<u>(654,506)</u>
<i>Net cash (used in) investing activities</i>		
<b>Cash flows from financing activities</b>		
Loan repayments	(2,441,163)	-1,455,535
	<u>(2,441,163)</u>	<u>(1,455,535)</u>
<i>Net cash (used in) investing activities</i>		
<b>Net increase / (decrease) in cash and cash equivalents</b>	27,455,433	(20,142,970)
<b>Cash and cash equivalents at start of year</b>	<u>45,723,107</u>	<u>65,866,077</u>
<b>Cash and cash equivalents at end of year</b>	<u><u>73,178,540</u></u>	<u><u>45,723,107</u></u>

*Kenyan Section of the International Commission of Jurists*

*Financial Statements extract*

*For the year ended 31st December 2013*

**STATEMENT OF FINANCIAL POSITION (BALANCE SHEET) AS AT 31ST DECEMBER 2013**

	<b>2013 Shs</b>	<b>2012 Shs</b>
General fund	<u>11,522,066</u>	<u>11,977,259</u>
<b>Non Current liabilities</b>		
Borrowings	5,639,210	8,666,177
Capital grant	<u>3,091,050</u>	<u>4,283,490</u>
	<u>8,730,260</u>	<u>12,949,667</u>
	<u>20,252,325</u>	<u>24,926,926</u>
<b>REPRESENTED BY</b>		
<b>Non current assets</b>		
Property, plant and equipment	5,087,355	22,416,522
Investments	228,071	213,740
Prepaid operating lease	<u>15,638,407</u>	<u>15,820,225</u>
	<u>20,953,833</u>	<u>38,450,487</u>
<b>Current assets</b>		
Receivables	6,422,198	4,863,743
Bank and Cash balances	<u>73,178,540</u>	<u>45,723,107</u>
	<u>79,600,738</u>	<u>50,586,850</u>
<b>Current Liabilities</b>		
Unexpended grants	75,558,058	43,380,182
Borrowings	2,461,631	1,878,288
Other Payables	<u>2,282,556</u>	<u>2,423,955</u>
	<u>80,302,245</u>	<u>47,682,425</u>
<b>Net current (liabilities) / assets</b>	<u>-701,507</u>	<u>2,904,425</u>
	<u>20,252,326</u>	<u>41,354,912</u>

*Kenyan Section of the International Commission of Jurists*

*Financial Statements extract*

*For the year ended 31st December 2013*

**STATEMENT OF FINANCIAL POSITION (BALANCE SHEET) AS AT 31ST DECEMBER 2013**

	<b>2013</b>	<b>2012</b>
	<b>Shs</b>	<b>Shs</b>
General fund	<u>11,522,066</u>	<u>11,977,259</u>
<b>Non Current liabilities</b>		
Borrowings	5,639,210	8,666,177
Capital grant	<u>3,091,050</u>	<u>4,283,490</u>
	<u>8,730,260</u>	<u>12,949,667</u>
	<u>20,252,325</u>	<u>24,926,926</u>
<b>REPRESENTED BY</b>		
<b>Non current assets</b>		
Property, plant and equipment	5,087,355	22,416,522
Investments	228,071	213,740
Prepaid operating lease	<u>15,638,407</u>	<u>15,820,225</u>
	<u>20,953,833</u>	<u>38,450,487</u>
<b>Current assets</b>		
Receivables	6,422,198	4,863,743
Bank and Cash balances	<u>73,178,540</u>	<u>45,723,107</u>
	<u>79,600,738</u>	<u>50,586,850</u>
<b>Current Liabilities</b>		
Unexpended grants	75,558,058	43,380,182
Borrowings	2,461,631	1,878,288
Other Payables	<u>2,282,556</u>	<u>2,423,955</u>
	<u>80,302,245</u>	<u>47,682,425</u>
<b>Net current (liabilities) / assets</b>	<u>-701,507</u>	<u>2,904,425</u>
	<u>20,252,326</u>	<u>41,354,912</u>

*Kenyan Section of the International Commission of Jurists  
Financial Statements extract  
For the year ended 31st December 2013*

**STATEMENT OF CHANGES IN FUND BALANCES FOR THE YEAR ENDED 31ST DECEMBER**

	<b>Total Shs</b>
<b>At 1st January 2012</b>	11,520,288
<b>Surplus for the year</b>	<u>456,971</u>
<b>At 31st December 2012</b>	<u><u>11,977,259</u></u>
<b>At 1st January 2013</b>	11,977,259
<b>(Deficit) for the year</b>	<u>-455,193</u>
<b>At 31st December 2013</b>	<u><u>11,522,066</u></u>

*Kenyan Section of the International Commission of Jurists  
Financial Statements extract  
For the year ended 31st December 2013*

**STATEMENT OF CASH FLOW FOR THE YEAR ENDED 31ST DECEMBER 2013**

	<b>2013</b>	<b>2012</b>
	<b>Shs</b>	<b>Shs</b>
<b>Cash flows from operating activities</b>		
(Deficit)/surplus for the year	(455,193)	456,971
Adjustments for:		
Depreciation	311,285	438,988
Amortization of operating lease	181,818	179,775
Loss on disposal of property, plant and equipment	-	150,395
Changes in operating assets and liabilities:		
(Increase) in receivables	(1,558,455)	-1,380,735
Increase / (decrease) in unexpended grants	32,177,876	-18,232,883
(Decrease) / increase in other payables	<u>(141,399)</u>	<u>354,560</u>
<i>Net cash generated from (used in) operations</i>	30,515,932	(18,032,929)
<b>Cash flows from investing activities</b>		
Increase in investment	-14,331	-20,787
Purchase of property, plant and equipment	(711,005)	-663,719
Proceeds on disposal of property, plant and equipment	<u>106,000</u>	<u>30,000</u>
<i>Net cash (used in) investing activities</i>	<u>(619,336)</u>	<u>(654,506)</u>
<b>Cash flows from financing activities</b>		
Loan repayments	<u>(2,441,163)</u>	<u>-1,455,535</u>
<i>Net cash (used in) investing activities</i>	<u>(2,441,163)</u>	<u>(1,455,535)</u>
<b>Net increase / (decrease) in cash and cash equivalents</b>	27,455,433	(20,142,970)
<b>Cash and cash equivalents at start of year</b>	<u>45,723,107</u>	<u>65,866,077</u>
<b>Cash and cash equivalents at end of year</b>	<u><u>73,178,540</u></u>	<u><u>45,723,107</u></u>

## FOR FEEDBACK ON THE IMPACT REPORT

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