



icj

International
Commission
of Jurists

KENYAN SECTION | Since 1959

Newsletter

THIRD EDITION OF 2023

3RD / 2023

The Kenyan Section of the International Commission of Jurists
ICJ Kenya House, Off Silanga Road, Karen
P.O. Box 59743-00200, Nairobi, Kenya
Tel: +254-20-2084836/8 | +254 720 491549

**2023
ISSUE**

3

Chairman's Note

Protas Saende

ICJ Kenya Chairman



Dear ICJ Kenya Members , Partners and Friends,

I am pleased to share with you the third edition of ICJ Kenya's newsletter, providing you with updates on our recent endeavors in advancing justice, human rights, and the rule of law in Kenya.

During the past months, ICJ Kenya has actively participated in various activities aimed at promoting judicial independence, celebrating World Press Freedom, advocating for the rights of marginalized groups, including LGBTQI individuals, and raising awareness regarding the decriminalization of minor offenses. Additionally, we have devoted substantial efforts to generate awareness of our impactful Right to Health report.

I extend my heartfelt appreciation to our devoted team, partners, and ICJ members, whose invaluable contributions have been fundamental in the success of these initiatives. Together, we are effecting positive change and fostering a more equitable and rights-oriented Kenya.

Thank you for your unwavering support, and I encourage you to delve into this newsletter to gain further insights into our recent activities and accomplishments.

Yours sincerely,

Protas Saende,

ICJ Kenya Chairman.



Members Corner

Jurists Brainstorm on the State of the Nation.



The poster features the ICJ Kenya logo at the top left. The main text reads 'Members Forum' in large blue letters, followed by 'A Jurists brainstorm on the state of the Nation.' Below this, a laptop and smartphone display the Zoom logo. At the bottom, it specifies the date and time: 'Date - 29/03/2023 | Time- 6:00 PM-7:00PM' and provides a registration link: 'https://us06web.zoom.us/joining/register/tZYvdOmvpz4vHdz94JMqt8kK4UW3OqSp7eJb'.

On March 29, 2023, ICJ Kenya Secretariat, led by Council and ED, hosted an online Jurist brainstorm on the state of the Nation in the context of the ongoing mass protests in the country. The forum attracted ICJ Kenya Members who discussed on country's political context, given the escalation of protests and related human rights violations. The Constitution of Kenya 2010, in Article 37, mandates every person the right to assemble, demonstrate, picket, and petition. To uphold this constitutional right, the members recommended, among other recommendations, the need for ICJ Kenya to create advocacy on the use of force guidelines and condemn the actions of National Police Service personnel that are perceived as excessive use of force during demonstrations.

ICJ Kenya's Annual Members Open Day

On March 24, 2023, ICJ Kenya Secretariat organized its annual Members Open Day, bringing together members from the bar and the bench for networking and sharing insights about ICJ Kenya's work. This year's celebration was particularly special as it honored recently admitted bench members and recognized judges and magistrates for their exemplary service. The event was a resounding success, and ICJ Kenya appreciates the attendance and participation of all its members. Looking forward to another spectacular Members Open Day next year!



The reminder poster has a dark blue background. At the top is the ICJ Kenya logo. Below it, the word 'REMINDER' is written in large, bold, orange letters. Underneath, there's a graphic that says 'ICJ KENYA MEMBERS OPEN DAY' with a blue ribbon effect. A handwritten-style signature reads 'Dear Members,'. Below that, the text says 'You are cordially invited to the inaugural Members Open Day at the ICJ House. Come join us for High-Tea with the Jurists.' The date 'Friday, 24 March 2023' is highlighted in yellow. At the bottom, it lists the time '4pm - 6pm' and location 'ICJ office, off Silanga Road - Karen'. A note at the very bottom states 'Reservation is on a first-come, first-served basis.' and provides the R.S.V.P. number '0720 491549'.





DEMOCRATIC GOVERNANCE AND THE RULE OF LAW



Constitutional Reforms and Implementation

Engagement with Justice, Legal Affairs, And Human Rights Committee Members – Senate.

ICJ Kenya, represented by the ED, engaged the Senate Committee on Justice, Legal Affairs, and Human Rights at a workshop in Nakuru. ICJ Kenya presented its legislative reform propositions on Elections, Criminal Justice and Security, Access to Justice, and the Right to Health (RTH)



Engagement with the United Nations High Commissioner for Human Rights.

ICJ Kenya engaged with the United Nations High Commissioner for Human Rights (UNHCHR). Through the engagement, ICJ Kenya had the opportunity to share its expertise, provide valuable insights, and contribute to shaping human rights discourse.

Furthermore, the engagement with the UNHCHR provided ICJ Kenya with valuable networking opportunities, facilitating connections with other like-minded organizations and stakeholders in the human rights field.



Judicial Strengthening and Reforms

Sustained Engagements with NCAJ.

ICJ Kenya actively participated in a workshop organized by the National Committee on Criminal Justice Reforms (NCCJR), a subcommittee under the National Council on Administration of Justice (NCAJ).

The workshop provided a platform for stakeholders to engage in constructive discussions, exchange ideas, and propose innovative solutions to improve the criminal justice system.

Our involvement influenced the dialogue, provided valuable insights, and contributed to shaping the reform agenda in collaboration with other key stakeholders.

Sustained Engagements on Judicial Independence.

ICJ Kenya's attention was drawn to reports regarding the recommendation by the Judicial Service Commission in Uganda to remove Supreme Court Justice Esther Kisaakye. Justice Kisaakye delivered the sole dissenting judgment in the 2021 election petition.

In response to this development, ICJ Kenya, in collaboration with other like-minded organizations such as PALU (Pan African Lawyers Union), actively advocated for the Ugandan government to consider the implications of removing a judge in this manner, particularly through regional courts.

ICJ Kenya and its partners aim to raise awareness about the significance of maintaining an independent judiciary free from political interference through coordinated efforts and strategic engagement. This action underscores ICJ Kenya's commitment to promoting and defending judicial independence within Kenya and the wider East African region.

Security Sector Strengthening & Reforms

ICJ Kenya Participates in AAAJD Coalition Meeting: Progress and Continuity Discussions

In the reporting period, ICJ Kenya attended the AAAJD Coalition directors and technical persons meeting to discuss the progress and the continuity of the coalition. Amongst the main agenda of the meeting were the coalition resource mobilization strategy and a clear look at 2023 activities.

In the reporting period, the portfolio received the FOREWORD from the Chairperson that will form part of ICJ Kenya's publication on "Simplified security sector laws," which will be ready for launch and updating on the ICJ Kenya website.

Criminal Justice

ICJ Kenya participated in Webinar by Dullah Omar Institute on Sub-National Governance and Criminalization of Poverty

In continuation of ICJ Kenya's campaign on the Decriminalization of petty offences in Africa, ICJ Kenya participated as a panelist in a webinar coordinated by our regional partner Dullah Omar Institute where ICJ Kenya Acting Executive Director Ms. Julie Wayua made a presentation on the status of Decriminalization of petty offences looking at both national and devolved government's legal framework in Kenya.

Webinar on the Sub-national Government and the Criminalisation of Poverty & Status: Defining the problem [4 April 2023]

ACJR hereby cordially invites you to the first of a series of webinars on sub-national governance and the criminalisation of poverty and status.

- When Apr 04, 2023 from 10:00 AM to 11:30 AM (Africa/Johannesburg / UTC200)
- Where Online (Zoom)
- Add event to calendar iCal

Logos: CHREAA, LAWYERS FOR HUMAN RIGHTS, LA LAWYERS ALERT, icj, acjr



The webinar's objective was to define the problem and gain continental perspectives based on different contexts regarding problems experienced with sub-national governance in law, policy, and practice, how this affected the poor and marginalized people, and, more specifically, the tendency to criminalize poverty and status.

ICJ Kenya's Labour Day Online Campaign: Decriminalizing Petty Offences for the Protection of the Poor and Marginalized

As Kenya commemorated Labour Day, ICJ Kenya conducted an online campaign on decriminalizing petty offences. This was done through targeted messaging shared on ICJ Kenya's Twitter, reminding the state of decriminalizing petty offences in Kenya, especially protecting the poor and marginalized as they carry their day-to-day businesses to sustain themselves.



Memorandum on legislative reforms on petty offences in Kenya submitted to National Assembly.

ICJ Kenya, on the request of the National Assembly, submitted a memorandum on the Penal Code (Amendment) Bill. The Bill seeks to amend the Penal Code Cap—63 by repealing Section 182, which prescribes the offence of idle and disorderly persons. The memorandum embodied ICJ Kenya's recommendations to the National Assembly on the need for and importance of legislative reforms in Kenya on petty offences.



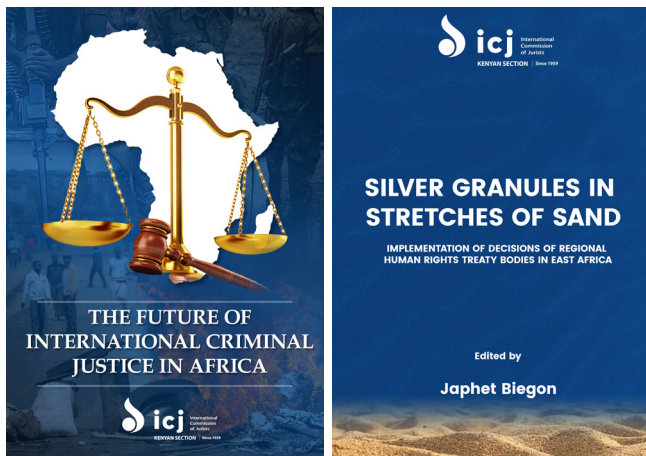
HUMAN RIGHTS



Accountability for Human Rights Violations and Atrocity Crimes

ICJ Kenya's Publication Achievements:

During the reporting period, the portfolio completed the design of the publication titled: *Charting the Future of International Justice in Africa.* And *"An assessment of the judiciary of Sudan: The ability to address, uphold the rule of law,"* the portfolio has published the publications on the ICJ Kenya website for public consumption.



The Future of International Justice In Africa :

<https://icj-kenya.org/wp-content/uploads/2023/07/The-future-of-IJ.pdf>

An assessment of the judiciary of Sudan: The ability to address, uphold the rule of law.

<https://icj-kenya.org/wp-content/uploads/2023/07/silver-granules-FINAL-EDITED-DESIGN.pdf>

Maandamano Monday Press Briefing.

ICJ Kenya's proactive monitoring role in the ongoing maandamano/Protests in Kenya reflects its steadfast commitment to championing human rights and advocating for peaceful demonstrations. The press briefing event held on 29th March 2023 served as a crucial platform for ICJ Kenya to express its position on the then maandamano monday protests, emphasizing the importance of peaceful protests and calling for respect for human rights in the process.

By releasing a statement that encourages constructive dialogue and understanding, ICJ Kenya reaffirms its role as a key stakeholder in promoting social justice and fostering a democratic society in Kenya.

IS KENYA GOING DOWN A SLIPPERY SLOPE?

PRESS STATEMENT ON THE MONDAY PROTESTS, DESTRUCTION OF PROPERTY, HUMAN RIGHTS VIOLATIONS, AND CONDUCT OF THE NATIONAL POLICE SERVICE

29TH MARCH 2023

On 27 March 2023, the Kenyan Section of the International Commission of Jurists (ICJ Kenya) continued to monitor and document the activities that unfolded during the Monday Protests.

The Protests were the second in the series of protests the Azimio La Umoja Coalition called for.

As a body of jurists, we are concerned that the protests are becoming a basis for continued clawing back against our constitutional and legal imperatives, violation, and derogation of the fundamental rights and freedoms entrenched in our Constitution of Kenya, 2010.

ICJ Kenya is further concerned the events of 20 March 2023 and 27 March 2023 can potentially take the country on a dangerous path with glaring ramifications to human rights, democracy, and the rule of law. The protests closely mirror the events of the Post-Election violence in 2007, where political incitement led to atrocity crimes that resulted in mass killing, sexual and gender-based violence, grave injuries, and internal displacement of the masses and triggered the jurisdiction of the International Criminal Court (ICC).

Whereas Article 37 of the Constitution of Kenya guarantees every person the right to peacefully assemble, demonstrate, picket, and present petitions to public authorities, we observed government interference through the security agencies¹. For example, the demonstrators were deliberately policed ostensibly to 'protect and contain' in select areas of Nairobi and Kisumu.

1. Constitution of Kenya 2010, Article 37

29th MARCH 2023

Download full statement here:

<https://icj-kenya.org/wp-content/uploads/2023/03/PRESS-STATEMENT-ON-THE-MONDAY-PROTESTS-27-MARCH-2023.Council-Approved-1.pdf>



ICJ Kenya's Maandamano Monday Media presser garnered significant press coverage. Below are some of the links to access the press statement coverage

Equality Rights and Inclusion

Re-examining Gender Identity and Inclusion

An Article by Damaris Kemunto

An article drafted by Programme Consultant, Damaris Kemunto on Re-examining gender identity and inclusion, was published by the Nairobi Business Daily Magazine. The Article interrogates the challenges faced by LGBTQ in Africa and calls for their recognition and inclusion in society. The Article was also featured on the ICJ Kenya Website via

<https://icj-kenya.org/news/re-examining-gender-identity-and-inclusion-in-kenya/>



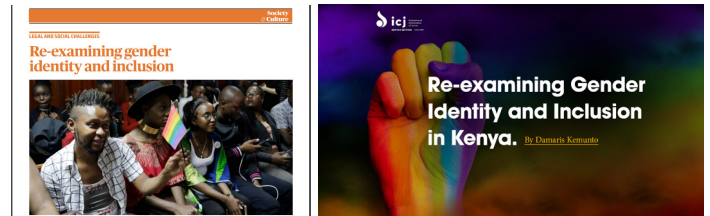
Citizen Tv: <https://www.youtube.com/watch?v=1gZ-Cgvla7w&t=109s>

NTV Kenya: <https://www.youtube.com/watch?v=6Bwg2QAmCZQ&t=1s>

KBC : <https://www.youtube.com/watch?v=GtvQY5yiTLI>

BBC News Swahili: https://www.bbc.com/swahili/bbc_swahili_radio/w172z4wxnr51vdg

The Star Newspaper: <https://www.the-star.co.ke/news/2023-03-29-kenya-heading-down-a-slippery-slope-icj-says-on-demos/>



EU Programme for Legal Aid Delivery (PLEAD) Launched

On May 10, 2023, ICJ Kenya attended the Formal Launch of the European Union Programme for Legal Aid Delivery (PLEAD) Phase 2. The programme, through UNDP, seeks to promote access to justice for the poor and the marginalized in the community. The meeting explored potential funding opportunities for Civil Society Organizations.



NTV Live: <https://twitter.com/ntvkenya/status/1641447730445950979>



#Pleadyetu

Launch of Phase II of the Programme for Legal Empowerment and Aid Delivery in Kenya - PLEAD

10th May 2023



The 2022 Annual Paralegal Report developed.

Paralegals play an integral role in promoting access to justice for the poor and the marginalized in the communities. The paralegal report consolidated the gains and successes documented by the ICJ Kenya 6 paralegal networks. The report also highlights paralegals' challenges and recommends strategies for enhancing Access to Justice in the communities.

Civic Space, Digital Rights, and Independent Media

ICJ Kenya Celebrates World Press Freedom Day .

On May 3, 2023, ICJ Kenya celebrated World Press Freedom Day, whose theme was "Shaping a Future of Rights: Freedom of Expression as a Driver of all other Human Rights." We acknowledge that democracy cannot exist without the media. We also recognized the role of journalists in unearthing the truth and their contribution toward free and independent media.



ICJ Kenya's Participation in Meeting by High Commission of Canada and French Embassy: Advocating for Free Reporting and Journalists' Safety

On May 2, 2023, ICJ Kenya was invited to attend a meeting organized by the High Commission of Canada in Partnership with the French Embassy in Kenya and Journalists for Human Rights. The meeting explored the challenges Journalists face in reporting and recommended strategies to promote free reporting.

The meeting created an avenue for ICJ Kenya to create and revive partnerships in the Media space and to amplify our work on Civic Space, Digital Rights, and Independent Media.



Corporate and Public Sector Accountability

Open Contracting Cluster Meeting

ICJ Kenya attended the Open Governance Partnership (OGP) Open contracting cluster meeting held on May 11, 2023. The forum provided an opportunity to review the overall goal of a “national end-to-end e-government system adopting the Open Contracting Data Standard (OCDS) to cover all stages of public procurement in Kenya.” The event also included a status report from the Public Procurement Regulatory Authority (PPRA) on e-GP implementation and an inclusive dialogue on the cluster’s next steps and priorities. The meeting was crucial for the institution as the engagements aimed at increasing effective governance and accountability for the use of public financial resources,



ECONOMIC JUSTICE



Open Gov Week **Open Contracting Cluster Meeting**

THEME

Co-create. Collaborate. Contribute

DATE:
11th MAY 2023

TIME:
14:00 - 16:00 PM

#OpenGovWeek
#OpenGov



Access to information community, CSOs and stakeholders engagement

During this reporting period, ICJ Kenya organised community, CSOs and other stakeholders engagement sessions; with an aim of sensitizing on promoting access to information and open contracting.

By educating the community on the significance of accessing public information, ICJ Kenya empowers citizens to be active participants in their governance. Such initiatives have helped in bridging the information gap, allowing individuals to make informed decisions and hold public institutions accountable for their actions.



K24 Live: https://www.facebook.com/watch/live/?extid=NS-UNK-UNK-UNK-AN_GK0T-GK1C&mibextid=1YhcI9R&ref=watch_permalink&v=3298711543772421

Undugu Tv: <https://youtu.be/NTt40Up3S9c>

Mbaitu Fm: https://kenyaicj-my.sharepoint.com/:v/g/personal/gachina_joseph_icj-kenya_org/ETWKxkgM_TpHjx72L-wDW_cBRi4cqYVTPtzzHRzSifkg?e=c16oYt

ECOSOC Rights

Legal Landscape on the Right to Health in Kenya packaged for awareness raising

ICJ Kenya has developed a policy and legislative factsheet and informational video on the right to health in Kenya and translated them into Kiswahili. The factsheet and the video simplify the legislative and policy review report for greater reach and ease of understanding by different target groups. The Knowledge products will create awareness of the right to health and bolster our advocacy efforts toward holding duty bearers accountable. We will disseminate the factsheets and videos to our target audience as we advocate for implementing the proposed legislative and policy reforms to enhance health service delivery.

The right to health informational videos can be accessed via the links below.



[Right to Health English Draft 4.mp4](#)

[Right to Health Swahili Draft 2.mp4](#)

Report on The Legal and Policy Framework on the Right to Health in Kenya developed.

ICJ Kenya has developed a report titled “A Review of the Legal and Policy Frameworks on the Right to Health in Kenya.” The report reviews existing legal and policy frameworks related to the right to health and recommends improving the legislative and policy environment for achieving the right to health. The report will equip stakeholders to better engage with emerging issues relating to the right to health.



We are disseminating the report to target stakeholders, including duty bearers, private sector actors, civil society actors, media actors, ICJ Members, and citizens, as we advocate for policy and legal reforms to enhance health service delivery.



icj International Commission of Jurists
KENYAN SECTION | Since 1959

Download a Free Copy of our Publication

A REVIEW OF THE LEGAL AND POLICY FRAMEWORKS ON THE RIGHT TO HEALTH IN KENYA

Access this and many more publications from our website:
www.icj-kenya.org/e-library

You can download the Soft copy version of the report through the link: <https://icj-kenya.org/wp-content/uploads/2023/04/Health-Rights-Review-Report.pdf>

Compendium on emerging and comparative jurisprudence on the right to health

ICJ Kenya is developing a compendium on emerging and comparative jurisprudence on the right to health. The compendium will offer a resource for comparison and experience sharing for Kenya's health governance and lessons for Kenya as she works on the realization of Universal Health Care. The compendium compares health governance practices in eight jurisdictions, emerging jurisprudence therein, and the handling of the COVID-19 pandemic in different countries. We will disseminate the comparative compendium during meetings with duty-bearers as we advocate for policy and legal reforms to enhance health service delivery.

Policy brief with key interventions needed at the legislative and policy levels to enhance health service delivery

ICJ Kenya is developing a policy brief based on the comparative compendium and the legislative and policy review findings and recommendations. The policy brief will summarize key interventions needed at the legislative and policy levels. We will disseminate the policy brief during meetings with duty bearers as we advocate for policy and legal reforms to enhance health service delivery.

Advocacy for legislative and policy reforms on the right to health to enhance health service delivery



ICJ Kenya team meeting with the IGRTC team led by The Director of Legal, Ms. Sophie Amutavy accompanied by IGRTC member Dr. Perminus Ndimitu.

ICJ Kenya held a consultative meeting with the Intergovernmental Relations Technical Committee (IGRTC) on April 24, 2023. The objective of the meeting was to discuss the implementation of the proposed recommendations arising from the review of existing legal and policy frameworks geared towards legislative and policy reforms on the right to health to enhance health service delivery. Further, the meeting provided a platform for ICJ Kenya to share the findings and recommendations of the legislative and policy review report and for IGRTC to give an update on the ongoing process of unbundling health functions that will inform the development of a legislative memorandum on the health sector.



Private Sector Actors from the Kenya Healthcare Federation and KEPSA roped into the discussion on policy and legislative reforms on the right to health.

ICJ Kenya convened a roundtable with private sector actors in health care service delivery drawn from the membership of the *Kenya Healthcare Federation (KHF) - the health sector board of the Kenya Private Sector Alliance (KEPSA)* - on April 26, 2023. The objective of the meeting was to initiate conversations on the findings of the review of existing legal and policy frameworks geared towards legislative and policy reforms on the right to health with private sector actors, identify priority recommendations for addressing healthcare service delivery issues and develop a concrete way forward through which ICJ Kenya and private health sector actors can work together to implement the priority recommendations. The meeting provided a platform for sharing the findings and recommendations of ICJ Kenya's legislative and policy review report, discussion on the proposed legislative and policy interventions, and getting the perspectives of private sector actors on addressing the challenges in Kenya's health sector.

Engagement with County leadership on implementing policy and legislative recommendations on the right to health

ICJ Kenya paid a courtesy visit to the *Council of Governors (CoG) secretariat* on May 12, 2023. We discussed implementing the proposed recommendations from the review of existing legal and policy frameworks geared towards legislative and policy reforms on the right to health to enhance health service delivery. The meeting provided a platform for ICJ Kenya to share the findings and recommendations of the legislative and policy review report and explore areas of collaboration with CoG in pushing for the implementation of the proposed legislative and policy interventions.



ICJ Kenya team led by the Executive Director, Ms. Elsy Sainma meeting with the Council of Governors Director of Legal Services Ms. Irine Ogamba and Ms. Meboh Abuor of the Health Technical Committee.

ICJ Kenya and Kenya Judiciary Academy Partner to Develop Bench Book for Adjudicating the Right to Health

ICJ Kenya has partnered with the Kenya Judiciary Academy (KJA) to develop a bench book to guide judicial officers in adjudicating the right to health. The bench book will guide the legal and policy frameworks and authorities relevant to matters arising from the right to health. We will disseminate the bench book to Judicial Officers and Legal Practitioners during the Judge's Colloquium on the right to health as we equip them with relevant skills to enrich jurisprudence on the right to health.



ICJ Kenya team led by the Acting Deputy Executive Director, Julie Wayua Matheka meeting with the Kenya Healthcare Federation (KHF) members led by the Chief Executive Officer of KHF, Dr. Tim Theuri.



Thank you for reading our Third edition newsletter of 2023.

Do you have any feedback, questions or comments?

You can reach us through our email

info@icj-kenya.org or

call our office line:

+254720 491 549.

For more information, you can visit our website ,

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

You can also follow us on our social media platforms :

    @ICJ_Kenya





The Kenyan Section of the International Commission of Jurists
ICJ Kenya House, Off Silanga Road, Karen
P.O. Box 59743-00200, Nairobi, Kenya
Tel: +254-20-2084836/8 | +254 720 491549

2023
ISSUE

3