

COMMUNIQUE OF THE OCCASION TO MARK THE 10TH ANNIVERSARY OF THE CONSTITUTION OF KENYA

HELD ON THURSDAY 27 AUGUST 2020

1. Over the last six weeks, the Kenyan Section of the International Commission of Jurists (ICJ Kenya) and Strathmore University Law School (SLS) partnered to host a series of weekly webinars dubbed “Katiba@10 Series”.
2. On 27 August 2020, ICJ Kenya and Strathmore University convened a webinar to mark the 10th anniversary since the promulgation of the Constitution of Kenya.
3. The occasion was marked by the launch of a book titled *'Constitution-making from the Middle'* authored by former Chief Justice of Kenya Dr Willy Mutunga.
4. The keynote address was delivered by Prof. Issa Shivji titled, *'Do Constitutions Matter? The Dilemma of a Radical Lawyer.'*
5. The webinar brought together more than 300 participants drawn from diverse fields namely the government, civil society, academia, the legal fraternity, students and the general public.
6. The occasion was graced by a special guest appearance and remarks by the Rt. Hon Patricia Scotland QC, Secretary-General of the Commonwealth.
7. The participants and the general public joined the celebrations on our social media platforms and online streaming services including YouTube, Twitter, Facebook and WhatsApp.

Cumulatively, the Katiba @ 10 series restated as follows:

- a) The Constitution of Kenya 2010 was a product of a protracted and negotiated process that produced a consensus document intended to correct historical injustices, address abuse of power, economic and political marginalisation and other societal ills which had characterised Kenya's political regimes;
- b) On transformative constitutionalism, Kenyans are not practising the constitutional values that could set the tone for constitutionalism and shape behaviours, attitude and character;
- c) The Constitution is meant to re-engineer the social, economic and political structures to improve the lives of Kenyans;
- d) While the Constitution revolutionised many systems and institutions to make them more accessible, transparent, equitable and accountable, the implementation does not reflect the true meaning and spirit of the Constitution;
- e) The Constitution provided an opportunity to address the challenge of inequalities in development, poor governance, and service delivery through devolution;
- f) The Constitution guarantees equal rights for special categories of persons and vulnerable groups; persons living with disabilities, marginalised groups, refugees, women and children;
- g) Land remains the most unequally distributed resource amongst Kenyans despite its importance in social, economic and political development. Historical land injustices are yet to be addressed and there is further marginalisation among communities in Kenya;
- h) National security is intended to protect against internal and external threats to Kenya. Kenyans adopted the Constitution intending to foster a society that respects the rule of law and upholds human dignity;
- i) Kenyans should never fear discussing historical problems because the solutions can be found in the letter and spirit of the Constitution;
- j) Devolution has had a transformative effect on the lives of Kenyans, despite the many

- challenges;
- k) The 10 years have been marked by a lack of political will to implement the Constitution;
 - l) There is a lot yet to be done to fully implement and realise the provisions of the Constitution;
 - m) Kenya has a great Constitution. The document has not failed. It is the leaders given the authority to ensure implementation, who have failed the Constitution.

Therefore in the view of the foregoing, ICJ Kenya calls upon:

A. The Executive to:

- i. Commit to realising the full implementation of the Constitution;
- ii. Promote the spirit of constitutionalism in government operations to make the lives of Kenyans better;
- iii. Zealously fight corruption, which has become a menace that cripples the country's economy;
- iv. Create an enabling environment for Kenyans to enjoy socio-economic rights;
- v. Address historical injustices, including the issues of land distribution and marginalisation.

B. The Judiciary to:

- i. Continue to deliver bold judicial decisions that promote the rights of Kenyans as guaranteed in the Constitution;
- ii. Commit to promoting the efficient administration of justice by ensuring timely delivery of judicial decisions.

C. Civil Society Organisations to:

- ii. Increase demand for the full implementation of the Constitution;
- ii. Enhance vigilance to ensure that any changes made to the Constitution are for the benefit of Kenyans and not for political selfish interests;
- iii. Continue conducting public education and litigate on human rights violations.

D. The General Public to:

- i. Play their civic duty and exercise vigilance in the Constitution implementation process;
- ii. Demand for the implementation of the Constitution and hold leaders to account, including calling for an end to corruption and impunity;
- iii. Reject any political manipulations meant to change the supreme law;
- iv. Demand for better governance and service delivery that reflect the true meaning and spirit of the Constitution.

ICJ Kenya commits and undertakes to::

- ii. Continue to promote the spirit and ideals of the Constitution through advocacy, litigation, and elaborate partnerships with like-minded organisations;
- ii. Continue to promote and protect the rights and fundamental freedoms of the people of Kenya as enshrined in the Constitution;
- iii. Empower citizens on their constitutional rights and guarantees.

Signed



Kelvin Mogeni
Chairman
ICJ Kenya