

STATEMENT BY THE KENYAN SECTION OF THE INTERNATIONAL COMMISSION OF JURISTS (ICJ KENYA) ON THE PRESIDENT’S UTTERANCES OF 2 SEPTEMBER 2026 REGARDING FOREIGN NATIONALS ENGAGED IN INFORMAL TRADE

Nairobi, Kenya | 9 September 2026

The Kenyan Section of the International Commission of Jurists (ICJ Kenya) is deeply concerned by remarks made by His Excellency President William Samoei Ruto on 2 September 2026 at State House, Nairobi, directing foreign nationals engaged in small businesses to close down and calling for enforcement action against foreigners operating businesses deemed reserved for Kenyan citizens.

ICJ Kenya is concerned that such statements **risk legitimising discrimination, harassment and xenophobic attacks against foreign nationals. Reports of harassment and threats against Burundian and other foreign nationals following the remarks underscore the seriousness of these concerns.**

No public authority, including the President, is above the Constitution or the law. Article 2 of the Constitution affirms its supremacy, while Articles 2(5) and 2(6) incorporate the general rules of international law and ratified treaties into Kenyan law. A presidential pronouncement cannot, by itself, create new legal restrictions, extinguish existing rights or authorise coercive action beyond the authority conferred by law.

The Bill of Rights protects **every person**, not only Kenyan citizens. Article 27 guarantees equality and freedom from discrimination, including on grounds such as race, ethnic or social origin and other status. While the law may reserve certain activities or rights for citizens, any distinction between citizens and non-citizens must have a lawful and constitutionally justifiable basis.

Under international law, Kenya may regulate immigration, employment, and economic activities within its territory, including by imposing lawful conditions on the activities of non-citizens. However, such regulation must comply with Kenya’s international human rights obligations and must not result in arbitrary, discriminatory or disproportionate treatment.

In particular, Kenya must protect all persons within its jurisdiction from violence, arbitrary detention and discrimination, including discrimination based on race, ethnic or national origin. Where enforcement measures affect refugees or asylum seekers, Kenya must also comply with its obligations under international refugee and human rights law, including the principle of non-refoulement. Presidential statements or administrative directives cannot lawfully circumvent these obligations.

Concerns relating to immigration status, business regulation or unfair competition must be addressed through **lawful, proportionate and non-discriminatory enforcement. Not collective punishment, public stigmatisation or rhetoric that may fuel xenophobia, particularly against vulnerable persons.**

ICJ Kenya calls upon the Government to:

1. **Withdraw or clarify the statements** and reaffirm its commitment to the constitutional protection of all persons within Kenya.
2. **Protect migrants, refugees and asylum seekers** from harassment, violence, arbitrary detention and other abuses.
3. **Ensure that all enforcement action complies with the Constitution, Kenyan law and Kenya's international human rights obligations**, including those protecting refugees and asylum seekers.
4. **Reject xenophobia and uphold the dignity, equality and equal protection of every person within Kenya's jurisdiction.**

ICJ Kenya will continue to monitor developments and support lawful efforts to protect the Constitution, the rule of law and the rights and dignity of every person in Kenya.

Christine Alai



Chairperson, ICJ Kenya.