

NEWSLETTER

SECOND EDITION OF 2023

2ND / 2023



2023
ISSUE

Dear ICJ Kenya Partners and Friends,

We are delighted to present the second issue of our newsletter as we extend our sincere gratitude for your unwavering support throughout the first quarter of 2023. Your support has been instrumental in advancing our mandate to promote the rule of law and human rights in Africa, and we couldn't have made it this far without you. Once again, we would like to express our gratitude for your continued support, which has been invaluable to us. We look forward to keeping you updated on our future activities as we work towards achieving our goals.

ICJ KENYA CHAIRMAN'S NOTE



It is my pleasure to present to you the latest edition of our quarterly newsletter. This issue provides an update on the significant achievements of ICJ Kenya in the first quarter, as we continue our work in promoting human rights and the rule of law in Kenya.

Our newsletter highlights our progress towards promoting the rights of marginalized and minority groups, including the LGBTQI community, as well as our unwavering advocacy for judicial independence and accountability. We also commend the High Court for its recent landmark judgment in the Willie Kimani case, which marks a significant victory for justice after six years of tireless efforts.

ICJ Kenya remains committed to its mission of promoting and protecting human rights and the rule of law, and we are grateful for your unwavering support in these endeavors. We believe that, through collective action, we can create a world where justice and equality are accessible to all.

Thank you for your continued support, and we hope that you find this issue informative and engaging as we strive to keep you updated on our progress in the coming months.

Enjoy the read!

Protas Saende,
ICJ Kenya Chairman.



DEMOCRATIC GOVERNANCE AND THE RULE OF LAW

CONSTITUTIONAL REFORMS AND IMPLEMENTATION

Engagement with the Justice and Legal Affairs Committee members

During the reporting period, ICJ Kenya met with Justice and Legal Affairs Committee members to discuss potential partnerships with the Parliament Committees. On the sidelines of the African Prosecutors Meeting and Conference held in January 2023, discussions were held on the importance of ringfencing constitutional gains in electoral reforms, operationalization of the Legal Aid Fund, and the abolition of the Death penalty. An outcome of the meeting with Hon.Opiyo Wandayi was an invitation to the ICJ Kenya leadership for a broader brainstorm on the abolition agenda on 28 February 2023. The engagements with the Justice and Legal Affairs Committee members will be critical to the legislative reform agenda of ICJ Kenya.

Engagement with the Democracy and Human Rights Caucus

On 2 March 2023, ICJ Kenya and other like-minded civil societies were delighted to participate in the Launch of the Democracy and Human Rights Caucus of the National Parliament. The Caucus is chaired by Hon. Yussuf Abdi Hassan, Member of Parliament for the Kamkunji, and draws members from Parliamentarians from the Country. The Caucus identified key strategic pillars of focus, including capacity building on International, Regional, and National legislation, Partnership building, and advocacy for the reform and operationalisation of key legislation.



ICJ Kenya will seek to work with the Caucus to develop its strategic plan and concertise on areas of partnership and collaboration.

Participation in the Peoples' Dialogue Festival.

ICJ Kenya took part in the 5th Edition of the Annual Peoples Dialogue Festival held between 8th-11 March 2023. ICJ Kenya was a panelist in the Siasa Dialogue Village and shared insights on a panel on why Kenya's Constitutional Duels are a power struggle among political elites. ICJ Kenya also had an opportunity to engage and share with the public its mandate and some of its most recent publications and work.



Thuku Mburu, Programme officer ICJ Kenya, giving a presentation during the Peoples' Dialogue Festival.

Launch of the IEBC Post Election Evaluation Report.

On 26 January 2023, the IEBC launched its post-election evaluation report. The Constitution, under Article 88 (4) (h), mandates the IEBC to conduct Post-Election Evaluations (PEE) after every General Election. ICJ Kenya will analyze the findings and recommendations of the Post-Election Evaluation report for opportunities to improve our election architecture as we move our country towards a stronger democracy.

JUDICIAL REFORMS AND STRENGTHENING

Meeting with the Kenya Judiciary Academy.

During the reporting period, ICJ Kenya met with the leadership of the Kenya Judiciary Academy (KJA) to discuss the development of the 2022 Elections Compendium, a periodic publication by ICJ Kenya after every election cycle. Previous Compendiums have been a critical training resource for the Judiciary Committee on Elections (JCE) and KJA and have contributed to more credible and acceptable electoral outcomes. Further deliberations were on the debriefing and learning sessions with the Judiciary to take stock of the election dispute resolution mechanisms. ICJ Kenya will work closely with Kenya Judiciary Academy and the Judiciary Committee on Elections to conduct debrief sessions amongst Judicial Officers and Judges from the 2022 General Election Dispute Resolution cycle.

Support towards the Africa Prosecutor's Annual General Meeting and conference.

The conference brought together prosecutors across the continent under the Africa Prosecutor's Association (APA). The conference discussed various laws, international and regional instruments, and bilateral Mutual Legal Assistance Treaties that various African Governments could utilize in the recovery of cross-border proceeds of crime. ICJ Kenya's participation in the conference was to strategically identify strategies that can be adopted to enhance cooperation in the recovery of proceeds of crime among African countries and lay the ground for advocacy on data protection laws and regulations.

Support towards the Launch of the Alternative Dispute Resolution Centre.

During the reporting period, ICJ Kenya, led by the Chairperson, participated in the launch of the ADR center. The ADR center is critical to realizing the Hon. Chief Justice's vision of Social Transformation through Access to justice and utilizing the multi-door approach to dispute resolution. In partnership with the Chartered Institute of Arbitrators, ICJ Kenya will strategically seek to take up an advocacy and public awareness role to educate Kenyans on the benefits of Alternative Dispute Resolution processes.

Launch of the Kenya Presidential Petition Observation Report.¹

In August 2022, ICJ Kenya, in partnership with the Africa Judges and Jurists Forum (AJJF), deployed a high-level observer mission to monitor and observe the proceedings at the Supreme Court of Kenya on the determination of the 2022 presidential election petition. The Mission aimed to assess whether the proceedings adhered to regional and global standards on election disputes. In particular, the Observer Mission sought to determine whether the Supreme Court handled the proceedings in a manner that adhered to the right to a fair hearing for the parties involved in the petition. The Observer Mission did not examine the election process but only confined its review to how the Supreme Court handled proceedings concerning the hearing and determination of the presidential election petition. On 10 February 2023, ICJ Kenya, in collaboration with AJJF, hosted the online launch of the report.

1. Report can be accessed: <https://icj-kenya.org/downloads/observer-mission-report-on-the-handling-of-the-2022-kenyas-presidential-election-petition/>



LAUNCH OF THE KENYA PRESIDENTIAL ELECTION PETITION OBSERVATION REPORT

OBSERVATION TEAM

RT CHIEF JUSTICE MOHAMMED CHANDE OTHMAN LADY JUSTICE LILIAN TIBATEMWA - EKIRIKUBINZA

JUSTICE MOSES CHINHENG LADY JUSTICE IVY KAMANGA JUSTICE HENRY BOISSIE MBHA

10TH FEBRUARY 2023 | 10:00 AM -11:30 AM EAT

REGISTRATION LINK
https://us02web.zoom.us/webinar/register/WN_iY57oS_T8OdZonhXd27YQ



AJJF & ICJ-KENYA OBSERVER MISSION REPORT ON THE HANDLING OF THE 2022 KENYA'S PRESIDENTIAL ELECTION PETITION.

DECEMBER 1ST, 2022

Now available on
<https://icj-kenya.org/e-library/>

www.icj-kenya.org

Engagement with the Special Rapporteur on the Independence of Judges and lawyers.



Executive Director Elys Sainna and Ag. Deputy Executive Director Julie Matheka meeting Prof. Margaret Satterthwaite, the UN Special Rapporteur on the Independence of judges and lawyers.

ICJ Kenya, led by Executive Director Elys Sainna and Ag. Deputy Executive Director Julie Matheka had the opportunity to share insights with Prof. Margaret Satterthwaite, the UN Special Rapporteur on the Independence of judges and lawyers. The team shared key insights on the Independence of the Judiciary of Kenya, Judicial Independence, Judicial Accountability, and Judicial Funding, amongst other issues aligned with the mandate of the Special Rapporteurs office. The team welcomed the engagement with the Special Rapporteur and committed to sharing more information appertaining to the strides Kenyan and regional civil societies are making to ringfence judicial Independence. The United Nations Office of the High Commissioner on Human Rights facilitated the meeting.

Observer mission Report can be accessed through :
<https://icj-kenya.org/downloads/observer-mission-report-on-the-handling-of-the-2022-kenyas-presidential-election-petition/>

SECURITY SECTOR STRENGTHENING & REFORMS

Training for Kenyan Defence Attorneys on the Mendez Principles for Investigative Interviewing

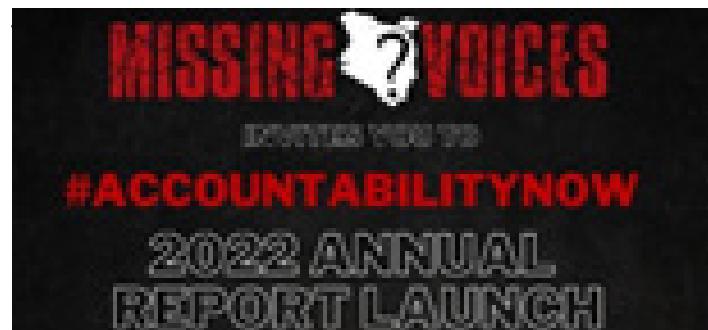
The African Policing Civilian Oversight Forum (APCOF), Fair Trials International, and ICJ Kenya, with support from ROLE UK, conducted a two-day training in Mombasa for ICJ Members on the Mendez principles for investigative interviewing. The principles are based on ethics, science, and international human rights law. The principles offer evidence-based techniques that comply with human rights safeguards to adduce reliable evidence from suspects, witnesses, and victims of crime. ICJ Kenya will collaborate with APCOF and other relevant stakeholders to roll out training to the National Police Service and other security sector agencies that would benefit from harnessing the techniques from the Mendez Principles.



ICJ Kenya members participating in the Mendez principle training held in Mombasa

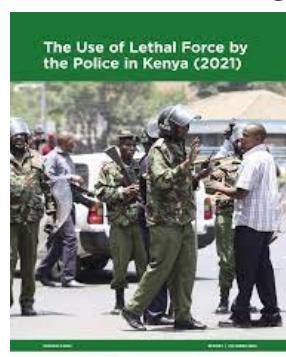
Missing voices 2022 Annual Report on Extrajudicial Killings and Enforced Disappearances

Under the auspice of the Missing Voices Coalition, ICJ Kenya has contributed to reviewing and editing the 2022 Missing Voices Coalition Annual report on extrajudicial killings and enforced disappearances in Kenya. Further, ICJ Kenya has been involved in planning the report launch at Yala on 24th March 2023.



Launch of the report on the use of lethal force by the National police service

In the reporting period, ICJ Kenya attended a report launch on "The use of lethal force by the National Police Service (NPS)." The Independent Oversight Authority developed the report, The Kenya National Commission of Human Rights, The Independent Medico-Legal Unit, the Mathare Social Justice Centre, and the African Police Civilian Oversight Forum. The report provides an overall analysis of patterns of use of lethal force by the NPS against specific indicators developed in the literature to establish whether lethal force is proportionate and, therefore, legal or excessive, thus illegal.



Report Cover on "The use of lethal force by the National Police Service (NPS)."

Press statement on the sentencing of the convicted police officers in the murder of Willie Kimani case.

Under the auspice of the Missing Voices Coalition (MVC), ICJ Kenya contributed to developing a press statement on the sentencing of convicted police officers in the murder of Willie Kimani. The statement expressed satisfaction by the working group on the final determination of the case after six years of trial. Further, it called the Judiciary to expedite other cases of extrajudicial killings and enforced disappearances pending in Court. ICJ Kenya is watching brief in the cases of Ahmed Rashid and the Kianjokoma brothers.



Press statement on the sentencing of convicted police officers in the murder of Willie Kimani.

CRIMINAL JUSTICE

Community campaign on decriminalisation and reclassification of petty offences in Kenya.

In the reporting period, ICJ Kenya trained paralegals in two counties, namely Kwale, and Taita Taveta, on the importance of decriminalizing petty offences; the role of paralegals in the campaign. Further, the training explored the intersectionality between Alternative justice systems and the decriminalisation of petty offences in Kenya.



Voi paralegals attending the training on AJS and petty offences

ICJ Kenya courtesy call to Hon. Opiyo Wandayi- Minority Leader, National Assembly.

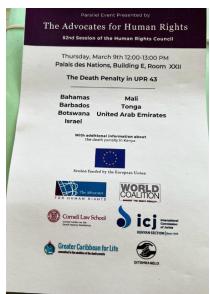


Executive Director Elys Sainna and Ag. Deputy Executive Director Julie Matheka and programme officers Thuku Mburu and Damaris Kemunto meeting Hon. Opiyo Wandayi, the Minority Leader.

In the reporting period, ICJ Kenya paid a courtesy call to Hon. Opiyo Wandayi, the Minority Leader and the sponsor of the Abolition of Death Penalty Bill to discuss and explore potential areas of collaboration and partnership. Hon. Wandayi noted that Kenya has been exercising a moratorium. As such, it is ripe for a push for the abolition of the death penalty in tandem with Regional momentum toward the same. The Hon. Member of Parliament requested support to draft the bill and sensitize the public on the inhumane nature of the death penalty.

ICJ Kenya advocacy at the UN Human Rights Council and the Committee on Economic and Social Cultural Rights.

ICJ Kenya, in partnership with Advocates for Human Rights, World Coalition Against the Death Penalty, Cornell Law School, the Greater Caribbean for Life, and Ditshwanelo, held a side event during the 52nd Session of the Human Rights Council calling for the abolition of the death penalty in Bahamas, Barbados, Botswana, Kenya amongst other countries. The side event, which was also in keeping with the International Womens Day celebrations, also shed light on the number of women incarcerated on death row and made a rallying call to Governments to consider gender-sensitive lenses in sentencing. In the panel, ICJ Kenya recommended enhancing the defence mechanisms to factor in domestic abuse and violence as key mitigating factors to be considered while sentencing, especially in cases leading to the death of an abusive intimate partner.



Ag. Deputy Executive Director Julie Matheka attending a side event during the 52nd Session of the Human Rights Council calling for the abolition of the death penalty



HUMAN RIGHTS

ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS AND ATROCITY CRIMES

Prosecutor vs. Jean Twagiramungu

The Judgement of Mr. Jean Twagiramungu (the Accused) was delivered on 16 February 2023 at the High Court Chamber of the International Crimes Division in Nyanza. The Accused's trial commenced in August 2017. He was indicted for the offences of (i) conspiracy to commit genocide, (ii) complicity to commit genocide, (iii) direct and public incitement to commit genocide, (iv) murder as a crime against humanity, and (v) extermination as a crime against humanity. The Court convicted the Accused and sentenced him to 25 years in prison for the crimes of complicity and conspiracy to commit genocide. He was acquitted of the other three crimes for lack of evidence. The Court based its decision on the witness testimonies and statements highlighted during the trial.

The Court took judicial notice that since it was a first conviction, 25 years imprisonment was appropriate for the two crimes instead of life imprisonment. The Court further informed the Accused of his right to appeal within 30 days from the date of judgment delivery. The Accused expressed his dissatisfaction with the judgment and said he would appeal. ICJ Kenya will regularly visit the Accused in prison as part of the monitoring process to ensure that his rights associated with prison conditions under the Mandela rules continue to be guaranteed, protected, and fulfilled.

EQUALITY RIGHTS AND INCLUSION

ICJ Kenya on the Freedom of Association of LGBTQ+

ICJ Kenya and other Civil Society Organizations released a press statement supporting the Supreme Court Judgement on the Freedom of Association of the LGBTQ+. The Supreme Court's decision promotes and advances inclusivity as envisioned in Article 10 of the Constitution of Kenya 2010. The Judgement has demonstrated the great strides that Kenya has taken to promote the Rule of Law, Democracy, and Human Rights.



We support the Supreme Court decision as it promotes and advances inclusivity being one of the principles under Article 10 of the Constitution of Kenya. We advise the LGBTQ+ community in Kenya to seek and report any injustices to security agencies and the Kenya National Commission on Human Rights (KNCHR).

We implore all Kenyans to exercise tolerance that allows for the robust exchange of divergent views. They should understand that indirect or direct violence against the LGBTQ+ community violates Article 29, that no citizen should be subject to 'any form of violence from either public or private sources' and that all Kenyans are entitled to equal protection of the law.

Finally, we reiterate that human rights are interdependent and indivisible, and all lives deserve to be protected. We call upon all to be minded that Kenya is a signatory to the Universal Declaration on Human Rights, which states that *"all persons are born equal and free from discrimination"* and is further bolstered in Article 27 of the Constitution of Kenya 2010, which states that *"Every person is equal before the law and has the right to equal protection and equal benefit of the law. Equality includes the full and equal enjoyment of all rights and fundamental freedoms."*

Thank you.

Capacity Building of Paralegals on Alternative Justice Systems (AJS)

ICJ Kenya conducted a paralegal training on AJS in its TaitaTaveta and Kwale Paralegal Networks. The training aims to promote access to justice for the indigent by building the community paralegals' capacity for Alternative Justice Systems.

The training was attended by 21 paralegals working in the Taita Taveta region and 25 in the Kwale region.



ICJ Kenya conducting an AJS Training in Taita Taveta and Kwale

Legal Aid Conducted at Kenyatta University School of Law- Nairobi

ICJ Kenya supported the Kenyatta University School of Law in offering Legal Aid to the members of the public. The Legal Aid attracted diverse members of the community who were assisted.



ICJ Kenya engages the National Legal Aid Board.

ICJ Kenya, a member of the National Steering Committee on Alternative Justice Systems in Kenya member, presented the Cost Benefit Analysis to the National Legal Aid Service technical team and Board. The Cost-benefit analysis developed by ICJ Kenya in 2022 makes a compelling justification for funding Legal Aid and Alternative Justice to enhance access to justice for all and ensure economic vibrancy. The Cost Benefit Analysis was welcomed by the National Legal Aid Chairperson and the AJS Chairperson, who commended ICJ Kenya for the novel approach to addressing funding gaps for the legal representation of the poor and vulnerable.

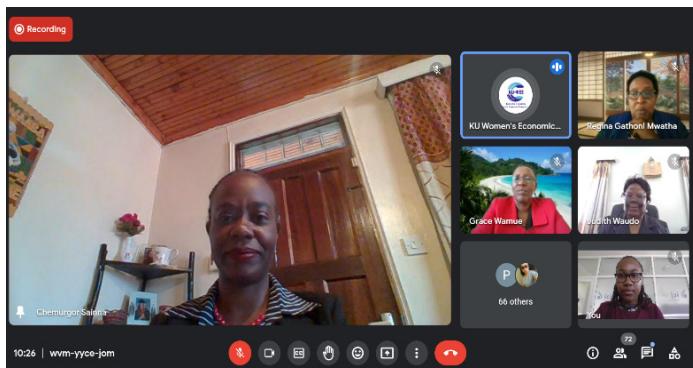


Ag. Deputy Executive Director Julie Matheka making a presentation on the Cost Benefit Analysis to the National Legal Aid Service technical team. Also Present in the Meeting was the Court of Appeal Judge, Hon Justice Prof. Joel Ngugi.

CIVIC SPACE, DIGITAL RIGHTS, AND INDEPENDENT MEDIA

ICJ Kenya raises awareness on Technology Assisted Violence against Women (TAVAW)

ICJ Kenya was invited as Chief Guest by the Kenyatta University Women Empowerment Hub to deliver a keynote address on Technology-Assisted Violence Against Women during International Women's Day. ICJ Kenya noted that women are constantly at risk of violence online and that most women who access the internet have been subjected to some form of harassment. ICJ Kenya proposed that states adopt the Africa Commission Resolution's protecting Women Against Digital Violence recommendations. (ACHR/Res. 522(LXXII) 2022.



Executive Director Elys Sainna delivering a keynote address on "Technology Assisted Violence Against Women" during International Women's Day at the Kenyatta University Women Empowerment Hub



ECONOMIC JUSTICE

CORPORATE AND PUBLIC SECTOR ACCOUNTABILITY

ICJ Kenya develops a Simplified Guide to Access Information and Open Contracting for Improved Transparency

ICJ Kenya developed a simplified guide on access to information and open contracting. The guide will create public awareness and increase public engagement in advancing transparency and accountability in public entities. The guide has simplified the right of access to information and open contracting into easily understandable concepts that can be quickly and effectively communicated to the public. We will disseminate the document to our target audiences as we advocate for compliance with Open Contracting Data Standards (OCDS) and the constitutional threshold for accessing information.

You can download the Brochure through the link : <https://icj-kenya.org/wp-content/uploads/2023/04/Simplified-guide-on-access-to-information-and-open-contracting.pdf>



The Simplified guide on access to information and open contracting

ICJ Kenya Hosts Breakfast Meeting to Promote Data Disclosure in Procurement Processes

ICJ Kenya held a breakfast meeting on 28 February 2023. The overall objective of the breakfast meeting was to intensify collaboration between state actors in the public service delivery system and civil society organizations to explore alternative ways of promoting data disclosure, especially in procurement processes, as tools to enhance transparency and accountability. Further, the meeting was a platform for sharing the findings and recommendations of the sector analysis report by ICJ Kenya and AFIC and taking stock of what the stakeholders in procurement, State, and non-state actors are doing to ensure disclosure of data.



ICJ Kenya presenting the findings and recommendations of the sector analysis of disclosed data.

ECOSOC RIGHTS

Development of digital policy and legislative fact sheets and videos for dissemination and publication; and translation of the factsheets and videos to Kiswahili

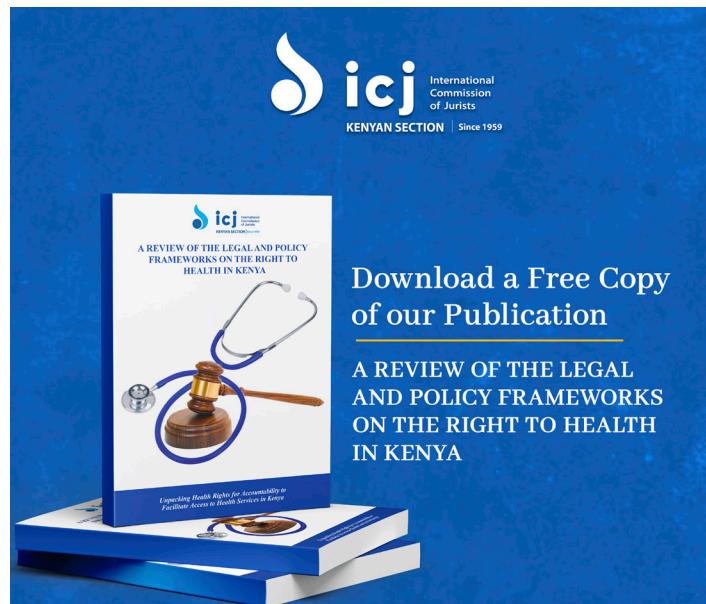
ICJ Kenya simplified the legislative and policy review report on the right to health and developed content for a fact sheet and short informational video. The fact sheet has been sent to the printers for design, layout, and printing. ICJ Kenya also concluded the contracting process for a Kiswahili translator for the video and the fact sheet. The simplification of the report into a fact sheet and video and translation will ensure greater reach and ease of understanding by different target groups

Review of existing legal and policy frameworks that inhibit access to health rights.

ICJ Kenya completed the review of existing legal and policy frameworks that inhibit access to health rights. The consultant sent the final report incorporating feedback from the validation meeting, after which it underwent internal review and editing.

The report has been sent to the printers for design, layout, and printing before dissemination. ICJ will engage duty bearers and other stakeholders to present the report findings and recommendations and advocate for the recommended reforms for implementation in the subsequent quarters.

Download the Publication through: <https://icj-kenya.org/downloads/a-review-of-the-legal-and-policy-frameworks-on-the-right-to-health-in-kenya/>



A Report Of The Review Of The Legal And Policy Frameworks That Inhibit Access To The Right To Health In Kenya

Development of a compendium on emerging and comparative jurisprudence on the right to health



ICJ Kenya internally reviewed eight research papers that will be compiled for the compendium on emerging and comparative jurisprudence on the right to health before publication. The compendium will be reduced into policy briefs summarizing the key interventions needed at the legislative and policy level in the subsequent quarter.

Development of a Bench-Book on the Right to Health

ICJ Kenya finalized the contracting process of two experts, a lawyer, and a medical doctor, to develop a bench book on the right to health. On 20 February 2023, ICJ Kenya held a consultative meeting with the Kenya Judiciary Academy to determine the scope of the work and the modality to develop the bench book. ICJ Kenya will formalize the partnership through an MoU to develop the bench book and convene a judge's colloquium on the right to health. The bench book and the colloquium will equip judges and other legal practitioners with relevant skills to enrich jurisprudence on the right to health in Kenya.



The consultants, ICJ Kenya team led by Elys Sainna with the director of KJA, Hon. Justice Smokin Wanjala

LAND, ENVIRONMENT & CLIMATE JUSTICE

ICJ Kenya engages in Land Rights discourse with stakeholders within the movement

On 24 February 2023, ICJ Kenya participated in a stakeholder meeting on securing land tenure through paralegalism. The meeting was geared towards identifying the steps to be taken in collaboration with other stakeholders to improve secure land tenure rights through the work of paralegals. The objective would be met through partnerships, learning, knowledge sharing, and building relationships with the government and its agencies as duty bearers, partners, CSOs, NGOs, paralegals, and knowledge management institutions.

Stop Ecocide Campaign

ICJ Kenya met with James Gondi on 22 February 2023 to discuss a potential partnership with Stop Ecocide International. The discussions explored collaboration in convening a regional jurists hybrid meeting to sensitise the ICJ membership, academia, and law students on efforts to make ecocide a crime alongside genocide, war crimes, crimes against humanity, and the crime of aggression, pursuing joint advocacy before the African Commission on Human and People's Rights (ACHPR), engaging the Southern Africa Chief Justices Forum on the potential impact of ecocide as a criminal law framework, and the East Africa Magistrates and Judges Association (EAMJA), among others. ICJ Kenya will formalise the partnership through an MoU.

Thank you for reading our Second edition newsletter of 2023.

Do you have any feedback, questions or comments?

You can reach us through our email

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call our office line:

[+254720 491 549.](tel:+254720491549)

For more information, you can visit our website ,

<https://icj-kenya.org/>

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