



2019 ANNUAL JURISTS' CONFERENCE (AJC)

Technology, Development and the Rule of Law: Challenges, Options and Emerging Opportunities

Communiqué/Diani Declaration

The Kenyan Section of the International Commission of Jurists (ICJ-Kenya) meeting in Diani, Kenya, for its 21st Annual Jurists' Conference (AJC), convened under the theme “*Technology, development and the rule of law: Challenges, options and emerging opportunities*”, and attended by jurists drawn from diverse sectors of the legal profession in Kenya and beyond;

Acknowledging with appreciation the kind support of Konrad Adenauer Stiftung (KAS), the Kenya Human Rights Commission (KHRC) and the Collaboration on International ICT Policy for East and Southern African (CIPESA) in convening the AJC;

Recalling the past 60 years of ICJ Kenya's existence and its innumerable and significant contributions to the promotion of human rights, justice, accountability and the rule of law in Kenya and beyond;

Acknowledging the essential value of digital technology in the enjoyment of human rights and realization of development, including its vital role in enhancing communication and networking between Human Rights Defenders (HRDs) across the globe, providing tools for investigating, documenting and storing evidence of human rights violations and abuses, spreading and disseminating information on human rights, and fostering the delivery and attainment of the Sustainable Development Goals (SDGs);

Noting that although digital technology has revolutionised the world in an unprecedented scale and brought with it countless benefits for mankind, it has a dark side which enables human rights violations and abuses at a systemic level, with the most affected rights being the right to privacy, freedoms of expression, assembly and association, and the right to equality and non-discrimination;

Deeply concerned by the uneven development of the digital economy, the direct implication of which is that many developing countries, including and/or especially in Africa, risk to be left behind, further deepening the existing and longstanding global divides and inequalities;

Deeply concerned by the recent wave of internet shutdowns in parts of Africa, including in Algeria, Ethiopia, Cameroon, Chad, Democratic Republic of Congo (DRC), Sudan, Togo, and Zimbabwe, and states' unlawful and unwarranted restrictions on access and use of the internet and social media platforms, including the imposition of a social media tax in Uganda and the requirement for licensing of bloggers in Tanzania;

Deeply concerned by the increasing systematic use of digital technology by states to conduct mass surveillance of populations, a practice that is characterised by intercepting, processing and storing data regarding individuals without their consent or awareness and in the absence of proper safeguards;

Deeply concerned by the deployment of data analytics, algorithms, artificial intelligence and machine learning tools by technology companies to harvest, accumulate and analyse vast amounts of data about individuals in violation of the right to privacy;

Welcoming the enactment into law of the Kenyan Data Protection Act No. 24 of 2019 on 8 November 2019 and the adoption of the Revised Declaration of Principles on Freedom of Expression and Access to Information in Africa by the African Commission on Human and Peoples' Rights during its 65th ordinary session held in Banjul, The Gambia, from 21 October to 10 November 2019;

Acknowledging the role and efforts of jurists and HRDs across Africa in formulating and shaping human rights compliant laws, regulations and policies relating to digital technology;

Recognising the importance and centrality of human rights, justice, accountability and the rule of law in digital technology and development;

WE DO HEREBY:

1. Call upon African states to:
 - a. ensure that digital technologies are human-centered and protective of the most marginalised in society, including women, children and indigent persons;
 - b. enact and implement, if they have not done so yet, strong data protection laws with human rights at the core and in keeping with best practices and international standards;
 - c. establish independent data protection regulators with powers to investigate violations and abuses by technology companies and hold them accountable; and
 - d. incorporate digital technology in the administration of justice with a view to enhancing access to justice especially for the most marginalized in society.
2. Call upon technology companies operating in Africa to:
 - a. ensure that human rights are at the front and centre of their operations, and specifically, that their human rights due diligence policies and practices address the human rights impacts of their business and operations.
3. Commit and undertake to:
 - a. continuously assess the impacts of digital technology on the enjoyment of human rights with a view to ensuring that the highest protection of human rights is guaranteed and offered during the present digital era;
 - b. continuously advocate for and demand transparency and accountability from both states and technology companies in respect of the design, development and implementation of digital technologies;
 - c. enhance our deployment of digital technology to foster the promotion and realization of human rights, justice, accountability and the rule of law; and
 - d. strengthen civil society solidarity, networks and collaborations across national and regional boundaries.

Adopted in Diani, Kenya, 22 November 2019