



## **THE KENYAN SECTION OF THE INTERNATIONAL COMMISSION OF JURIST**

**P.O. BOX 59743, NAIROBI, TEL 3875981/2 6750996/6752614 FAX 3875982  
EMAIL: [info@icj-kenya.org](mailto:info@icj-kenya.org)**

### **THE CONSTITUTION**

**(ADOPTED AT THE 2017 SPECIAL GENERAL MEETING)**

**ICJ KENYA FOR THE PROMOTION AND PROTECTION OF  
HUMAN RIGHTS DEMOCRACY AND THE RULE OF LAW**

## TABLE OF CONTENTS:

<b>Preamble</b> .....	1
<b>Part One: Description of the organisation</b> .....	2
Article 1: Name of Organisation.....	2
Article 2: Affiliation .....	2
Article 3: Registered office .....	2
Article 4: Nature of the society .....	2
Article 5: Objectives .....	2
Article 6: Membership .....	3
Article 7: Eligibility .....	3
Article 8: Invited members .....	3
Article 9: Discretionary power .....	4
Article 10: Appeal .....	4
Article 11: Subscription fee .....	4
Article 12: Cessation of membership .....	4
<b>Part Two: Administration and management</b> .....	5
Article 13: Council .....	5
Article 14: Rotation .....	5
Article 15: Term .....	5
Article 16: Quorum .....	5
Article 17: Meetings .....	6
Article 18: Lapse .....	6
Article 19: Vacancy .....	6
Article 20: Co-opted members .....	6
Article 21: Co-opted members .....	6
Article 22: Co-opted members .....	6
Article 23: Secretariat .....	6
Article 24: Executive Director .....	6
Article 25: Assignment .....	6
<b>Part Three: Meetings</b> .....	7
Article 26: Notice .....	7
Article 27: Quorum .....	7
Article 28: Agenda .....	7
Article 29: Rules .....	8
<b>Part Four: Elections</b> .....	9
Article 30: Tenure .....	9
Article 31: Nomination .....	9
Article 32: Returning officers .....	9
Article 33: Voting .....	10
Article 34: Secret ballot .....	11
Article 35: Equality of votes .....	11

<b>Part Five: Accounts and finance</b> .....	<b>11</b>
Article 36: Annual report .....	11
Article 37: Financial year .....	11
Article 38: Auditors .....	11
Article 39: Use of funds .....	12
<b>Part Six: Miscellaneous provisions</b> .....	<b>12</b>
Article 40: Trustees .....	12
Article 41: Alteration to the constitution .....	12
Article 42: Dissolution .....	12
Article 43: Distribution of assets .....	13
Article 44: Inspection of records .....	13
<b>Schedule 1: Oath/Affirmation</b>	<b>14</b>
<b>Schedule 2 Transitional and Consequential Clause</b>	<b>15</b>
<b>Schedule 3: Definitions</b>	<b>15</b>

## **PREAMBLE**

**WHEREAS** the International Commission of Jurists was formed in 1952 to support those principles of justice that constitute the basis of democracy, human rights and the rule of law, and to mobilise jurists of the world in support of these principles;

**AND WHEREAS** the Kenyan nation attained independence in 1963 determined to consolidate national unity, with impartial justice and respect for human rights and freedoms under the supremacy of the rule of law;

**AND WHEREAS** the experience of rule of law and the legal protection of human rights have not lived up to common expectations in Kenya and elsewhere in the world;

**AND WHEREAS** ICJ National Sections and Affiliated organisations have been established in the five continents to uphold and strengthen the principles of human rights, democracy and the rule of law and at the local and regional levels;

**AND WHEREAS** it is the common motivation of all jurists, members of the national sections and affiliates of ICJ, that we aspire to create and strengthen just societies, where every individual enjoys legal and democratic systems suitable to the fullest development of individual capabilities in all fields of political, economic, social and cultural life, and where the liberty and happiness of all citizens and their posterity is safeguarded under the rule of law;

**AND WHEREAS** we Kenyan Jurists in partnership with the International Commission of Jurists and other organisations, recognising our fundamental role in the development of legal and democratic systems suitable to the rule of law and full realisation of human rights and democracy, and committing ourselves to these principles,

**NOW THIS CONSTITUTION PROVIDES AS FOLLOWS:**

## PART ONE: DESCRIPTION OF THE ORGANISATION

### Name of the Organization

*Article 1:* The official name of this Organisation shall be: The Kenyan Section of the International Commission of Jurists hereinafter referred to as ‘The Society’.

In the abbreviated form, the Society may be referred to as “ICJ Kenya”.

### Affiliation

*Article 2:* The Society shall be affiliated to the International Commission of Jurists and all written papers, circulars and other printed matter issued by the society shall indicate that the Society is the Kenyan Section of the International Commission of Jurists (hereinafter called “ICJ Kenya”). Affiliation to the Commission shall be subject to the terms of the Statute of the International Commission of Jurists.

### Registered Office

*Article 3:* The registered office of the Society shall be at such place as the Council of the Society may from time to time decide.

### Nature of the Society

*Article 4:* The Society shall be a non-governmental, voluntary, non-partisan, and not for profit organisation whose mission is to work towards the promotion and legal protection of human rights, Democracy and the Rule of Law in Kenya and outside Kenya.

### Objectives

*Article 5:* (1) The objects of the Kenyan Section of the International Commission of Jurists shall be:-

- (a) To develop, strengthen and protect the principles of the rule of law and the republic of Kenya and in particular, and without prejudice to this principle object, to:-
  - (i) Develop, maintain, strengthen and protect the independence of the judiciary and the legal profession:
  - (ii) Protect and promote the enjoyment of human rights as defined in the Universal Declaration of Human rights, 1948, by every person in Kenya.
- (b) Keep under review all aspects of the Rule of Law and Human Rights within the republic of Kenya and take such action as will be of assistance in promoting or ensuring their enjoyment.
- (c) Promote the provision of legal services in rural areas.
- (d) Assist in giving help to peoples in other territories to which the Rule of law and Human Rights may be denied.

- (e) Co-operate with any national or international body, which pursues objects similar to or compatible with the aforesaid objects.
- (f) Support the Commission in its activities.
- (g) Do all such things as are incidental or conducive to the attainment of the above objects.

(2) The objects of the society shall not be carried on for the profit of its members and no part of the income or assets of the Society shall inure for the benefit of any member or officer of the society provided however, that such remuneration of officers or employees shall be fixed by the Council of the society shall not be considered to be a profit for the purpose of this article.

#### Membership

*Article 6:* (1) The Society shall have the following categories of membership:-

- (a) Full Membership
- (b) Life Membership
- (c) Honorary Membership
- (d) Associate Corporate Membership

**(2) The Council shall make rules and guidelines to provide for the admission criteria and privileges accruing to persons admitted into the membership of the Society in each of the categories listed under sub-article (1).**

#### Eligibility

*Article 7:* Any person who holds an academic or professional qualification in law or is undergoing formal training in law shall be eligible for membership of the Society as hereafter provided.

#### Invited Members

*Article 8:* (a) In the case of all other categories of membership Council shall have power to invite any suitable person or groups of persons including professional societies as members of the Society in the appropriate category as provided under Article 6.

(b) The Council shall determine and provide for the duties, benefits and privileges of members with reference to the categories provided as it deems fit and appropriate.

#### Discretionary power

*Article 9:* The Council shall subject to Article 10 have sole jurisdiction to decide the eligibility of any person or group of persons for any particular category and shall have power to expel any individual or corporate member.

#### Appeal

*Article 10:* (a) Any person or group of persons aggrieved by a decision of the council to deny or expel from membership may appeal against the decision within 30 days from the effective date of such denial or expulsion.

(b) The Council shall make a Members Report at every Annual General Meeting of the Society detailing final decisions to deny or expel from membership of any person or groups of persons and the reasons therefore.

(c) Any member or applicant concerned shall have the right if he/she so wishes to address the Annual General Meeting or make representations in writing to the Secretary who shall read out to the meeting the written representations so received.

#### Subscription fee

*Article 11:* (a) Every qualified member shall pay to the Secretariat on or before 31<sup>st</sup> March of every year, an Annual Membership Subscription according to the scale which shall from time to time be laid down by the Council.

(b) Subscription fee is recoverable in arrears

**(c) Members in default of more than two years' subscription fee shall be subjected to re-admission by the Council.**

#### Cessation of membership

*Article 12:* Membership shall lapse upon:

(a) non payment of more than two consecutive subscriptions provided the Council may re-admit any such member on such conditions as it deems appropriate.

(b) Expulsion.

(c) Resignation

(d) Death

## **PART TWO: ADMINISTRATION AND MANAGEMENT**

### **Council**

**Article 13:** (1) There is established an organ of the Society to be known as the ICJ Kenya Section Council.

(2) The Council shall consist of:

- (a) four persons elected from the membership of the Society, who shall be the Chairperson, Vice-Chairperson, Secretary, and Treasurer;
- (b) two persons elected from the membership of the Society, who shall be members of the Council;
- (c) a woman elected from the membership of the Society, who shall be a member;
- (d) two persons, appointed by the Council in accordance with the rules to ensure that no more than two-thirds of the membership of the Council shall be of the same gender; and,
- (e) the Executive Director, who shall be an ex-officio member.

(3) The administration of the Society shall vest in the Council.

(4) The Council may establish such committees, as it shall deem fit in order to facilitate efficient running of the Society.

(5) The Council may make rules generally to give full effect to any of the provisions of this Constitution.

### **Rotation**

**Article 14:** The Chairperson and the Secretary shall be elected from members who have previously served as members of the council.

### **Term**

**Article 15:** The tenure of every Council is two years. Members shall be eligible for re-election, provided that the Chairperson and the Vice-Chairperson shall not be eligible to serve in the same capacity for more than two consecutive terms.

### **Quorum**

**Article 16:** The quorum of the Council meeting shall be five members present in person. Provided that in appropriate circumstances, the Chairperson shall authorize a council meeting to be held via videoconference or such other appropriate technology.



## Meetings

*Article 17:* The Council shall meet at least once every month or as often as is necessary for the proper management of the affairs of the Society.

## Lapse

*Article 18:* Membership of the Council shall lapse upon;

- (a) Resignation upon giving one month's notice in writing to the Secretary
- (b) Non-attendance in more than six scheduled meetings in any one year
- (c) death

## Vacancy

*Article 19:* The Council shall have power to fill any vacancy occurring in the Council during its tenure. Any person so appointed shall hold office until the next elections.

## Co-opted members

*Article 20:* The Chairperson, and in his absence the Vice Chairperson, shall chair all the meetings of the Council, the Annual General Meeting and any Special General Meeting, and the Secretary shall take minutes.

*Article 21:* The Chairperson shall act as liaison officer between the Society *and its affiliates and shall submit reports of their activities at the Annual General Meeting*. He or she shall head delegations of the Society or delegate to any member of the Society.

*Article 22:* The Secretary shall convene all meetings of the Society and keep a record of all such meetings. He or she shall be an ex officio member of all the committees of the Society. The Secretary may execute any of his or her functions through the Executive Director subject to the provisions of Article 24.

## Secretariat

*Article 23:* (1) The Society shall establish a permanent secretariat, which shall work under the direction of the Council. The functions of the secretariat are to facilitate and co-ordinate programmes for the achievement of the objectives of the Society.

- (2) The permanent secretariat shall have such personnel, as the Council shall deem necessary from time to time. The Council shall determine and from time to time review the terms of the staff.

## Executive Director

*Article 24:* **The Council shall appoint an Executive Director who shall be responsible for the execution of policy and for the control and management of the Society's projects and programmes.**

## Assignment

*Article 25:* The Council shall delegate to the Executive Director such of its functions under this constitution as are necessary for the effective transaction of the day to day business of the Society.

## **PART THREE: MEETINGS**

### **General Meetings**

- Article 26:** (1) There shall be two categories of general meetings - annual general meetings and special general meetings.
- (2) (a) The Secretary shall convene an Annual General Meeting no later than 1<sup>st</sup> December of each year.
- (b) The Secretary shall convene such Annual General Meeting, in writing, accompanied by the Annual Statement of Accounts and the Agenda for the meeting not less than 21 days before the date of the meeting.
- (3) The agenda for any Annual General Meeting shall consist of the following:
- (a) Confirmation of the minutes of the previous Annual General Meeting.
  - (b) Consideration of accounts.
  - (c) Election of office bearers and the committee members (and trustees where necessary)
  - (d) Appointment of auditors
  - (e) Such other matters as the Council may decide or as to which notice shall have been given in writing by a member to the secretary at least four weeks before the date of the meeting.
  - (f) Any Other Business with the approval of the Chairman
- (4) The Council shall have power to convene a Special General Meeting by giving at least 21 days prior notice in writing.
- (5) The Chairperson may at any time and upon a signed request by at least one – third of members direct the Secretary to convene a Special General Meeting upon 14 days' written notice.

### **Quorum**

- Article 27:** (1) At any Annual General Meeting or Special General Meeting the quorum shall be one – fifth of the members of the society.
- (2) If no quorum is available at any Annual or Special General Meeting the Chairperson shall re-convene the meeting at such time and place as the council shall decide. The re-convened meeting may if it so decides proceed to transact business even if the requisite quorum is not present.

### **Agenda**

- Article 28:** (1) The agenda for the general meeting shall be set by the Council. Additions to the Agenda may be made by a majority vote of the members present.

- (2) The Secretary shall circulate the agenda to all members by prior notice at least 21 days before the appropriate annual general meeting.

#### Procedure and Rules for Meetings

- Article 29:*
- (1) The Society may by a majority vote of members present in an annual general meeting adopt its own rules.
  - (2) At all meetings of the Society, the Chairperson, or in his absence, the Vice-Chairperson, or in absence of both, a member appointed at that meeting, shall chair the meeting.
  - (3) The Chairperson may at his discretion limit the number of persons permitted to speak in favour of and against any motion.
  - (4) Resolutions shall be decided by simple majority by a show of hands. In the case of equality of votes, the Chairperson shall have a second or casting vote.

## PART FOUR: ELECTIONS

### Tenure

*Article 30:* All elective officers shall be elected from the membership at the appropriate Annual General Meeting of the Society and shall continue in office for two years or until their successors are elected or appointed.

### Nomination

- Article 31:*
- (1) Every member shall be entitled to nominate only one member for any elective post
  - (2) At least sixty (60) days before the appropriate Annual General Meeting, the Secretary shall by notice in writing send to every member of the Society a nomination paper.
  - (3) The notice shall announce the number of vacancies and shall specify therein a date (hereinafter referred to as the latest date for nomination), being not less than twenty – one days before the date fixed for the General Meeting, by which nominated candidates shall submit their duly endorsed nomination to the Secretariat.
  - (4) Every nomination shall specify the full names and address of the candidate; the nature of office (if any) in the Society previously held by him/her, and; the office for which he/she is nominated. It shall contain, or be accompanied by the candidate's consent in writing to serve if elected.
  - (5) If in respect of any office the number of candidates duly nominated exceeds the number of vacancies, an election by secret ballot shall be held at the appropriate Annual General Meeting, where members in attendance shall be entitled to vote.
  - (6) If in respect of any office, no nomination is received by the latest nomination date, nominations shall be made from the floor at the appropriate Annual General Meeting. The vacancy shall then be filled by secret ballot.
  - (7) A duly nominated candidate may be elected in absentia.

### Returning Officers

- Article 32:*
- (1) During the Annual General Meeting of a non-elective year, the members shall elect, from the members of the Society, a minimum of one and a maximum of three Returning Officers.
  - (2) The Council shall make rules to provide for the elections of returning officers as provided for under article 32(1)
  - (3) The Returning Officers shall –

- (a) 30 days prior to Election Day send a notice to the Membership of the election inviting Nominations in the prescribed manner
  - (b) 21 days before the elections, prepare an accurate and verifiable register of members duly eligible to vote;
  - (c) conduct nominations;
  - (d) prepare ballot papers for each elective post;
  - (e) conduct and supervise the elections;
  - (f) announce the results of the elections.
  - (g) swear-in Council Members
- (4) The Returning Officers shall reject every nomination paper which –
- (a) is unsigned;
  - (b) does not have the endorsement of two full paid up members;
  - (c) is received after the date for the nomination; or,
  - (d) is a second nomination by any member in respect of whom they have already received and admitted a valid nomination.
- (5) Upon the confirmation of the final results by the Returning Officers, the newly elected or appointed Council Members shall be sworn into office in accordance with the oath or affirmation prescribed in the First Schedule of this Constitution.
- (6) The Council members shall hold office for a term beginning on the date on which they were sworn in, and ending when the person next elected or appointed as Council Member, is sworn in.
- (7) The Executive Director shall designate such number of officers from the secretariat to assist the Returning Officers in discharging their functions.

#### Voting

##### **Article 33:**

- (1) Each present individual member eligible to vote shall have one (1) vote.**
- (2) A member who is eligible to vote shall be entitled to vote either personally or by proxy.**
- (3) A notice appointing a proxy shall be received by the Secretary no later than twenty four hours before the time appointed in the notice for the meeting.**
- (4) A proxy for a Member appointed in accordance with sub article (c) shall be entitled to attend, be heard and vote at a General Meeting, as if that proxy were a Member.**
- (5) Every individual proxy shall represent a maximum of up to only two (2) members duly eligible to vote.**
- (6) The Council shall make rules and guidelines to provide for voting by proxies.**

#### Secret ballot

*Article 34:* All polls shall be by secret ballot, unless all members present at the appropriate meeting consent to polling by show of hands.

#### Equality of votes

*Article 35:* Where an equality of votes is found to exist, and the addition of a vote would entitle any of the vacancies to be declared elected, the Chairperson shall give a casting vote by word of mouth or in writing.

### **PART FIVE: ACCOUNTS AND FINANCES**

#### Annual Report

*Article 36:* The Treasurer shall present to the Annual General Meeting for approval a Financial Report and Statement of Accounts for the preceding year.

#### Financial year

*Article 37:* The Financial year shall start on the 1<sup>st</sup> January and end on 31<sup>st</sup> December.

#### Auditors

- Article 38*
- (1) The finances and accounts of the Society shall be audited every financial year by accredited auditors appointed by a majority vote of members present at the Annual General Meeting.**
  - (2) All the Society's accounts, records and documents shall be opened to inspection by the auditor at any time.**
  - (3) The Treasurer shall produce an account of receipts and payments and a statement of assets and liabilities made for a period not be less than six weeks and not more than three months before the date of the Annual General Meeting. The Auditor shall examine such annual accounts and statements and ascertain whether they are correct, duly vouched and in accordance with the law or report to the Society.**
  - (4) A copy of the auditor's report on the accounts and statements together with such accounts and statements shall be furnished to all members together with the notice convening The Annual General Meeting.**
  - (5) An auditor may be paid such honorarium for his duties as may be resolved by the Annual General Meeting appointing him.**
  - (6) No auditor shall be a Council member of the Society.**

## Use of Funds

- Article 39:*
- (a) The Funds of the Society shall be used only for the objects of the Society.
  - (b) The Council shall cause all moneys and funds received and paid to the Society to be deposited in the name of the Society in any bank or banks so approved.
  - (c) The Council shall maintain prudent accounting and financial standards in respect of all funds and properties of the Society.
  - (d) No part of the Society's funds may be distributed to members.

## PART SIX: MISCELLANEOUS PROVISIONS

### Trustees

- Article 40:*
- (a) The property of the Society shall be vested in the Trustees who shall have the powers and duties defined in the Trustee Act Cap. 167 of the laws of Kenya.

(b) Unless otherwise decided at the Annual General Meeting of the Society the trustees of the society shall be persons who have previously served in the ICJ Kenya Council and those, who for the time being are former and current persons elected to the offices of the Chairperson, Vice Chairperson, Secretary and the Treasurer.

(c) The Council shall establish such trusts and institutions as it may deem fit for the furtherance of the objectives of the Society.

(d) Such trusts and institutions established by the Council shall be accountable to the membership and shall present its annual statements of accounts at the Annual General Meeting of every year.

### Alteration to the Constitution

- Article 41:*
- (1) Alteration of the Constitution or any part thereof shall be made by a two-thirds majority of members present at a General Meeting called for the purpose provided the terms of the alteration are circulated to members together with the notice convening the meeting at least 21 days in advance.
  - (2) The Council shall, upon application for alteration to the Constitution made in writing, obtain prior consent from the Registrar in writing and signed by at least three Council members.

### Dissolution

- Article 42:*
- (a) The Society shall only be dissolved by a resolution passed at a General Meeting by not less than three-quarters of the total membership of the Society, provided notice of the intention to

**dissolve is sent to all members at least 21 days before the date of the general meeting**

- (b) If no quorum is obtained, the proposal to dissolve the society shall be submitted to a further general meeting which shall be held one month later. Notice of this meeting shall be given to all members of the society at least 14 days before the date of the meeting. The quorum for this second meeting shall be the number of members present.**
- (c) Provided, however, that no dissolution shall be effected without prior permission in writing of the Registrar, obtained upon application to him made in writing and signed by at least three council members.**
- (d) When dissolution of the society has been approved by the Registrar no further action should be taken by the Council of the society in connection with the aims of the society other than to get in and liquidate for cash all the assets of the society. Subject to payment of all the debts of the society, the balance thereof shall be distributed in such a manner as may be resolved by the meeting at which the resolution for dissolution is passed.**

#### Distribution of assets

*Article 43:* In the event of dissolution the Council shall direct the appointment of the assets of the Society to other association(s) pursuing similar aims.

#### Inspection of Records

*Article 44:* Books of account and all documents relating thereto and a list of members of the organisation shall be available for inspection at the registered office of the organisation by any other or member on giving not less than seven days notice in writing to the organisation.



## **SCHEDULE 1: Oath/Affirmation of Members of the Council of ICJ Kenya**

I, ..... do swear / solemnly affirm that I will at all times faithfully serve the membership of ICJ Kenya;

That in the exercise of the functions entrusted to me, I will at all times, and to the best of my knowledge and ability, diligently discharge my duties;

That I will be true and faithful to this Constitution, the vision, mission and objects of the Society; promote the competence and good management of the affairs of the Society; and defend its independence, reputation and integrity;

I will not directly or indirectly reveal such matters as shall come to my knowledge in the discharge of my duties; and,

I undertake to hold and serve in this office with honour, dignity, probity, and impartiality, without fear, favour, bias, affection, ill-will, prejudice or any political, religious or other influence.

(In the case of an oath— So help me God.)

## **SCHEDULE 2: TRANSITIONAL AND CONSEQUENTIAL CLAUSE**

- 1) Article 32 shall not apply to the first election under this Constitution.

## **SCHEDULE 3: DEFINITIONS**

- 1) **Annual General Meeting:** Meeting of ICJ Kenya members that takes place at the end of every year or other time as may be agreed.
- 2) **Annual Subscription Membership:** sum of money paid for membership on a yearly basis.
- 3) **Constitution:** refers to this document. The Annual General Meeting has powers to alter the constitution of the Society.
- 4) **Council:** Governing Council of ICJ Kenya, which manages the society on behalf of members and has authority over the executive decisions of the organisation.
- 5) **Human rights:** civil rights, constitutional rights, civil liberties, privileges.
- 6) **Jurist:** person well versed in the law.
- 7) **Liaison officer:** official or representative who facilitates communication between groups of people or units of organizations.
- 8) **Member:** An approved member of the Society whose subscriptions are not in default of a period exceeding 2 years.
- 8 (A) **Members Duly Eligible to Vote:** An approved member who has paid their subscriptions for the current year and does not have any outstanding payments for previous years
- 9) **Returning Officer:** official who is responsible for arranging an election
- 10) **Resolution:** a formal statement of opinion agreed on by a committee by means of a vote.
- 11) **Society:** association, organization of people formed for a particular purpose.
- 12) **Secretariat:** administrative department of an organization that is involved in the day to day running of activities.
- 13) **Sole jurisdiction:** control, influence, official power to make legal decisions and judgments without any interference.
- 14) **Trustee:** persons who hold money or property and use it for the benefit of other persons.
- 15) **Quorum:** minimum number of people who must be present at a meeting before any decisions can be considered to be valid.