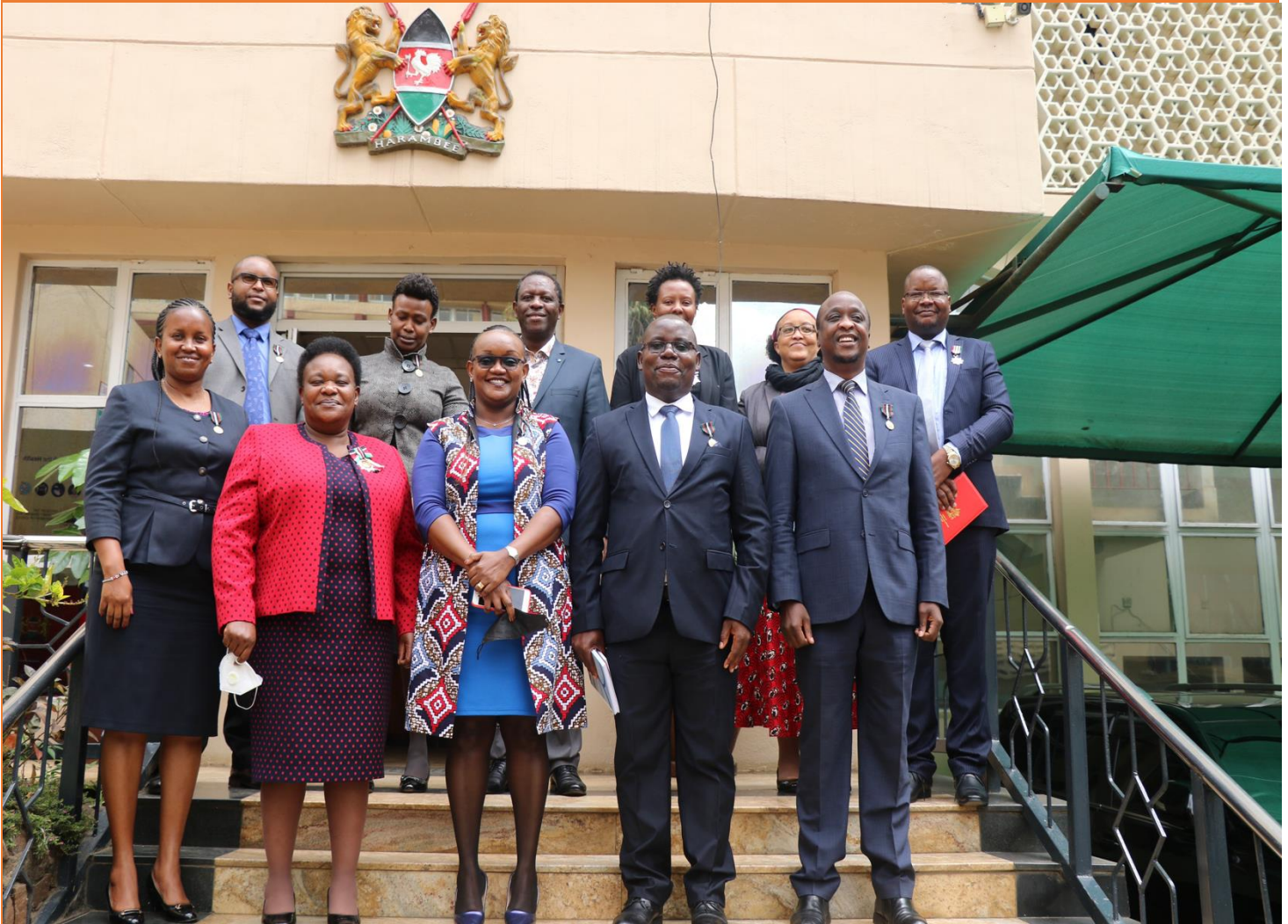


MWANASHERIA MKUU

A PUBLICATION OF THE OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF
JUSTICE- ISSUE NO 5, September 2022



In this issue:

- ✓ Constitutionalism: Pitfalls, Gains and the Way Forward
- ✓ **Judicial Review:** *Monumental Jurisprudence or judicial avoidance: Revisiting the decision of Lady Justice Roselyn Aburili in R v Truphena Ndonga Aswani, Criminal case EO11 of 2020*
- ✓ Kenya Achieves a First in Africa: Action Plan on Business and Human Rights
- ✓ The OAG&DOJ Human Rights Treaties and the Reporting System
- ✓ Training of State Counsel, an important pillar in delivering Legal Advice to Government

**OFFICE OF THE ATTORNEY
GENERAL AND DEPARTMENT
OF JUSTICE**

The Constitution of Kenya 2010, Office of the Attorney General Act No 49 of 2012 and Executive Order No 1 of 2018 outline the key functions of OAG&DOJ:

Principal Legal Adviser to the Government;

Represent the National Government in civil proceedings and matters before foreign courts and tribunals;

Legislative Drafting Services;

Negotiate, draft, vet and interpret Agreements and treaties for the Government

Policy on Administration of Justice

Coordination of Governance, Justice, Law and Order Sector reforms

Central Authority on Mutual Legal Assistance

Promote, protect, and uphold the Rule of Law, defend the Public Interest, Human Rights, and Democracy

National Registration Services (Companies, Societies, Marriages, Adoptions, Security Rights and Coat of Arms)

Public Trustee Services

Official Receiver

Oversight over the Legal Profession

Legal Aid and Legal Policy Management

Anti-Corruption Strategies, Integrity and Ethics

Political Parties and Elections Policy Management.

VISION

To be the best institution in the region in the provision of public legal services and the promotion of a just, democratic and corruption-free nation

MISSION

To facilitate the realisation of good governance and respect for the rule of law through the provision of public legal services, protection and promotion of human rights and upholding of ethics and integrity.

DID YOU KNOW (PUBLIC INFORMATION):

1. The AG has right of audience in proceedings of Public Interest or involving Public Property;
 2. The Office shall be the depository of all laws and local and international documents, agreements and treaties signed for and on behalf of the Government;
 3. The Attorney General shall have custody of the Public Seal of the Republic of Kenya;
 4. A State Counsel is an Advocate of the High Court of Kenya and is appointed by the Attorney General by Gazette Notice;
 5. All State Counsel shall perform the functions of the Office with **COMPLETE LOYALTY AND DEDICATION** and shall not indulge in any act that may affect the sovereignty and interests of the nation;
- A State Counsel has a duty to;
- a) Promote Respect for the Rule of Law and Administration of Justice;
 - b) Treat the court with candour, courtesy and respect and shall not influence court decisions by use of deceptive or reprehensible methods;
 - c) Deal with other lawyers fairly, courteously and in good faith
 - d) Uphold integrity and reputation of the legal profession and promote fairness, justice, and honesty.
 - e) All State Counsel in any Government Ministry or Department are officers of the Attorney General and are answerable to the Attorney General:
 - f) No Ministry or Department shall engage the services of a consultant to render any legal services relating to the functions of the Attorney General without approval of the Attorney General;
 - g) All Government Ministries, Departments and State Corporations shall seek the opinion of the Attorney General on any matter raising substantial legal or constitutional issues;
 - h) All Government Ministries and Departments shall notify the Attorney General of all material litigation within three days upon the filing of any pleadings;
- The Attorney General shall after 13th June of every year, prepare and furnish the President with a report that shall contain:
- I. Financial statements of the Office;
 - II. Description of the activities of the Office; and
 - III. Any other information relating to the functions of the Office.

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Contents

1. A New Dawn for Responsible Business Conduct by C. Kariuki
2. Constitutionalism: Pitfalls, Gains and the Way Forward by K. Ogeto, CBS
3. Establishing Advocate-Client Relationship in the Absence of Express Instructions and a Fee Agreement by C. Namarome;
4. Final South Lokichar Field Development Plan (FDP) by P. Ongori
5. Gas Export Project from Tanzania to Kenya by P. Ongori,
6. International studies for State Counsel; an experience- Maritime Studies, China- M. Kanyugo;
International Human

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7. **Judicial Review:** *Monumental Jurisprudence or judicial avoidance: Revisiting the decision of Lady Justice Roselyn Aburili in R v Truphena Ndonga Aswani*, Criminal case EO11 of 2020 by B. Keke.
8. Kenya Achieves a First in Africa: Action Plan on Business and Human Rights by M. Njau-Kimani, OGW
9. Mental Health Awareness by J. Kairu.
10. Milestones of OAGDOJ in Brief
11. OAG&DOJ Officers receive Presidential commendation
12. Performance Contract Evaluation Report 2021/2022 by E. Jelagat
13. **PICTORAL-SPEAK**- Photographs with captions
14. Public Trustee- List of all beneficiaries.
15. Restructuring and re-establishing the Advocates Complaints Commission as a Semi-Autonomous Government Agency by L. Ochako & H. Cheptanui
16. Review of Upstream and Selected Midstream Petroleum Regulations by P. Ongori, and R. Chebukati.
17. Strengthening Access to Justice through Legal Aid in Kenya: Assessing gaps, challenges and opportunities by F. Bidali
18. The border making process in Kenya: Joint reaffirmation of Kenya's international boundaries by J. Rotich & I. Agum
19. The OAG&DOJ Human Rights Treaties and the Reporting System by E. Chweya
20. Training of State Counsel, an important pillar in delivering Legal Advice to Government by Jeannette Mwangi, ndc (K)

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FROM THE DESK OF THE ATTORNEY GENERAL- HON. PAUL KIHARA KARIUKI EGH



During my tenure in Office, we have managed to guide this esteemed office in attaining its vision which is indicative of a progressive office culture, bearing in mind that we are essentially the largest law firm in East and Central Africa.

I am pleased to highlight the various instances of success that the Office has witnessed during my tenure: these

include, 4,541 cases concluded against the National Government; 3,119 legal opinions issued to Ministries, Department and Agencies (MDA's); 252 procurement contracts approved; 1,076 legal advisories on commercial matters issued; 565 bilateral and multilateral finance agreements negotiated, vetted and interpreted. Additionally, there are 2,388 legal advisories issued to MDAs on their rights and obligations on bilateral, regional and international law matters; 11 registration centres established for marriage services countrywide; and National Registration Services on-line through E-Citizen. To date, 22,793 marriages have been recorded; 209 Muslim marriage officers licensed; and 3,682 societies registered.

On administrative issues, I am pleased that there has been development of the Strategic Plan 2018/2022, Management of Performance Contract where the Office was ranked position 2 at Evaluation; and Position 1 on Reporting on the Political Pillar of Vision 2030 Monitoring and Evaluation Awards by the National Treasury.

I consider our Nation's justice and legal services sector institutional framework robust. It will be noted that we have made great strides towards achieving a satisfactory legal service delivery to Kenyans.

It has been a great honour serving Kenyans in my capacity as the Attorney General and I look forward to witnessing Kenyans' realization of the great changes made in the Office of the Attorney General and Department of Justice.

God Bless Kenya.

FROM THE DESK OF THE SOLICITOR GENERAL- KENNEDY OGETO CBS

On assumption of office as Solicitor General on 21st March, 2018, I pledged to work closely with all staff at the Office of the Attorney General and Department of Justice (OAG&DOJ) to enable them actualize their mandates and offer Kenyans improved service delivery, stressing I would not re-invent the wheel but build on what was already being done.



In those few years, we have made great strides in achieving our mandate. I was able to classify the achievements in different factions, including, legal mandate, reporting on state obligations, delinking to agencies and administration. Additionally, the Office had Affiliated Semi-Autonomous Government Agencies (SAGAs) and their achievements were classified into the implementation on the Constitution and legal reforms, improvement of business processes in the provision of legal services, implementation of the Bill of Rights, implementation of the Task Force Report for Legal and the Policy and Institutional Framework for fighting corruption.

On the issue of legal mandate, we have successfully developed legal policies, including but not limited to; National Action Plan on Business and Human Rights-Sessional Paper No. 3 of 2021, National Ethics and Anti-Corruption Policy, Kenya Policy on Public Participation, National Policy and Action Plan on Human Rights and National Policy on Legal Education in Kenya.

I endeavoured to nurture a positive work environment that motivated members of staff to give their absolute best. I remain true to that challenge to date. It has been an honour to serve Kenyans in the capacity of the Solicitor General.

God Bless Kenya.

Gas Export Project from Tanzania to Kenya and finalisation of the South Likichar Field Development Plan by

P. Ongori and R. Chebukati

Following the discovery of commercial quantities of natural gas in Tanzania, the Governments Kenya and Tanzania signed a Memorandum of Understanding (MOU) on May 4th, 2021 with the intention of providing a broad framework for the Parties to collaborate in the planning and development of a "natural gas export project from Dar es Salaam, Tanzania to Mombasa, Kenya.

The objectives of the MOU included the establishment of cooperation in various aspects of natural gas export; facilitate the conduct of both individual state and collaborative studies to support and encourage the natural gas exports while encouraging the cooperation and pooling of resources by the governments and/or private sector for commercial viability of the natural gas export project, leading to the evaluation and harmonisation of the legal and institutional framework for natural gas export.

Natural gas is regarded as a clean, safe, relatively inexpensive, and environmentally friendly alternative energy source and the project's implementation is expected to spur economic development and improve energy security in the country.

The Government entered into Production Sharing Contracts (PSCs) in accordance with the Petroleum Act relating to Block 10BB on 25th October, 2007 and Block 13T on 17th September, 2008 (both herein referred to the "PSCs") with Tullow Kenya B.V (Tullow) as the common Operator/Contractor of both Blocks on behalf of the Kenya Joint Venture (KJV) comprising: Tullow, Africa Oil Kenya B.V, Africa Oil Turkana Ltd, Total Energies E&P International K2 Ltd and Total Energies E&P International K3 Ltd.

The Contractor has since discovered and is continuing to explore for crude oil in the Blocks, and is evaluating the potential development of such discoveries on an integrated basis in order to produce crude oil for sale in the international markets.

The Petroleum Act, 2019 requires the Contractor to submit the Field Development Plan ("FDP") to the Energy and Petroleum Regulatory Authority ("the Authority") for review in accordance with the petroleum agreement upon the discovery of commercial quantities of crude oil. Following that, the Authority is required to advise the Cabinet Secretary for Petroleum prior to the approval of the FDP.

On 10th December, 2021, the Contractor submitted the FDP pursuant to Sections 30 (1), (2) and (3) of the Petroleum Act, 2019 and Clauses 20 (1) and (2) of the PSCs¹. The field development plan have

¹ Section 30 of the Act provides as follows:-

- 1) Where a commercial field is established, such field shall be developed by the contractor within such time as may be prescribed in this Act and the petroleum agreement.
- 2) A contractor shall prepare a field development plan for a commercial field which shall contain –
 - a. proposals for the development of and production from the field;
 - b. an assessment of whether the development of and production from the field should be subject to unitization or joint upstream petroleum operations in accordance with the provisions of this Act;
 - c. an assessment of how to coordinate upstream petroleum operations with other contractors, including the joint use of facilities subject to this Act and any other applicable law;

been submitted by the contractor to the Authority for review in accordance with the petroleum agreement and in line with the relevant provisions of the law and best petroleum industry practice.

Review of upstream and selected midstream petroleum regulations by P. Ongori.

A Inter-Ministerial Team has finalized draft regulations for the review of upstream and selected midstream petroleum. The Regulations allow for the proper management of upcoming upstream and selected midstream petroleum operations in the country are aligned and give effect to the Petroleum Act, 2019. These Regulations include:

- i. Draft Petroleum (Upstream Petroleum Rights Management and Administration) Regulations, 2021;
- ii. Draft Petroleum (Upstream Petroleum Operations) Regulations, 2021.
- iii. Draft Petroleum (Upstream and Midstream Environment, Safety and Health) Regulations, 2021;
- iv. Draft Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage Operations) Regulations, 2021; and
- v. Petroleum (Licensing of Crude Oil Road Transportation Business, Road Tankers and Drivers) Regulations, 2021.

There are three other regulations that are set to be finalised, the Local Content Regulations; the Upstream Petroleum Cost Management Regulations/Guidelines and the Land Access Regulations/Guidelines.

- d. proposals relating to the spacing, drilling and completion of wells and the facilities required for the production of petroleum including-
 - i. the estimated number, size and production capacity of production platforms, if any;
 - ii. the estimated number of production wells;

- iii. the particulars of production equipment and facilities;
- iv. the particulars of feasible alternatives for transportation of petroleum including pipelines; and
- v. any other relevant information and data.

Training Of State Counsel is an important pillar in delivering legal advice to Government by J. Mwangi, ndc (K)

The Government Transactions Division is one of the technical legal departments in the Office of the Attorney General and Department of Justice (OAG&DOJ), through which the Attorney General as the Principal Legal Advisor to Government, provides legal advice to Government Ministries, State Departments, State Corporations, County Governments, Constitutional Commissions, Independent Offices and other Government Agencies on a wide range of commercial matters and transactions.

The Division is a key enabler of the development aspirations of Government embodied in policy priorities such as the Vision 2030 and the Big Four Agenda. The Division is engaged in providing integral legal advice to Government on commercial transactions

and Government contracting in such areas as public procurement, public private partnerships (PPPs), project finance, land matters, extractives industry e.g. mining, oil and gas, negotiating and vetting of bilateral and multilateral loan and finance agreements between the Government and Donors, negotiating and vetting of bilateral investment treaties (BITs) and Avoidance of Double Taxation Agreements between the Government and other countries.

The Division supports Government in ensuring that infrastructure projects for example, in the roads, ports, pipelines, railways, energy, petroleum, ICT, water and sanitation, housing, health, Special Economic Zones (SEZs), among others, are undertaken in compliance with the Laws of Kenya and Government policy.

The OAG&DOJ endeavors to ensure that State Counsel are continuously trained by building technical knowledge, legal skills and capacity. In the recent past, State Counsel have participated in individual and group training such as; **LL.M degree in Oil & Gas Policy and Law** at the University of Dundee, Scotland; **Negotiating and Contracting in the Oil and Gas Sector; Public Private Partnerships (PPPs)** facilitated by the International Law Institute (ILI), Kampala, Uganda; **FIDIC Contracts and Construction Law Course** by the East Africa Law Society (EALS) in Arusha, Tanzania; **Investment Contracts and Treaties** by the International Institute for Sustainable Development (IISD); **Legal Fellows Training by Power Africa** on PPPs and Project Finance in the energy sector.

Capacity building broadens the knowledge, exposure and experience of State Counsel and enables State Counsel keep abreast with trends and international best practice. More recently, State Counsel have attended the following short courses through the support of Government and development partners.

- **Training on Financial Management of and Accountability for Donor Funded Projects held at the Eastern and Southern Africa Management Institute (ESAMI) based in Arusha, United Republic of Tanzania from 13th to 24th June, 2022**

The training was earmarked for Kenyan participants from the National Treasury, the Kenya Mortgage Refinance Company

Ltd (KMRC) and the OAG&DOJ with the support of the World Bank under the Kenya Affordable Housing Finance Project.

Identification and Management, Project Budgets, Financial



The participants had in depth discussions on Project Conceptualization, Sources of Project Finance, Project Stakeholder Engagement, Government borrowing, Ensuring Value for the Money, Project Cycle and Selection, Project Governance, Risk

Statements and Reports, Project Monitoring and Evaluation including Challenges in Foreign Financial Negotiations.



Mercy Cherotich and Abigael Masinde, Senior State Counsel receiving their Certificate of Attendance



Workshop participants bond during one of the health breaks: Karen Rono, Deputy Chief State Counsel receiving her Certificate of Attendance



➤ **Extractive Industries: Proposed Seminars for East African Public Sector Lawyers held at the Fair View Hotel, Nairobi from 15th – 19th August, 2022**

This training has been organized annually by the East African Development Bank (EADB) since 2013 and brings together public sector lawyers from the region namely, Kenya, Uganda, Tanzania, Rwanda and Burundi. The

EADB has been determined to bridge the capacity gap in the region by building the capacity of lawyers in negotiating, structuring and drafting international business transactions with a specific emphasis on the energy and extractives sector i.e. oil and gas.

The interactive training explored substantive issues in natural resource agreements as well as the political, economic and social context in which the agreements are negotiated.

➤ **Public Sector Lawyers Training organized by the Trade and Development Bank (TDB) and the African Legal Support Facility (ALSF) held at Villa Rosa Kempinsky, Nairobi from 14th – 18th March, 2022**

The training was attended by participants from 25 English speaking countries in the Eastern and Southern Africa region and discussed key topics such as the Legal

Aspects of Sovereign Debt, Ethics, Anti-Bribery and Corruption, and Public Private Partnerships (PPPs).

The African Legal Support Facility (ALSF), an international organization hosted by the African Development Bank (AfDB)

based in Abidjan, Cote d'Ivoire facilitated the training. ALSF is dedicated to provide legal advice, technical assistance and capacity building to African countries in the structuring and negotiation of complex commercial transactions.

➤ **Training on Practical Application of Principles of Project and Programme Management in Public Private Partnership (PPPs) Projects held at the English Point Marina, Mombasa from 21st – 25th March, 2022**

The workshop discussed PPPs and project finance with comparative case studies such as the Euro Tunnel project between France and the United Kingdom, the Ngong-Isinya-Kajiado-Imaroro road project and the Nairobi Expressway project. The Kenya College of Infrastructure in collaboration with the Public Private Partnership (PPP) Directorate at the National Treasury and the Engineers Board of Kenya organized and facilitated the workshop. The workshop was attended by representatives from various Ministries, State Departments, Government Agencies, State Corporations and County Governments including officers from the OAG&DOJ. Participants had the opportunity to discuss Project and



Participants pose for a group photo session and undertaking group work.



Programme Management,
the Public Private
Partnership Act, 2021, the
Public Private Partnership

Policy, the Public Private Partnership Processes and the
Project Facilitation Fund, among others.

Mental Health Awareness by J. Kairu

Mental illness is the physiological or psychological disturbance of the brain when it comes to thinking, behavior, energy or emotions that make it difficult to cope with the ordinary demands of life. Mental health includes our emotional, psychological, and social well-being. It affects how we think, feel, and act. It also helps determine how we handle stress, relate to others, and make choices. Mental health is important at every stage of life, from childhood and adolescence through adulthood.

Many factors contribute to mental health problems, including:

- Biological factors, such as genes or brain chemistry
- Life experiences, such as trauma or abuse
- Family history of mental health problems

Mental health is an issue that can easily go unnoticed or be ignored. Many people are not aware that their relatives or friends are deeply depressed and need help. It is not until we are faced with a suicide or homicide that we shake our heads and say: "We did not know. Who would have guessed something was wrong?"

The two most common mental health conditions are:

1. **Anxiety Disorders:** More than 18% of adults each year struggle with some type of anxiety disorder, including Post-traumatic stress disorder (PTSD), Obsessive-compulsive disorder (OCD), Panic disorder (panic attacks, Generalized-anxiety disorder and specific phobias.
2. **Mood Disorders:** Mood disorders, such as Depression, affects nearly 10% of adults each year and are characterized by difficulties in regulating one's mood.

Experiencing one or more of the following feelings or behaviors can be an early warning sign of a problem:

- Eating or sleeping too much or too little
- Pulling away from people and usual activities
- Having low or no energy
- Feeling numb or like nothing matters
- Having unexplained aches and pains
- Feeling helpless or hopeless
- Smoking, drinking, or using drugs more than usual
- Feeling unusually confused, forgetful, on edge, angry, upset, worried, or scared
- Yelling or fighting with family and friends
- Experiencing severe mood swings that cause problems in relationships
- Having persistent thoughts and memories you can't get out of your head

- Hearing voices or believing things that are not true
- Thinking of harming yourself or others
- Inability to perform daily tasks like taking care of your kids or getting to work or school

Recent media reports indicate that the number of suicide cases reported in Kenya rose by 58 per cent between 2008 and 2017, the highest rate over a ten year period. Suicide is directly linked to depression.

The World Health Organization (WHO) says that Kenya has the fourth highest number of depressed people in Africa and more men are likely to commit suicide than women. Out of the 421 suicide cases in 2017, 330 involved men. In its survey, the World Population Review states that Kenya's suicide rate is at least 6.5 suicides per 100,000 people, a figure echoed by World Health organization. Globally, depression, the common psychological disorder, affects about 121 million people worldwide, and the WHO expects it to be the second leading cause of disability after heart disease in the age category 15-44 years.

Depression is one of the leading causes of disability. People with severe mental health conditions die prematurely, as much as two decades early due to preventable physical conditions. Although mental health is a fundamental component of health, recognition of mental disorders and awareness about its importance is limited. People with mental health conditions often experience severe human rights violations, discrimination, and stigma.

Stigma and lack of understanding about mental disorders are major barriers to

seeking help and promoting better mental health. Increasing understanding and overcoming stigma through strategic communications and social mobilization are crucial steps towards strengthening mental health programs.

In recent years, there has been increasing acknowledgement of the important role mental health plays in achieving global development goals, as illustrated by the inclusion of mental health in the Sustainable Development Goals. However, despite progress in some countries, many mental health conditions can be effectively treated at relatively low cost, yet the gap between people needing care and those with access to care remains substantial. Effective treatment coverage remains extremely low.

Increased investment is required on all fronts: for mental health awareness to increase understanding and reduce stigma; for efforts to increase access to quality mental health care and effective treatments; and for research to identify new treatments and improve existing treatments for all mental disorders.

Positive mental health allows people to:

- Realize their full potential
- Cope with the stresses of life
- Work productively
- Make meaningful contributions to their communities.

Mental health promotion involves actions that improve psychological well-being. There are a number of ways to promote mental health, including early childhood interventions; mental health interventions at work and family level; violence prevention programs; and anti-discrimination laws and campaigns. Mental

health promotion should be mainstreamed into governmental policies and programs.

The challenge of mental health in Kenya has emerged as an area of concern for the Government. The increased cases of psychological disorders amongst public servants compromise quality service delivery. One of the interventions adopted by Government is capacity building of mental health champions in the Public Service.

The mental health champions are required to provide psychosocial support

and refer staff in need of any intervention to the Counseling Unit of the State Department of Public Service. The following are the mental health champions in OAG&DOJ to be contacted in

CONFIDENCE in case of any assistance:

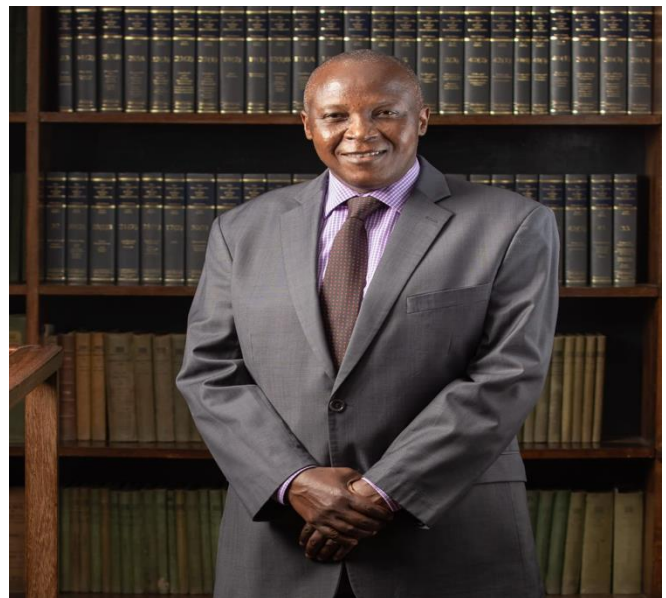
- i. 1. Ms. Anne Mutua
anne.mutua@ag.go.ke
- ii. 2. Ms. Christine Oyugi
christine.oyugi@ag.go.ke
- iii. 3. Ms. Jemimah Kairu
jemimah.kairu@ag.go.ke
- iv. 4. Ms. Olipher Onsango
olipher@ag.go.ke

HISTORY Professor Micheni Japhet Ntiba Chief Administrative Secretary

Prof Ntiba is currently the Chief Administrative Secretary (CAS), Office of the Attorney General and Department of Justice (OAG & DOJ) Since February 2021.

Prof Ntiba was born on 7 August 1958 in the Eastern slopes of Mt. Kenya at Kiangondu village, Chuka North Sub County, Tharaka-Nithi County. He completed his early education at Kibumbu Primary School. He thereafter attended Chuka High School and Njiri's High School for his secondary education. He holds both a Bachelor of Science (Botany and Zoology) and Master of Science (Hydrobiology) degrees from the University of Nairobi, Kenya and Doctor of Philosophy in Fisheries Biology, from the University of East Anglia, UK. He also was awarded an Honorary Doctorate in Business Administrations (DBA) in the area of Fisheries by the Commonwealth University, London, UK, a Diploma in Contemporary Public Administration from Galilee Training College, Israel and Certificate of an Emerging Leader of the 21st Century from Harvard University.

Prof Ntiba is a man of many firsts. He was the first Permanent Secretary, Ministry of Fisheries Development in 2008, the First Director of Biological Science, University of Nairobi. He was



also the First Executive Secretary of the Lake Victoria Fisheries Organization (LVFO) of the East Africa Community (EAC), Jinja, Uganda 1997-2002.

He has served the public service in other capacities such as the Principal Secretary for Fisheries, Aquaculture and the Blue Economy in the Ministry of Agriculture, Livestock, Fisheries and Cooperatives (MoALF&C) from 2013 to January 2021 with a brief mandate for 8 months as the Principal Secretary for the State Department of University Education and Research in the Ministry of Education.

While at (MoALF) he played a major role in organizing the first ever Global Sustainable Blue Economy Conference in November 2018, Nairobi, Kenya and also key in the preparation of the UN Sustainable Ocean Economy Conference which was co-hosted by Kenya and Portugal in Lisbon in July 2022. Prof Ntiba has overseen administration, policy formulation, execution and review in Kenya as well as coordination of the development in Blue Economy. He has research interests in sustainable fisheries productivity and biodiversity in tropical marine ecosystems.

In the academia, Prof Ntiba is a full Professor of the University of Nairobi. He has been a lecturer for many years at both the Department of Zoology and the School of Biological Sciences in the University of Nairobi, Kenya, and as former Chairman of the Department of Zoology. He has taught many undergraduate students and supervised over 40 postgraduate students. He has published widely in referred Journals, written books and contributed chapters in books.

At the OAG&DoJ, Prof Ntiba was appointed to support the Attorney General and in particular to streamline and strengthen the coordination of the Administrative Service for effective and efficient delivery of legal services to Kenyans. In the course of his duties, Prof Ntiba has noted the diversity of services provided by the OAG&DOJ to both the public and to Government Ministries, Departments and Agencies. As the CAS, he has supported the Office in Planning for decentralization and digitalization of legal services. He has expressed his aspirations to fulfil the full decentralization and digitization of legal services in order to transform delivery of legal services, enhance access for all beneficiaries, and ensure cost-effectiveness.

With respect to service to MDA, Prof. Ntiba encourages the OAG&DOJ to strengthen the legal units and in deed upscale and establish legal department in each state department in the Ministries of Government of Kenya. A strong Legal Department in each State Department would not only enhance capacity building and training for State Counsel but also revolutionize the understanding and efficient delivery of legal service in Ministries in a timely and wholesome manner.

And as in all institutions, the CAS urges the OAG&DOJ to remember that with proper knowledge management, succession management, training and capacity development, the office will prosper and withstand both external and internal challenges.

Overall, the CAS looks forward to a sufficiently funded OAG&DOJ, with Officers undergoing continuous professional development in order to remain versatile and knowledgeable. The OAG&DOJ is a vibrant and central service provider in an ever-developing social,

political, economic and governance environment. Prof. Ntiba urges the Officer to always appreciate their responsibilities in such environment.

Having served the two Presidents, H.E Mwai Kibaki and H.E Uhuru Kenyatta Professor Ntiba is grateful to have had the opportunity to serve Kenyans diligently and unreservedly especially in the areas of education, training, research and particularly the development of fisheries and the Blue Economy. As the saying goes, great teachers and philosophers never retire. Moving forward Prof Ntiba wishes to continue keeping very strong ties with the University of Nairobi from where he has been away on Leave of Absence for a number of years now while still leaving it open to continue serving Public Service, in the new Administration of H.E President Dr. Samoei Ruto, in any capacity as may be desired. This is also a time to also slow down and attend to solidify inner family matters which are very important in the fullness of time in our life. I am very proud to have served my country.

Kenya achieves a First in Africa: Action Plan on Business and Human Rights

by M. Njau-Kimani, OGW

The Government of Kenya has received international recognition for providing leadership that led to Kenya being the first African country to officially commit to the development of a National Action Plan to domesticate the UN Guiding Principles on Business and Human Rights².

The National Action Plan on Business and Human Rights (NPBHR) is a comprehensive policy

document to guide businesses, both private and state-owned enterprises on their human rights obligations recognised under Article 20 (1) of the Constitution. It also domesticates the UN Guiding Principles (UNGPs) on Business and Human Rights and outlines concrete commitments by the Government and businesses for addressing adverse business related human rights impacts.

This article gives an introduction to the UNGPs, the reasons why Kenya developed a National Action Plan (NAP) to domesticate the UNGPs and the generally the benefits of a NAP.

Subsequent articles will address themselves to specific themes of Kenya's NAP identified by stakeholders namely; Land and Natural Resources, Labour Rights, Revenue Transparency, Environmental Protection and Access to Remedy. These themes were prioritized as having impacts which are most severe in terms of their scale, scope, and irremediable character.

Background

In 2003, the UN took the first initiative to develop international standards on the responsibilities of business in regard to human rights with the UN Draft Norms on the Responsibilities of Transnational Corporations (TNCs) and

² In a separate article in this edition we discuss the three

pillars of the UN Guiding Principles on Human Rights.

other business enterprises with regard to Human Rights. The draft Norms did not receive support from the member States of the UN Commission on Human Rights, necessitating the former UN Secretary General Kofi Annan to appoint Professor John Ruggie as the Special Representative on the issue of human rights and transnational corporations and other business enterprises.

The Special Representative was mandated to:

- i. identify and clarify standards of corporate responsibility and accountability regarding human rights;
- ii. elaborate the roles of states in regulating and adjudicating corporate activities;
- iii. clarify concepts such as 'complicity' and 'sphere of influence';
- iv. develop methodologies for human rights impact assessments; and
- v. consider state and corporate best practices.

In June 2008, the Special Rapporteur proposed a framework

'Protect, Respect and Remedy' to address the challenges of business and human rights was based on three complementary and interdependent components: the state duty to protect human rights; the corporate responsibility to respect human rights and access to remedial mechanisms by victims of human rights violations. The Framework was unanimously endorsed by the Human Rights Council in June 2008. The Special Representative was mandated by the UN Human Rights Council (UNHRC) to provide practical guiding principles to operationalise the Framework.

In June 2011, the United Nations Human Rights Council (UNHRC) unanimously endorsed the UN Guiding Principles on Business and Human Rights (UNGPs) and in June 2014, called on all Member States to develop National Action Plans (NAPs) to promote the implementation of the UNGPs within their respective national contexts.

The Guiding Principles apply to all States and to all business enterprises, transnational and others, regardless of their size, sector, location, ownership and structure. They are based on the **UN Protect, Respect and Remedy Framework** which recognizes the complimentary but distinct roles of the States and businesses to protect and respect human rights.

The **UN Protect, Respect and Remedy Framework** and the Guiding Principles are the most authoritative and internationally recognized framework for business and human rights, as they are backed by UN member state governments and based on extensive consultations with many stakeholders over a period of six years. They have been supported by many business and industry associations and have also been endorsed by other business reporting mechanisms including:

- The African Commission on Human and Peoples Rights (ACHPR);
- The U.N. Global Compact endorses the UNGPs as relevant in as much as it provides "further operational clarity" for the Global Compact's own foundational human rights principles;
- The Organization for Economic Cooperation and Development (OECD) in 2011 endorsed the UNGPs and overhauled its 2008 Guidelines for Multinational Enterprises by specifically incorporating the Guiding Principles into a new chapter that for the first time

addresses in a comprehensive manner business-related human rights concerns;

- The European Union strongly welcomed the UNHRC's approval of the Guiding Principles on business and human rights and noted that they would serve as "an important reference for the EU's renewed policy on corporate social responsibility"

The (UNGPs) reiterate existing obligations of states and other actors while providing the first globally agreed standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. They do not limit or undermine any legal obligations that a State may have with regard to human rights. Further, the Guiding Principles set the baseline responsibility of all enterprises as, respect for human rights wherever they operate. Beyond that, enterprises may voluntarily undertake

additional human rights commitments.

The UNGPs are premised on the following principles:

1. States' existing obligations to respect protect and fulfil human rights and fundamental freedoms. This means that States must protect individuals against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.
2. The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights. The responsibility to respect human rights requires business enterprises to:
 - a. Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts whenever they occur; and
 - b. Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services or those they contribute to owing to their business relationships.
3. The need for rights and obligations to be matched to appropriate and effective remedies when breached. As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such violations occur within their territory and/or jurisdiction those affected have access to effective remedies.

Why Kenya developed a National Action Plan on Business and Human Rights

Firstly, Kenya was serving her second term as a member of the United Nations Human Rights Council (UNHRC), which unanimously endorsed the UN Guiding Principles on Business and Human Rights (UNGPs) and called on all Member States

to develop National Action Plans (NAPs) to promote the implementation of the UNGPs within their respective national contexts.

Secondly, the Constitution of Kenya, has laid down the normative framework for corporate respect for human rights in Kenya. It has explicitly stated the responsibilities of business with respect to human rights. Article 20 provides that the Bill of Rights binds all state organs and all persons. Article 260 of the Constitution defines a 'person' to include a **"company, association or other body of persons whether incorporated or unincorporated."** Hence, the Constitution envisages a role for business enterprises with regard to human rights, in tandem with emerging global norms, which recognise that businesses share in the responsibilities for human rights. This is also

in tandem with Kenya's obligations under the regional and international human rights instruments that it is a state party to³.

Thirdly and also in line with Kenya's human rights obligations, Kenya has been undergoing reviews under the UN Human Rights Council Universal Periodic Review, and, during her second cycle process in January 2015, a number of states, in keeping with United Nations Human Rights Council (UNHRC) called on all Member States to develop National Action Plans (NAPs) to promote the implementation of the UNGPs within their respective national contexts, made recommendations to Kenya on the same. Kenya, being a member of the Human Rights Council then and in line with her human rights obligations accepted the recommendations to develop a National Action Plan for Business and Human Rights.

Fourthly, Kenya is a member of the international community and desires to keep up with global good practices which advance its development agenda, especially keeping in mind the myriad business and human rights concerns that Kenya faces. In recent years, Kenya has seen a significant increase in foreign investment and remarkable growth in the domestic private sector. While these trends may support sustainable development, they may also adversely affect workers' rights, communities and the environment. Adverse effects involving companies range from community displacements, child labour, environmental degradation and poor working conditions. Without deliberate state stewardship, Kenya's expanding investments may lead to unmitigated violations of Human Rights.

Key business and human rights concerns in Kenya revolve around workplace rights, local communities –business relations, human rights and sustainable land use, human rights

³ For example, under the Convention on the Rights of the Child and the Protocols thereto, States are obligated to have adequate legal and institutional frameworks to respect, protect and fulfil children's rights, and to provide remedies in case of violations in the context of business activities and operations. In this regard, the Committee on the Rights of a Child has

adopted general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights. All state parties to the Convention are expected to report on the compliance with this General Comment. To fulfil this obligation, the State requires the cooperation of business.

The UN Committee on the Elimination of Discrimination Against Women has also issued General Recommendation No.30 (2013) for States to engage non-state actors including business to prevent abuses regarding their activities in conflict-affected areas, particularly regarding all forms of gender-based violence, provide adequate assistance to businesses to assess and address the heightened risk of abuse in conflict-affected areas, and establish effective accountability mechanisms.

and sustainable environment and human rights and small- and medium-sized enterprises. There have been allegations of human rights abuse across many business sectors including in the agricultural sector where sexual harassment, poor housing, low remuneration and poor working conditions remain common particularly in commercial farms growing tea, coffee and cut flowers. This is also the case within the manufacturing industry, such as, within the Export Processing Zone (EPZ) garment factories. Another example is the 2016, Solai Dam Breach which caused deaths, massive destruction of property and displacement of people. Currently, the Kakuzi PLC parent company has been accused in a UK court for turning a blind eye to systematic human rights abuse by Kakuzi limited employees that include rape, killings false imprisonment and mistreatment of individuals.

The discoveries of oil and other natural

resources present opportunities but also potential ground for challenges to human rights such as those relating to sustainable land use, relations with local communities, ensuring transparency and accountability in revenue streams and violation of local laws by foreign companies operating in the country.

Benefits of a NAP

A NAP is both beneficial to both the State and business. According to the United Nations Global Compact, respecting and supporting human rights remains one of the most challenging areas of corporate sustainability. This is partly because, human rights have traditionally been the concern of States, and international human rights instruments are addressed to them.

Arguably, organisations lack understanding of the human rights framework; where the boundaries of their human rights responsibilities lie and how this relates to an organisation's activities; and uncertainties on how to avoid complicity in human rights abuse. Moreover, reporting on compliance is equally complicated. However, in the lead up to, and following the endorsement of, the Guiding Principles on Business and Human Rights by the Human Rights Council, more businesses have come to the realisation of their legal, moral and/or commercial need to address human rights issues within their own activities and their business relationships. Therefore, looking at all the initiatives towards sustainability reporting, there is merit in having a system that helps business come up with focused and integrated reporting. The NAP serves that purpose.

Regardless of size or operational context, all companies benefit from tools and guidance to help them with their implementation efforts. The process and development of a National Action Plan has brought more clarity by highlighting the relevance of human rights for business, demonstrating the business case for human rights, emphasizing practical solutions and pointing to useful tools and guidance materials. The NAP facilitated the identification of approaches that have been recognized by a number of businesses and stakeholders as being good for business and good for human rights. Embracing the NAP is in keeping with the goal of showing that advancing human rights is not just about managing risks

and meeting standards and expectations but also about realizing new opportunities for sustainable growth.

Adopting the NAP for business and human rights will facilitate any organisation to carry out its human rights due diligence towards meeting its responsibility to respect human rights. It sends a clear signal to internal and external stakeholders that the company is committed to embedding human rights into its operational policies and procedures and leads to an understanding of the human rights impacts of the business, both positive and negative. It also signals a commitment to take respect for human rights seriously enough to allocate management time and resources to developing and implementing an action plan especially where it involves stakeholders' consultations.

Facilitating an organisation to comply with due diligence standards and other practices based on a more inclusive range of human rights norms will significantly reduce or even potentially eliminate exposure to human rights liability now and in the future. Therefore, having a National Action Plan minimizes the uncertainty and inconsistency associated with making corporate human rights responsibilities contingent upon the benevolence of an organization and lends itself to more reliable processes and outcomes.

The NAP is a guide that prioritises impacts which are most severe in terms of their scale, scope, and irremediable character and develops strategies to prevent, mitigate and remedy current and potential adverse impacts on human rights. The NAP is also aimed at helping the Government and business to take into account differential impacts on vulnerable groups and make sure that the measures defined in the NAP allow for the effective prevention, mitigation and remediation of such impacts.

Specifically, the NAP provides the overall strategy and concrete commitments by the Government for addressing adverse business-related human rights impacts in line with the UNGPs. It is oriented towards addressing actual and potential business and human rights challenges. It has defined the strategies and concrete measures which are most effective in addressing the identified corporate adverse human rights impacts.

Having a National Action Plan on Kenya's priorities manages expectations from business organizations so as to standardise the organizations reports on the agreed priorities. This has implications for the sustainability of business. Therefore a NAP on the UNGPs will help Kenya deal with the issues that business face in respect of human rights under the prioritised themes in a coherent and standardised manner.

In a separate article, we discuss the three pillars of the UN Guiding Principles on Human Rights.

In the next issue of Mwanasheria Mkuu, we will highlight the actual implementation of the National Action Plan among the business community. We will discuss what is required and how agencies in Kenya are going about it. We will also discuss how businesses report on Human Rights.

CAUGHT ON CAMERA



On 7th June, 2022, The Council of the Law Society of Kenya, led by its President Eric Theuri, paid a courtesy to the Honourable Attorney General. Their deliberations centered cross-border practice for State Counsel, and the welfare of government in-house Counsel.

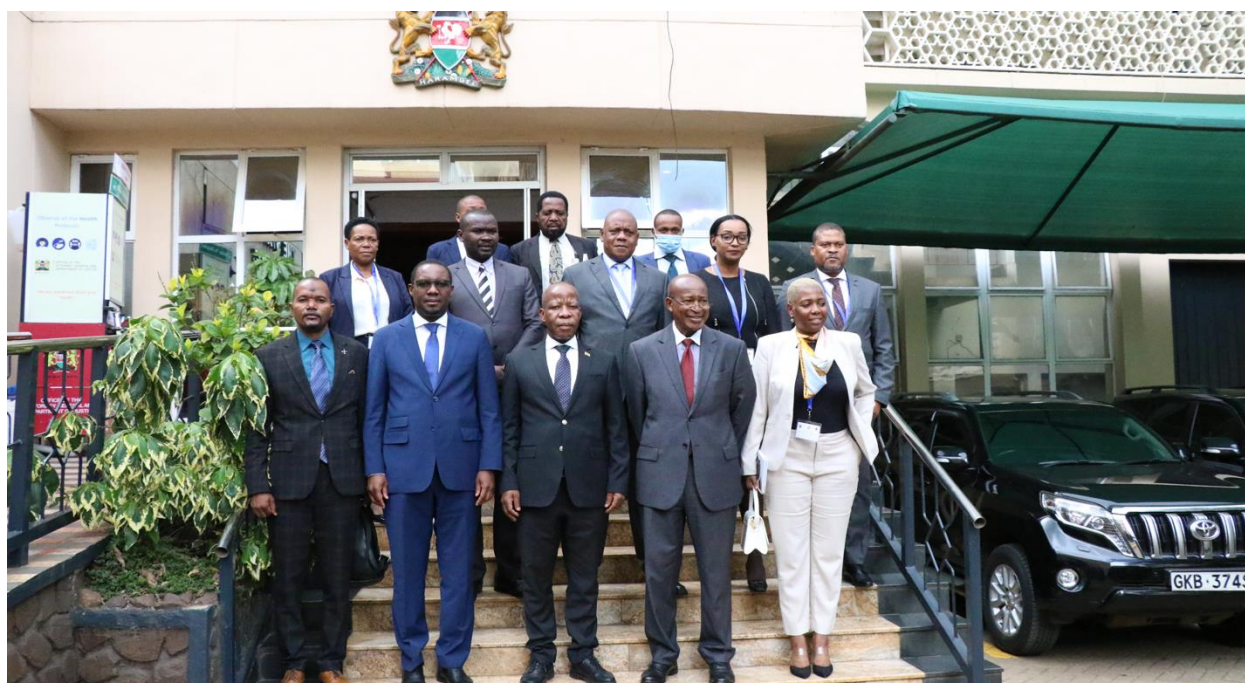
On May 25, 2022, H.E. Ambassador Okaniwa Ken of Japan paid Justice Paul Kihara Kariuki, the attorney general, a courtesy visit. Their discussions touched on the existing good relations between the two government as well as the issue of double taxation between states.





A group of African Union (AU) officials led by H.E. Domitien Ndayizeye, former President of Burundi and Chair of the African Union's Panel of The Wise, paid a courtesy visit on Attorney General Justice P. Kihara Kariuki on Thursday, May 19, 2022.

President of the Supreme Court of Mozambique Mr. Adelino Manuel Muchanga leads a high powered delegation from Mozambique in paying a courtesy call on the Attorney General. The Mozambique delegation was in the country to study the criminal justice system and the application of Legal Mutual Assistance.





Deputy Chief State Counsel Ms. Anita Chepseba, explains a matter to officials of the Supreme Court of Mozambique who were led by Mr. Adelino Manuel Muchanga (President of the Supreme Court of Mozambique) who were in Kenya to learn about the role of the Central Authority on Legal Mutual Assistance and the the criminal justice system in Kenya

Officers receive international scholarships by N. Chepkwony and M. Kanyugo

OAG&DOJ remains committed to continuous staff development to enhance staff skills and proficiencies in order to address career progression and improve institutional performance. This has been done severally including through international scholarships of which two (2) officers have benefited from International scholarships for Masters Degree and are now back in the office putting their skills to work.

Graduating class of 2019-2020 at the Graduate Institute of International and Development Studies and the University of Geneva.

Nancy C Chepkwony, Senior State Counsel was sponsored for a **Master of Advanced Studies in Transitional Justice, Human Rights and the Rule of Law**. The course was offered at the *Geneva Academy of Humanitarian and Human rights Law*, a joint program of the Graduate Institute of International and Development Studies and the University of Geneva. The course commenced from September 2019 to 30th October 2020.



The course was well structured covering an array of disciplines and subjects ranging from public international law, international humanitarian law, transitional justice, international criminal law, human rights, and the rule of law, Islamic law, civil societies, and gender studies among many others. The course predominantly addressed critical issues of human rights and the rule of law extending to the protection of victims of crime.

Muthoni Kanyugo, Senior State Counsel, was sponsored for a **Master of Laws in Maritime**, at the *Dalian Maritime University, Liaoning Province, China*. The course was from September 2019- June 2021.

The People's Republic of China and the Republic of Kenya have continued to enjoy political, economic and social relations with one another and this scholarship opportunity to undertake a Master's Degree Program in China was one way to show the continued good relations.



The Master's degree in Maritime Law is aligned to Kenya's Vision 2030 and the global Sustainable Development Goals specifically with regard to the Blue Economy. Kenya has renewed efforts towards diversifying her resources and needs advanced policies and institutional frameworks to deal with Blue economy. Kenya appreciates the importance of conserving and sustainably using her oceans, seas, lakes, rivers and marine resources for shared prosperity while at the same time reviewing its policy framework in line with best international practices for the implementation of UNCLOS and other related instruments and programmes.

The officer is equipped with knowledge and skills in maritime law and will play a key role in championing for the enhancement of capacity building and transfer of marine technology to harness resources found in the sea. The officer is also fluent in written and spoken Chinese Language (Intermediary, HSK3) and this will be handy during co-operation matters with the Chinese People.

Constitutionalism: Pitfalls, Gains and the Way Forward⁴ by K. Ogeto, CBS

It will be twelve years since we promulgated our current Constitution. It is increasingly difficult to use the adjective “new” when referring to our Constitution. Yet, twelve years is both a long time and a short time in the journey of entrenching constitutionalism. It may be a long time because most of the provisions of the Constitution have taken full effect and have been in force for quite a while now. It is short, however, given that the journey to implementing the Constitution and ensuring constitutionalism is long and perhaps winding.

The quest for limited government has a long history in human civilization. John Locke, in his *Two Treatises of Government*, envisions a social contract (*generally, the Constitution*) as the basis of all governmental power. According to him, government could only exercise power to the extent consented to by the people, and that government could only govern according to promulgated and established laws.

James Madison perhaps offers us one of the best descriptions of the need for constitutionalism. In his Federalist Paper No. 51, he writes as follows:

“If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place, oblige it to control itself.”

It is on the basis of this truism that constitutions have been made and infused with constitutionalism, although in different ways. The US Constitution, for instance, adopts a model founded on a horizontal and vertical separation of powers. There is separation between the three arms of government and between the federal and the state governments. France, on the other hand, embraced Parliamentary supremacy, based on the conception that limited government is best achieved through following the general will of the people.

Across the world, including in many countries in Africa, we have seen developments geared towards getting out of the predicament that the late Professor Okoth Ogendo described as **constitutions without constitutionalism**.

We have made strides with our Constitution in this regard. The architecture of our Constitution now firmly entrenches a horizontal and vertical separation of powers and functions. In addition to the traditional arms of government – the Executive, Parliament and the Judiciary; we now have independent offices and constitutional commissions. These have sometimes been referred to as the fourth arm of government.

The Constitution creates distinct functions for each of these, and creates safeguards for each to function effectively and independently. The processes of appointment and removal from the Judiciary and the constitutional commissions and independent offices have been calibrated to ensure that the holders of those offices do not operate on the whims of a few either in the Executive or in Parliament. The holders of the independent offices and

⁴ Solicitor General Kennedy Ogeto’s Remarks during the 12th Commemoration of Katiba Day 2022 whose theme was **Constitutionalism: Pitfalls, Gains and Way Forward** in Nairobi, Kenya on 26th August, 2022.

constitutional commissions are subject only to the Constitution and the law, and are not to operate under any other direction.

The other level of separation of powers and functions that we have attained with considerable success is in relation to the system of devolved government. Devolution is now entrenched into our governance, with county governments now into their third electoral term. Devolution has ensured that power, resources and functions have been dispersed to the people at the grassroots. This has minimized the centralization of decision-making and resource allocation in the National Government.

To enable devolution, our Parliament is now bicameral, with the Senate charged with the primary mandate of dealing with matters concerning the counties. This bicameralism is itself a constitutional means of protecting the counties.

The separation of powers and functions has not been an end in itself as far as entrenching constitutionalism is concerned. There have been direct benefits to our system of governance. There is no doubt, for instance, that our courts have grown in their independence and that this has boosted public confidence in the Judiciary. Many disputes, including challenges to presidential election results, are now ventilated, with civility as opposed to violence, in our courts. Through the mechanism of judicial review, the courts have considered the actions of those in the Executive and in Parliament to ensure that the same are constitutionally valid. Constitutional commissions and independent offices have not been left behind. We continue to see, each coming day, these bodies and offices asserting themselves in the discharge of their constitutional and statutory mandates.

Yet, the sailing has not always been smooth. We have often run into headwinds along the journey.

The first pitfall that I may identify is that we are still yet to fulfill some of the obligations that the Constitution placed upon us. Crucially, in terms of legislation, we are yet to enact a law to actualize the constitutional imperative that not more than two thirds of the members of elective or appointive bodies shall be of the same gender. This matter has been the subject of litigation with a number of court orders finding Parliament in default of its constitutional duty. In fact, this culminated in the Chief Justice Emeritus, the Hon. David Maraga, advising His Excellency the President to dissolve Parliament for failing to enact the said law. This is an area that we, as a people, must work together to ensure the realisation of our constitutional values, and to indeed ensure that the stipulations in our Constitution are not just mere letters on paper.

Then there is the long-running challenge of corruption. There is a perception, arguably a well-founded one, that the devolution of resources to the counties has also translated into a devolution of corruption. Reports abound of the misuse and misappropriation of funds meant for public purposes in the counties. Unless this is addressed conclusively, the aspirations of devolution may not be met.

While separation of powers is certainly a hallmark of a functional democracy, there may be a tendency to perceive such separation and independence as isolation and a basis for unilateralism. The Supreme Court has cautioned against such a perception. In the matter

of *the Matter of the Interim Independent Electoral Commission*, Supreme Court Application No. 2 of 2011, the Supreme Court made the following admonition:

"... 'independence' does not mean 'detachment', 'isolation' or 'disengagement' from other players in public governance. Indeed, for practical purposes, an independent Commission will often find it necessary to co-ordinate and harmonize its activities with those of other institutions of Government, or other Commissions, so as to maximize results, in the public interest."

It is critical for our constitutionalism that no organ should overstep its mandate, or, worse still, usurp the mandate of others. The courts, for instance, must remain in the sphere of judicial interpretation and not purport to determine policy or to make law. In the same vein, the Executive must not attempt to make law, just as Parliament should not be seen to determine and implement policy. In *Mumo Matemu v. Trusted Society of Human Rights Alliance & 5 Others*, eKLR [2012], the Court of Appeal stated as follows:

"However, separation of power does not only proscribe organs of Government from interfering with the other's functions. It also entails empowering each organ of Government with countervailing powers which provide checks and balances on actions taken by other organs of Government. Such powers are, however, not a licence to take over functions vested elsewhere."

The other pitfall that I may identify, is perhaps what I may call contested constitutionalism. While we all agree that constitutionalism is critical for good governance and for our growth and development as a democracy, we may disagree on what constitutes constitutionalism in certain circumstances.

Nation-states are, by definition, heterogeneous. This heterogeneity often does, and has to, find expression in the laws that govern a nation-state, and even in the process of making such laws. This is even more so for a constitution – the basic or supreme law.

Constitutions are often compromise documents and this is why, in the words of the Chief Justice Emeritus, the Honourable Dr. Willy Mutunga, they often have *"vagueness in phraseology and draftsmanship."* This vagueness may be useful because, as James Madison suggested many years ago, it enables the constitution to evolve in response to new developments. However, therein also lies a potential pitfall. The vagueness, understood against the backdrop of differing aspirations and aims stemming from the constitution-making process, often result in contests as to what would actually embody constitutionalism in a certain context.

Individuals or groups would read the ambiguities in the Constitution to give meaning to their aspirations and hopes – what they thought the Constitution should and would do. A recent case in point may be the contest on whether the Basic Structure Doctrine is applicable in Kenya in the context of our Constitution. There were compelling arguments on both sides of the coin, and indeed, both succeeded at different levels of our court hierarchy before the Supreme Court finally determined that the Basic Structure Doctrine is not applicable in Kenya.

Underlying the question of the applicability of the Basic Structure Doctrine was, of course, the effort at constitutional reform, which, in itself, divided opinion as to its import on our constitutionalism.

It is befitting, however, that even whenever we have encountered these pitfalls, we have resolved them within the framework of our Constitution. The courts have been critical in this regard, on questions regarding the interpretation and application of our Constitution. This is what they should continue to do towards ensuring constitutionalism.

Constitutional commissions and independent offices also have a role to play in ensuring constitutionalism. They are, as they have been called, the people's watchdogs, ensuring that the rule of law is adhered to in whatever the spheres of their mandates. The bodies are an essential tool for checks and balances. The same is the case with the Executive and the Judiciary.

What is critical, however, is that all these organs and offices should heed the admonition to not just safeguard their territory, but to also create synergies with other state organs and offices and to ensure that they do not overstep their mandates. Independence, informed by inter-dependence and coordination, should be the guiding principle with the realisation that all of the constitutional organs and offices are meant to serve the people of Kenya.

Fy 2020/21 Performance Contract Evaluation Report by E. Jelagat

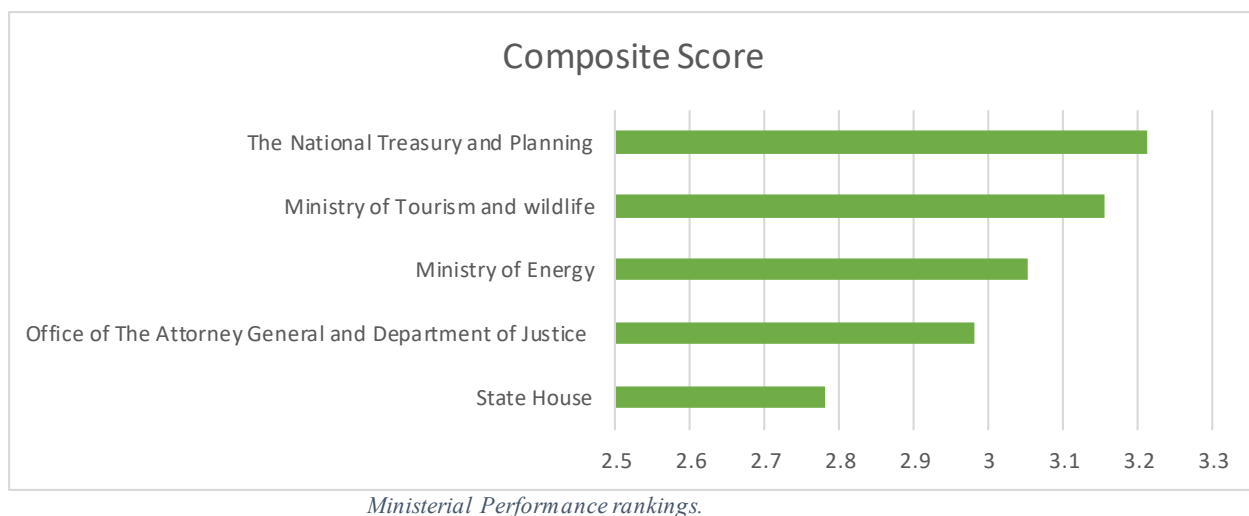
The Ministry of Public Service, Gender, Senior Citizens Affairs and Specialized Programmes submitted the Report on Evaluation of the Performance of Ministries, State Corporations and Tertiary Institutions for the Financial Year 2020/2021.

The evaluation results indicate that out of the 21 Ministries, the **Office the Attorney General & Department of Justice** achieved 'Very Good' performance with a composite score of 2.9821.

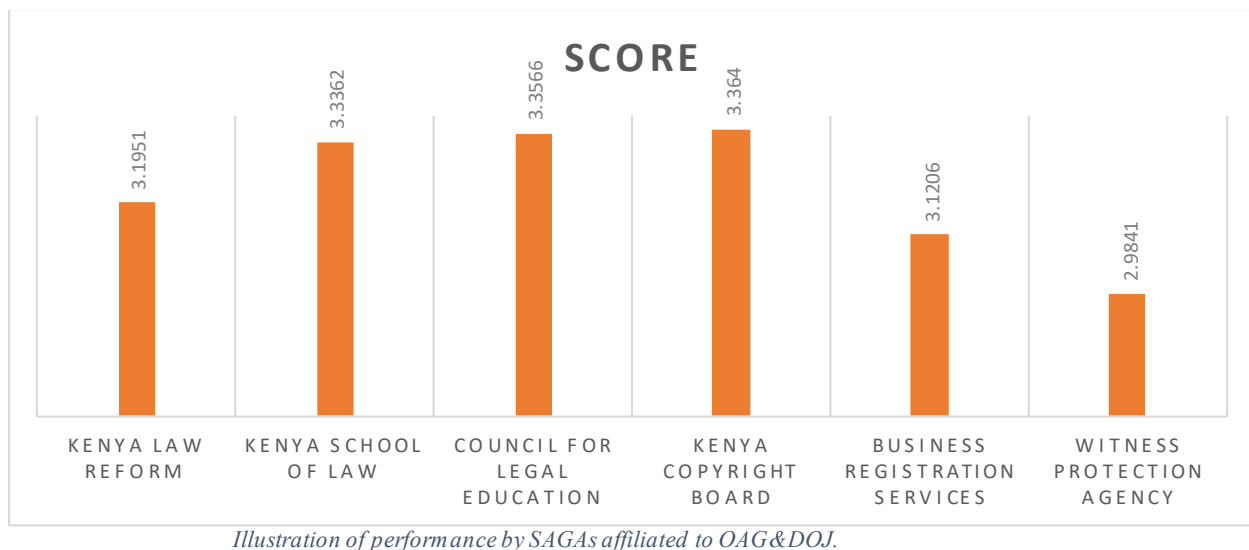
The top five performing Ministries within the Government of Kenya in the reporting year 2020/21 are listed below.

Performance of Ministries was analyzed to identify the top five Performing Ministries as

S/No	Ministry	Composite Score
1.	State House	2.7808
2.	Office of The Attorney General and Department of Justice	2.9824
3.	Ministry of Energy	3.0543
4.	Ministry of Tourism and wildlife	3.1560
5.	The National Treasury and Planning	3.2124



The performance of State Corporations under the OAG&DoJ were as follows: The Kenya Law Reform Commission achieved a composite score of 3.1951 (i.e. in the ‘Good’ Category), Kenya School of Law achieved a composite score of 3.3362 (i.e. in the category of ‘Good’) Council for Legal Education achieved a composite score of 3.3566 (i.e. in the ‘Good’ Category), Kenya Copyright Board achieved a composite score of 3.3640 (i.e. in the ‘Good’ Category), Business Registration Services achieved a composite score of 3.1206 (i.e. in the ‘Good’ Category) and Witness Protection Agency achieved a composite score of 2.9841 (i.e. in the ‘Very Good’ Category).



REVIEW OF OAG&DOJ 2018/19-2022/23 STRATEGIC PLAN

The OAG&DOJ is currently implementing its five (5) year third generation Strategic Plan (2018/19-2022/23) which is aligned to the Medium Term Plan (MTP III) of the Kenya Vision 2030. The plan is in its 4th year of implementation.

A midterm review of the strategic plan was undertaken in January 2022 whose purpose was to:

- i. Determine the progress made towards achieving the planned objectives and, in light of the review, make adjustments to ensure the achievement of the objectives within the remainder of the plan period
- ii. Document challenges and lessons learnt during implementation and recommend remedial actions;
- iii. Bring on board any newly operationalized institutions, departments or functions as was necessary; and
- iv. Consider and adopt relevant key findings of the Mid-Term Review report in the development of the next strategic plan.

Implementation of the Strategic Plan comes to an end in July 2023. Presently, 25% of the outputs had been achieved, 50% are at various stages of implementation and 25% have not commenced due to inadequate funding and the emergence of Covid 19.

The Office of the Attorney General as a sub-sector actor in the GJLOS Sector while implementing the Medium Term III of the Vision 2030 received an award of recognition for consistent reporting of achievements under the Political Pillar.

Under the Sector, OAG&DOJ is expected to focus on:

- Creation of public awareness on fundamental rights and freedom.
- Increasing access to Legal Services.
- Facilitating effective implementation of the Constitution and legal reforms.
- Strengthening the legal, policy and institutional framework for promoting leadership, ethics, integrity and the fight against corruption.
- Enhancing access to Legal Aid services by the indigent, marginalized and vulnerable.
- Ensuring promotion and protection of human rights, gender equality and non-discrimination.
- Enhancing quality and accessibility of Legal Education and Training as well as enhance student enrolment, completion and retention rates.
- Promoting credible elections and credible political parties' processes
- Improving the ease of doing business.
- Upscaling the administration and enforcement of the copyright and related rights services across the country.

5 short years: OAGDOJ in Brief

OAG&D OJ	Legal Mandate	Legal Policy Development: <ul style="list-style-type: none"> i. National Action Plan on Business and Human Rights- Sessional Paper No. 3 of 2021 ii. National Ethics and Anticorruption Policy iii. Kenya Policy on Public Participation iv. National Policy and Action Plan on Human Rights v. National Policy on Legal Education in Kenya vi. Legislative Drafting <ul style="list-style-type: none"> a. 64 National Assembly Bills b. 35 Senate Bills 35 vii. Legal Reforms; <ul style="list-style-type: none"> a. Victims' Rights Charter, Victim Protection Regulations 2018, Victim Protection Trust Fund Regulations 2018, Victims Protection Act 2014: viii. Registrar of Marriages: <ul style="list-style-type: none"> a. Decentralization of marriage services and the development of rules/ regulations for customary/ Islamic and Hindu marriages; b. Draft rules and regulations for Hindu, Islamic and Customary Law marriages ix. International Law- Office of the Registrar of Treaties facilitated 27 Treaties and International Conventions; x. 325 disputes resolved through ADR and realisation of Kshs. 66,365,489 on behalf of complainants;
	Reporting on State obligations	<p>Presentation and defence of periodic state party reports before the following International treaty bodies and Regional Bodies;</p> <ul style="list-style-type: none"> a. The United Nations Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment (UNCAT); b. Universal Periodic Review Process at Human Rights Council; c. African Commission on Human and Peoples Rights;

		<ul style="list-style-type: none"> d. United Nations Convention against Corruption (UNCAC)- Coordinated and reported on Kenya's 2nd cycle on implementation of Chapter ii (Preventive measures) and Chapter v (Asset Recovery); e. Committee on the Rights of Persons with Disability.
	Delinking to Agencies	<ul style="list-style-type: none"> i. Business Registration Services (BRS) ii. Assets Recovery Agency (ARA) iii. National Legal Aid Services (NLAS)
	Administration	<ul style="list-style-type: none"> ➤ Development of Strategic Plan 2018/2022 ➤ Management of Performance Contract- Position 2 at Evaluation; ➤ Position 1 on Reporting on the Political Pillar of Vision 2030 M&E Awards by the National Treasury
OAG&D OJ Affiliated SAGAS	Implementation on the Constitution and Legal Reforms	<ul style="list-style-type: none"> → 181 pieces of legislation in support of Big Four Initiatives → 40 Bills drafted to harmonise existing laws with the Constitution → 1,353 pieces of subsidiary legislation drafted.
	Improvement of Business Processes in the provision of Legal Services	<ul style="list-style-type: none"> i. 4,541 cases concluded against government; 3,119 legal opinions issued to MDAs; 252 procurement contracts approved; ii. 1,076 legal advisories on commercial matters issued; 565 bilateral and multilateral finance agreements negotiated, vetted & interpreted; iii. 2,388 Legal advisories issued to MDAs on their rights and obligations on bilateral, Regional and international law matters; iv. 11 registration centres established for marriage services countrywide; v. National Registration Services on-line through E-Citizen: 22,793 marriages recorded; 209 Muslim marriage officers licensed; 3,682 societies registered.
	Implementation of the Bill of Rights	<ul style="list-style-type: none"> i. Kenya Public Participation Policy ii. National Action Plan on Business and Human Rights- Sessional Paper No 3 of 2021 iii. 4 Country submissions

		iv. National Policy and Action Plan on Human Rights
	Implementation of the Task Force Report for Legal, Policy and Institutional Framework for fighting corruption	<ul style="list-style-type: none"> i. Drafted legislation for the implementation of the Task Force Report such as Bribery Act 2016; Access to Information Act 2016; Whistle-blower Protection Bill 2022; Development of Conflict-of-Interest Bill 2022; Legislation of beneficial ownership & issuance of executive orders on ethics & integrity; Sensitisation of state counsel and county attorneys on ethics and integrity; ii. Coordinated review of UNCAC iii. Ratification of the Agreement Establishing the International Anti-Corruption Academy. iv. 2nd Country Review Report on Kenya's Implementation of UNCAC v. National Ethics and Anti-corruption Policy- Sessional Paper No 2 of 2018 vi. 41 campaign networks (County Anti-corruption Civilian Oversight Committees) established vii. Assets identified, traced and seized worth Kshs. 12.6 billion; Kshs. 685 million of preserved assets; Kshs. 267 million forfeited to the State as proceeds from Crime; viii. 595 disputes subjected to ADR; 308 disputes settled; 13,109 estates and trust files finalised; 12,216 complaint files digitised.

Judicial Review⁵

Monumental Jurisprudence or judicial avoidance: Revisiting the decision of Lady Justice Roselyn Aburili in *R v Truphena Ndonga Aswani*, Criminal case EO11 of 2020 By B. Keke.

The Constitution of Kenya was enacted, after years of clamour for a new Constitutional dispensation that would protect the rule of law, fundamental human rights and administration of Justice⁶ and provide the Courts with a new lease of life.

A recent decision by Lady Justice Roselyn Aburili is putting to question the new lease of life. The judgment in the *R v Truphena Ndonga Aswani*, Criminal case EO11 of 2020 gives us an opportunity to look at whether the principles in protecting victims of crimes as provided under Victim Protection Act, 2014 and Prevention of Torture Act, 2017 were upheld or the Judge was a judicial activist?

For a long time the Victims of crime have been neglected and ignored by the criminal Justice system in Kenya, especially during the violence that rocked the country as noted by the Akiwumi report,⁷ Ndung'u report,⁸ and Waki report.⁹ These reports were investigating an element of crime aligned to the election violence after the elections. The finding of the reports were, Victims and survivors of crime had been neglected due to lack of proper mechanism in the legislative and institutional framework.

The Constitution ameliorated this situation by providing that Parliament should enact legislation providing for the protection, rights and welfare of victims of offences. This was a positive step as Parliament enacted The Victim Protection Act, 2014 and Prevention of Torture Act, 2017.

Legislative framework

The Victim Protection Act, 2014 is the main legislation governing the Victims of crime by providing that the victims of crime should be treated with compassion, dignity and receive prompt redress, through access to the criminal justice system and reparation to assist their

⁵ Disclaimer: The views or opinions in this section belong solely to the author and do not represent those of the organization that the writer may be associated with professionally or in a personal capacity, unless explicitly stated. The views are not intended to malign any person or organization.

⁶ Timothy Njoya & Others v CKRC and the National Constitutional Conference, High Court Misc. Application No. 82 of 2004 (O.S.), popularly referred to as The Timothy Njoya Case.

⁷ <https://www.worldcat.org/title/report-of-the-judicial-commission-appointed-to-inquire-into-tribal-clashes-in-kenya/oclc/51652865> accessed on 18/7/2022

⁸ [http://kenyalaw.org/kl/fileadmin/CommissionReports/A Report of the Land Commission of Inquiry into the Illegal or Irregular Allocation of Land 2004.pdf](http://kenyalaw.org/kl/fileadmin/CommissionReports/A%20Report%20of%20the%20Land%20Commission%20of%20Inquiry%20into%20the%20Illegal%20or%20Irregular%20Allocation%20of%20Land%202004.pdf) accessed on 18/7/2022

⁹ <https://reliefweb.int/report/kenya/kenya-commission-inquiry-post-election-violence-cipev-final-report> accessed on 18/7/2022

recovery. Thus the Victim Protection Act, 2014 is calling for fair treatment of Victims, restitution and compensation.

The Act establishes the Victim Protection Board,¹⁰ tasked with ensuring programmes and activities are put in place to prevent victimization and provide remedies for the victims. The Board is further mandated to provide guidance towards providing social psychological, emotional, financial support and effectively helping victims of crime within the Criminal and social institution.

The Prevention of Torture Act, 2017 was enacted pursuant to Article 25(a) and 29(d) of the Constitution together with the principles of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.¹¹ This Act set in place the prevention, prohibition and punishment of acts of torture and cruelty, inhuman and degrading treatment or punishment, reparations to victims of torture and cruelty, inhuman or degrading treatment or punishment.¹²

The Prevention of Torture Act establishes the Board of Trustees, mandated to compensate the Victims of torture. It is the same Board of trustee, established under the Victim Protection Act, 2014.¹³ The two are asymmetrically aligned and expected to work together, to protect, promote and fulfill the rights of the Victims of crime.¹⁴ These two pieces of the legislation provide protection of the Victim of crime, and define who is a victim, including the vulnerable victims,

International level

The United Nations Basic Principles of Justice on the Victims of crime and abuse of Power, is a soft law that requires member states to establish mechanism to protect the victims of crime in the Criminal Justice system through ensuring proper compensation, restitution, access to information, and access to justice.¹⁵ Further, the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, give the guidelines to be adopted to ensure adequate compensation of Victims of crime.

The victims of crime are allowed to participate in the criminal Justice system,¹⁶ where International principles envisages a triangular process in criminal litigation involving three parties; the accused person, the Prosecutor and the Victims (representative or lawyer), as demonstrated in the case of Joseph Waswa V Republic.¹⁷ The Supreme Court held that `Victim Protection Act, 2014 sought to ensure the fairness of justice procedures applied to both victims and accused particularly on the right to fair hearing, timelines, respect, dignity

¹⁰ S 31, Victim Protection Act, 2014

¹¹ <https://redress.org/wp-content/uploads/2018/10/REDRESS-Guide-to-UNCAT-2018.pdf> accessed on 17/7/2022

¹² See generally the preliminary of the Act

¹³ S 30, Victim Protection Act, 2014

¹⁴ Constitution of Kenya, 2010 art. 3(1), see also art 259(1)

¹⁵ https://www.unodc.org/pdf/criminal_justice/UNODC_Handbook_on_Justice_for_victims.pdf accessed on 16/3/2021

¹⁶ <http://kenyalaw.org/kl/index.php?id=1895> accessed on 16/3/2021

¹⁷ [2020] eKLR

and neutrality.`¹⁸ Previously, only two parties were recognised, the accused person and the prosecutor while the judge was a neutral arbiter.

Revisiting the decision in Truphena Aswani

Mrs. Truphena Ndonga Aswani was charged with the offence of Murder contrary to section 203, read together with section 204 of the Penal code, on 14th December 2020 in Ugenya Sub-County, Siaya County. She had killed her husband, Mr. James Oyengo Obochi where upon arraignment in court, she pleaded guilty to the charges.

The court entered a plea of guilty, despite the admission of the offence by the accused person; the accused person was unable to raise the bond set by the court and plea bargain was initiated by the Prosecution counsel. The charge was reduced to manslaughter and the accused pleaded guilty on the new charge sheet. Mrs. Aswani narrated to the court, how her husband came home late and drunk; started a quarrel over a title deed entrusted to her by her father in law. The husband wanted the title deed; while previously he had sold pieces of land entrusted to him.

The husband rushed in the bedroom and picked a panga, for purposes of injuring the wife, however she overpowered her husband and killed him using the same panga. Mrs Aswani drugged the body of the deceased for 200M and covered it with grass. It was discovered the next day by Ishmael Awuor Obwaka, who reported the matter to her since she was the village elder. Mr. Ishmael further reported the matter to Luanda Konyango Police Patrol Base leading to her arrest and subsequent arraignment in court.

On mitigation the accused told the court she was remorseful and prayerful as she never intended to kill her husband; she was acting in self defence considering the husband was a violent person and she was a victim of gender based violence.

The court held that the Accused person be sentenced to serve a non-custodial sentence of one day,¹⁹ since she had acted in self defence for fear of injuries from her husband. The court considered that her husband was a violent person who despite the wife loving him and taking care of the children left behind by the previous wives who had deserted him. The judge further acknowledged that the deceased was living with HIV yet the accused wife chose to stay and love him.

The Judge ignored the cardinal principles of *mens rea* and *actus reus* when evaluating the sentence to be given to the accused person and exercised her discretion wrongly by holding `her mitigation and circumstances under which the offence was committed` justifying the accused to be given a non-custodial sentence for a day to last at the end of the court session and be aided from the witness protection fund with traveling expenses to a safe place away from matrimonial home.

¹⁸ Joseph Waswa v Republic [2020]eKLR

¹⁹ R v Aswani EO 11 of 2020, [50]

Was the judgment monumental or judicial activism?

This is a dangerous precedent from Lady Justice Roselyn Aburili, who abrogated power to herself and claimed the accused was a victim of gender based violence, failed to warn herself of the danger of one witness, failed to analyze the intention of the accused person drugging the body 200M and concealing it with grass, failed to analyze the postmortem report, disclosing the severity of the injuries sustained by the deceased and what was the intention of the accused person, concealing evidence.

The Judge failed to consider the following issues, if the accused was suffering from Stockholm syndrome? Did the Judge evaluate the cardinal principles of *Mens rea and Actus Reus*, or the Judge was simply a judicial activist?

The above judgement has opened the Pandora's box, considering the number and magnitude of murder cases that have emanated from our Kenyan homes. It begs the questions, what prevents couples from murdering their loved ones in the name of self defence? How is the accused reconciled back in the society despite the offence, which took place? Was the Judge indirectly endangering the life of Mrs. Aswani?

Considering that she is likely to be victimized by the same community which is unlikely ready to receive her back, the Judges should be aware consciously or unconsciously that having a legislative and institutional framework on Victim protection is not a *carte blanche* to act insensitively and without care, to the extent that the vital ingredients of the murder case were ignored and an illegality was perpetuated. Arguably, this will lead to substantial loss of trust in the Judiciary and as such the decision was bad in law and is a cause of concern.

Strengthening Access to Justice through Legal Aid in Kenya: Assessing gaps, challenges and opportunities by F. Bidali.

In all the societies of the world, conflicts are inevitable and ubiquitous. This marvel will always be there throughout the human history as long as there are differences in interests, goals, values and aims within the members of any given society. The sources, the individuals and the nature of the conflicts will always arise within the basic units of the community including the families, clans, villages and sometimes within the country. Within the country, there legal systems within the law that are usually applied to address the conflicts. However, legal systems within Kenya are accessible by a few members of the community due to many impeding factors.

The utilization of the legal aid mechanisms to resolve conflicts has been viewed as a strategy to address conflicts, however, its application is still not widespread. In a bid to justly assess the evolution of legal aid in Kenya, the pre and post 2010 positions of legal aid in Kenya shall be evaluated.

Legal aid is defined as legal advice, legal representation, and assistance in resolving disputes by alternative dispute resolution, drafting relevant

documents and effecting service incidental to any legal proceedings, and reaching or giving effect to any out of court settlement.²⁰ The Black's Law Dictionary further defines legal aid as the free or inexpensive service provided to those who cannot afford to pay full price²¹.

The institution within the legal systems is one of the vital institutions for conflict steadfastness in community and locality within Kenya. Even in countries with no formal state recognition of the institution of alternative dispute resolution, legal aid has remained resilient and continues to exist outside the spheres of state influence.

The article highlights the role of legal aid in resolving conflicts in Kenya and how this has evolved with time. It starts by highlighting the evolution of the legal aid in Kenya before the year 2010 and then situates the legal and justice system in the country post 2010. It tries to highlight the bottlenecks, success factors and thereafter the opportunities for future success.

Legal Aid Pre- 2010

Previously, before colonialism, Kenya like any other African communities, individuals and societies were cohabiting in families, clans, villages and as a country in mutually and cohesive manner. Conflicts could arise due to many factors, but non-formal mechanisms were in place to solve them. Those without resources could be assisted to access justice within the community. Everyone wanted to be part of the community, as much as there were variations in life.

Conflict resolution amongst Kenyan communities has since time immemorial and continues to take the form of negotiation, mediation, reconciliation or 'arbitration' by elders. Communally, disputing parties would sit together informally and resolve disputes and conflicts to maintain social harmony and restore social bonds. Thus, all the methods of dispute resolution had the aim of restoring social order. Conflict resolution was wholesome and tried to resolve all the underlying causes of conflict by ensuring that the parties to the conflict participated and reached a settlement. In some cases, fines and compensation were used but only as means to acknowledge the wrongs done and restore the parties. The fines and the compensation were not retributive in nature but compensatory. The social bonds and social ties referred to as social capital, enabled elders to resolve disputes since the threat of exclusion from the community made parties willing to settle.

Additionally, the concept of social harmony and peace was not only among the living but also between the living and the dead. For some wrongs such as murder, rituals and cleansing had to be carried out to allow the spirit of the dead to rest in peace and not disturb the living. Some dispute resolution mechanisms involved reference to ancestors and spirits due to the importance of lineage and ancestry among Africans. Reference to spirits, trials by

²⁰ Section 2, Legal Aid Act, 2016.

²¹ Bryan A Garner (Ed) Black's Law Dictionary 9th Edition Pg912

ordeal, rituals and cleansing in dispute resolution were the preserve of traditional healers, diviners and seers, who complimented elders in the dispute resolution process.

The factors which could limit an individual to access justice were less and the system being informal, the community members could access it any time and within their means. After colonialism, the legal system was streamlined. The few selected individuals were trained on the systems and the language to use. The court systems started working and centralized places were selected to act as court chambers. Most (if not all in some community) of the informal conflict resolution mechanisms were quashed and individuals started to follow the laid down legal systems. Before the 2010 era, the application of the legal aid was in limbo.

Within this period, access to justice in Kenya was bedevilled with countless challenges including prohibitive court fees, geographical location, complexity of rules and procedure, use of legalese, understaffing by the providers of the service, lack of financial independence, lack of effective remedies, a backlog of cases that delayed justice, lack of awareness on ADR and traditional dispute resolution mechanisms.²²

Prior to the promulgation of the Constitution in 2010, the government provided legal aid services to indigent persons, however in a limited matter²³. Legal aid was only available to accused persons who were charged with capital offences of murder facing trial at the High Court²⁴. Despite the Civil Procedure Code²⁵ having a provision for persons to sue as paupers, the procedure to determine eligibility was and remains nerve wracking.

Developing the legal framework

The process of developing the legal framework on access to justice and legal aid begun in the year 1998 when the Attorney General set up a Legal Aid Steering Committee comprising of government departments such as the Judiciary and State Law Office, the Kenya National Commission on Human Rights and representatives of the civil society. In 1999 the committee identified possible models for legal aid delivery in Kenya. As a result of this, a framework for piloting legal aid and awareness was proposed in 2001 but the same was not rolled out. Although the said framework was not validated, in 2001 the Kenyan legislative framework on legal aid was enacted. All this was developed and supported through the understanding of the diversity of Kenyans.

Most Kenyan societies were communal, depending greatly on social capital to maintain social order and harmony. Dispute resolution was the reserve of elders, diviners, healers and other respected members of the society. Conflict resolution aimed at restoring social harmony, mending breached social ties, performance of rituals and offering apologies or compensation to ensure that the status quo before the dispute was restored. The process

²²<http://kmco.co.ke/wp-content/uploads/2018/08/A-Paper-on-Improving-Access-to-Justice-2.pdf> accessed 19th October 2020

²³ National Action Plan Legal Aid 2017-2020 Kenya.

²⁴ *ibid*.

²⁵ Order 33, Civil Procedure Rules.

involved getting the parties and their families together, and getting to the root of the dispute to ensure underlying causes of conflict were resolved and the parties reconciled.

Colonization brought a cultural conflict between the Kenyan and British/ Western cultures. These new cultures were viewed as superior and dominant, thus subjugating African cultures. Cultural imperialism was extended to the world of dispute resolution. Kenyan cultures were allowed to guide courts so long as they were not repugnant to justice and morality, yet repugnancy was measured by western sense of justice and morals and not Kenyan.

After the 2002 election, a new government came into power and directed the newly formed Ministry of Justice National Cohesion and Constitutional Affairs to give policy directions in the area of access to justice. The Ministry then set up a weekly legal aid clinic held every Wednesday to members of the public. These services were on high demand from the members of the public prompting the Ministry in 2005 to be aligned appropriately in Executive Order No 2 of 2003.

In 2007 the National Legal Aid and Awareness Programme (NALEAP) vide Gazette Notice No. 11598 of 2007 was established aimed at advising government on matters of access to justice and drawing lessons for the establishment of a national legal aid scheme²⁶.

Legal Aid Post 2010

The Constitution of Kenya guarantees the right of every individual to access justice²⁷ and this is promoted through the encouragement of using both formal and informal justice systems as a way to resolve disputes.²⁸ The recognition and protection of human rights and fundamental freedoms has to be effected to preserve the dignity of individuals and communities as well as to promote social justice.²⁹ All this was done to not only promote justice, but also strengthen the social fabric within the societies after a conflict has been resolved.

Dispute resolution by alternative methods other than the rigorous and lengthy court systems was viewed as a social fact from which society derives some benefit. Those allowed to resolve conflicts, do so due to their long experience, wisdom and the respect they are accorded in society. Where a community could not access formal justice systems due to costs and other externalities, elders are there to resolve arising disputes.

Article 27(1) which is in line with the protection of the Rule of Law, enshrines equality before the law and the right to equal protection and equal benefit of the law. Moreover, accused individuals have the right to choose and be represented by an advocate as well as

²⁶ National Action Plan Legal Aid 2017-2020 Kenya

²⁷ Article 48, Constitution of Kenya, 2010.

²⁸ Article 159(2), Constitution of Kenya, 2010.

²⁹ Article 19(2), Constitution of Kenya, 2010.

to be informed of this right.³⁰ This provision goes further to ensure that individuals who cannot afford legal representation have an advocate assigned to them at the State expense.³¹

The Constitution of Kenya brought to fruition the importance of access to justice and the dire need to provide legal aid in order to ensure that no individual is barred from attaining justice due to their financial status or inability to comprehend the law. The vitality and essence of the legal system being all encompassing was set forth especially after 2010 as efforts to develop adequate legal aid services by both state and non-state actors began to unfold.

The Government of Kenya engaged in the process of developing policies on Legal Aid and access to justice in 2016, legislation was developed to form the Legal Aid Act³² which was enacted in 2016. This Act is guided by fundamental values and principles of access to justice; equality before the law, inclusiveness, and non-discrimination. The Act is not limited only to criminal cases, but also includes civil and constitutional cases³³.

The Act regulates the provision of legal aid services in Kenya and established the National Legal Aid Service³⁴ ("NLAS") to provide legal aid services at the expense of the State to persons who qualify for legal aid services under the Act.

Who qualifies for Legal Aid? Such individuals are referred to as 'indigent persons' in the Act, and a person is an indigent if he/she cannot afford to pay for legal services³⁵. Further, this persons by virtue of Section 36 should be a citizen of Kenya (b) a child; (c) a refugee under the Refugees Act; (d) a victim of human trafficking; or (e) an internally displaced person; or (f) a stateless person. All these individuals are allowed to seek alternative disputes resolution as a justice system which is easily accessible by all means and based on their individual social and economic status.

The progress of legal aid in the last years has been significant in adopting the necessary methods to further the concept of legal aid in the country. NLAS has therefore set out eight strategic objectives³⁶ to allow for access to justice for all. These objectives are:

- 1) Strengthen the framework for policies, laws, and administrative processes that will ensure sustainable and quality access to justice.
- 2) Provide quality, effective, and timely legal assistance, advice, and representation for the poor, marginalized, and vulnerable.
- 3) Enhance access to justice through legal aid and awareness.
- 4) Promote and institutionalize the paralegal approach in access to justice.
- 5) Promote the use of alternative and traditional dispute resolution mechanisms.

³⁰ Article 50(2)(g), Constitution of Kenya, 2010.

³¹ Article 50(2)(h), Constitution of Kenya, 2010.

³² The Legal Aid Act, 2016.

³³ Section 35, Legal Aid Act, 2016.

³⁴ Section 5, Legal Aid Act, 2016.

³⁵ Section 2, Legal Aid Act, 2016.

³⁶ National Action Plan, Legal Aid 2017 – 2022 Kenya, Page 24.

- 6) Establish an implementation, monitoring, regulatory, and support framework.
- 7) Allot fiscal, human, and technical resources for legal aid and awareness services in Kenya.
- 8) Undertake research to ensure evidence-based initiatives.

Kenyan Realities

The Kenyan informal justice systems used by the different communities are regarded as inferior in comparison to formal justice systems. The inferiority is as a result of the subjugation of Kenyan customary law, which is the undergirding normative framework providing the norms, values, and beliefs that underlie traditional dispute resolution. In Kenya, for instance, Article 159(3) of the Constitution limits the use of traditional dispute resolution mechanisms in a manner that contravenes the Bill of Rights.

Modernity has had its fair share of negative impacts on Kenyan justice systems. In pre-colonial period, elders were the rich and wealthiest people as they held land and livestock. Their wealth and respect enabled them to be independent during dispute resolution processes. In contrast and in modern societies younger people have accumulated wealth and, in most cases, older people rely on the younger people.

Apart from corruption and bribery, modernity and westernization have broken down the close social ties and social capital between families and kinsmen. In contrast to pre-colonial days when the most important family system was the extended family, in modern times the main family system, especially in urban areas, is the nuclear family. Migration to urban areas and an increasingly individualistic society have broken down the communal or extended family system and thereby reducing the influence of arbitrators. The superiority of the Westernized judicial and legal system has further reduced the influence arbitrators have in resolution of disputes.

Furthermore, inadequate or unclear legal and policy framework on alternative dispute resolution mechanisms poses a major challenge to their application in contemporary Kenyan societies. There is lack of clear policies and laws on alternative dispute resolution mainly due to plurality of their legal systems. Even if there is a legal framework for the application of alternative dispute resolution in Kenya, there are still challenges and limitations in their usage. The unclear legal and policy framework extends to matters of appeal of decision of arbitrators and enforcement of these decisions. Formal justice systems are backed by government sanction and disputants are bound to comply with their decisions easily. However, the Constitution of Kenya and the Legal Aid Act 2016 have strengthened the principle of access to justice as the instruments that birthed the need for effective legal aid provision.

Recommendations

The evolution of the Legal Aid in Kenya is gaining momentum in Kenya. There is need to ensure that there are systems in place to support its functionality and the achievement of the intended objectives. To this end there is need to backup and strengthen the legal and policy

framework for the application of alternative dispute resolution by mediators. In so doing, we can learn from the challenges and advantages of the Black Administration Act of South Africa.

Emphasis should be placed on alternative dispute resolution as the first option in resolving disputes. Parties in certain personal relations such as marriage, divorce, child custody, maintenance, succession and related matters should first opt to alternative dispute resolution before approaching the formal legal system.

Further, there is need to give arbitrators or mediators engaged in the process adequate and regular remuneration to prevent chances and opportunity for corruption. Equally important is the need to develop and strengthen an enforcement mechanism for alternative dispute resolution mechanisms by arbitrators. It also means that there is a need for a framework for appealing the decision of arbitrators to be strengthened in the alternative dispute resolution mechanisms.

After centuries of subjugation it is necessary that Kenyan traditions and customs are co-opted into formal education system to enhance the respect for our cultures. Most African customs and practices are neither written nor codified as they are passed down from generations to generations by word of mouth. It is not in doubt that these traditions and customs are at great risk of fading away and should therefore be taught not only for use in dispute resolution but also for posterity and appreciation by present and future generations.

Finally, there is need for codification of key concepts, practices and norms of alternative dispute resolution to protect them. Such codification increases uniformity and consistency of application of alternative dispute resolution mechanisms by elders.



NLAS celebrates the launch of the Community Parallel curriculum.

Human Rights treaties and the reporting system by E. Chweya

Treaties are formal agreements between governments that outline their respective duties and responsibilities on particular issues of mutual concerns or interests. By becoming a party to a treaty a state signals its acceptance of the legal obligations under international law. Human rights treaties specifically set out an agreed array of human rights standards and create mechanisms to monitor the way a treaty is implemented. One important facet of human rights treaties that distinguishes them from other treaties relates to the obligations of states parties. **While human rights treaties are multi-lateral covenants between states, they nevertheless, bestow individual rights to persons who are not themselves parties to the instruments, but for whom the correlative duties fall on states.**

The United Nations has elaborated nine core human rights treaties, which include;

- i. Treaty on civil and political rights;
- ii. Treaty on economic, social, and cultural rights;
- iii. Treaties to combat racial and gender-based discrimination;
- iv. Treaties prohibiting torture and forced disappearances; and
- v. Treaties protecting the rights of children, migrant workers, and persons with disabilities.

Some of the core regional treaties established by the African Union and which Kenya is a State Party to, include;

- ✓ African Charter on Human and Peoples' Rights (ACHPRs),
- ✓ Protocol to the African Charter on Human and Peoples' rights on the Rights of Women in Africa (Maputo Protocol),
- ✓ African Charter on Democracy, Elections and Governance (ACDEG) and
- ✓ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

Human Rights Treaties provide critical normative frameworks to guide governments on improving service delivery from a human rights perspective. Ratification of or accession to human rights treaties not only complements existing legal and policy efforts but also provides avenues for addressing gaps in the same. Becoming a state party to a treaty is not an end but the first step in a monumental journey to guarantee the full enjoyment of rights for the people. **The treaties create obligations on the Government to Protect, Respect and Fulfil the substantive rights therein.**

State parties undertake to submit treaty-specific reports periodically to UN monitoring bodies on the measures they have adopted and the progress made in achieving the observance of the rights recognized herein. As a general rule, the initial report, which is submitted one or two years after ratification/accession highlights measures made to improve the lives of the people. On the other hand, periodic country reports, submitted at the request of the UN monitoring bodies, generally after 4 years, outline the progress made to improve the human rights situation since the last review.

Reporting as an essential tool for promoting and protecting human rights in a State

By regular reporting, a state opens itself up to **constructive scrutiny** by regional and international mechanisms on the situation of the ground. The reporting system provides a critical opportunity for governments to self-assess their human rights protection level and identify what more they need to do to improve human rights for policy planning and implementation. It allows for evaluating internal implementation structures and identifying further technical and financial assistance the government may require. The reporting process further opens up public policies and programmes for public scrutiny, thus promoting transparency, accountability and inclusivity by encouraging public participation and constructive dialogue with other non-state actors.

UN Human rights treaty monitoring mechanisms

The Committee examines the report during an open dialogue session with a state delegation. The sessions, which are non-confrontational, are conducted with a view to obtaining an accurate assessment of the human rights in the country. After considering the state's responses, the Committee adopts "Concluding Observations" (CO), which set out a comprehensive evaluation of the country's human rights record, basically outlining positive aspects, areas of concern and recommendations for enhancing the implementation of the rights in question.

The Kenyan Experience -Human Rights Reporting Obligations

Kenya is a state party to seven out of the nine core international human rights treaties. These treaties have been acceded or ratified by the Government of Kenya and include:

1. International Covenant on Economic, Social and Cultural Rights (ICESCR); Accession 01.05.1972
2. International Covenant on Civil and Political Rights (ICCPR); Accession 01.04.1976.
3. International Convention on the Elimination of all forms of Racial Discrimination (CERD); Accession 13.09. 2001
4. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); Accession 09.03.1984
5. Convention on the Rights of the Child (CRC); Ratification 30.07.1990
6. United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (CAT): Accession 21.02.1997
7. Convention on the Rights of Persons with Disabilities (CRPD); Ratification 19.04.2008

The National Assembly is considering the signing and ratification of the Protocols to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa and the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, respectively. In Kenya, the responsibility to prepare and submit reports on the various treaties fall under several ministries. The OAG&DOJ through the Directorate of Legal Affairs (DLA) is responsible for submitting reports to relevant treaty monitoring bodies on the

ICCPR, ICESCRs, ICERD, CAT, and the ACHPRs and ACDEG. The Ministry of Public Service, Gender, Senior Citizens and Social Protection reports on CEDAW, CRC, CPRD and the Maputo Protocol.

Constitution

The legal obligation to report is derived from Article 2(6) of the Constitution, which provides that “Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution”. As a state party to human rights instruments, Kenya is legally required to comply with the obligations outlined in the treaties that it has acceded to or ratified, which include reporting. For a treaty to be legally binding, it must conform to the procedures and rules set out in the Treaty Making and Ratification Act of 2012, including an emphasis on Parliamentary approval and public participation.

It is noted that a number of treaties were ratified or acceded to prior to the enactment of the Constitution. These treaties find legality under **Part 2- Existing Obligations, Laws and Rights**: wherein all rights and obligations of the Government or the Republic and subsisting immediately before the effective date continue as rights and obligations of the national government or the Republic under this Constitution.

The preparation of the report

OAG&DOJ is up to date with its reporting obligations on all treaties that are under its mandate. The National Committee on Regional and International Human Rights Obligations (NCRIR) was gazetted by the Hon Attorney General, Rtd Justice Kihara

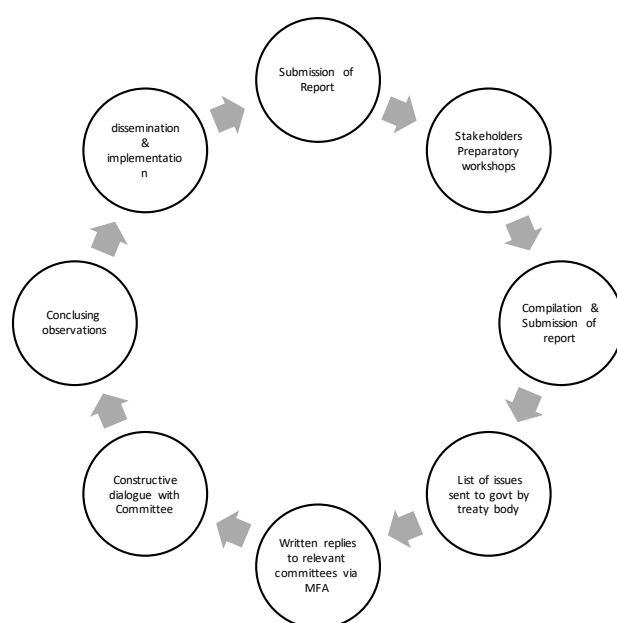
Kariuki, in 2019 to provide a more structured, effective and sustainable approach to treaty reporting, engagement and follow-up. The Committee's members are drawn from implementing government organizations, National Human Rights Commissions and the Council of Governors.



The Kenyan delegation during the submission of the country's third periodic report on the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) in Geneva, Switzerland in May 2022.

The Department of Legal Affairs (DLA) works with Committee to prepare the country reports, which set out the legal, policy, administrative and judicial measures taken by the government of Kenya to effect the treaty under review. The reports must also highlight any factors or difficulties encountered in implementing the rights. The DLA ensures that the Report contains statistical and disaggregated data to facilitate the monitoring of progress made in ensuring the meaningful enjoyment of rights by all in Kenya, particularly the marginalized and vulnerable groups in Kenya.

The DLA, through the NCRIR, collates and compiles the report and forwards the same to the relevant Committee through the Solicitor General and the Ministry of Foreign Affairs. Reporting on the government's compliance with its reporting obligations is an on-going process at the national level and should be perceived as a cycle.



Reporting cycle illustrated.

Partnerships

Civil society organizations, in Kenya, are important partners in the implementation of human rights obligations, through conducting public participation fora, creating awareness, collaborating with Government on formulating legislation and policies.

Over the years, the Government has partnered with the OHCHR, Kenya to build a sustainable human rights reporting system. Kenya has gained substantially from their support directed towards treaty reporting preparation processes, dissemination fora and training of public officers and civil society organizations on relevant human rights issues. Their efforts have significantly increased the capacity of our public officers to submit coherent, comprehensive and quality reports to the Treaty Bodies; implement treaty body recommendations; and engage with other international mechanisms, such as the Universal Periodic Review. Indeed, our officers are called upon to train other officers in the region on reporting on human rights treaties under the United Nations system.

Open Dialogue Session: With Particular Reference to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

In May 2022, the Committee against Torture considered the third periodic report of Kenya in Geneva, Switzerland on the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). The State delegation comprised of officers from the DLA, ODPP, NPS, Judiciary, IPOA and MFA. Immediately after, the Committee adopted CO outlining various positive aspects of the government's initiatives to revise and introduce legislation in areas of relevance to the Convention. These legislation included:

- i. The Refugees Act (No. 10 of 2021);
- ii. The Prevention of Torture Act (No. 12 of 2017),
- iii. The National Coroners Service Act (No. 18 of 2017);
- iv. The Legal Aid Act (No. 6 of 2016); and
- v. The Witness Protection (Amendment) Act (No. 45 of 2016).

The Committee further commended Kenya on the launch of the standard operating procedures on investigation and prosecution of serious human rights offences committed by police officers, in 2021, the creation of the National Multi-Agency Consultative Forum on Election Preparedness, in 2021, the establishment of anti-female genital mutilation steering committees in all the 22 priority counties, and the establishment of a specialized court in Shanzu to expedite hearings on sexual and gender-based violence cases.

The Committee also outlined several areas of concern, including the excessive use of force, including lethal force, by law enforcement officers in informal urban settlements and in the context of the enforcement of measures designed to control the COVID-19 pandemic; The delay in establishing the National Coroners Service, which will be tasked with supporting investigations on deaths caused by violent criminal acts and extrajudicial killings or deaths in custody, cases of lynchings, in particular of elderly women accused of witchcraft and Reports of lesbian, gay, bisexual, transgender and intersex individuals experiencing harassment, discrimination and violence, including violations perpetrated by law enforcement officers and vigilante groups, and facing barriers to access to justice and remedies.

The Committee made its recommendations and urged Kenya to take among other actions to:

- i. Ensure prompt, impartial and effective investigations are undertaken into all allegations relating to extrajudicial killings, enforced disappearances and excessive use of force by law enforcement officers and military personnel, and ensure that the alleged perpetrators are prosecuted and the victims adequately compensated;
- i. Revise the legal framework to ensure that all forms of enforced disappearance are clearly defined in criminal law with associated penalties that are proportionate to the severity of the offence;

- ii. Amend all relevant laws, including sections 162 and 165 of the Penal Code, to decriminalize consensual sexual relations between adults of the same sex;
- iii. Ensure that the Prohibition of Female Genital Mutilation Act (No. 32 of 2011) is widely known and implemented, and that perpetrators of female genital mutilation, including medical practitioners, are prosecuted and adequately punished.

Establishing Advocate-Client relationship in the absence of express instructions and a fee agreement by C. Namarome.

An advocate is under duty to provide legal services in respect to which he or she is engaged competently, diligently and ethically. Failure by an advocate to render adequate professional services is a professional misconduct. In dealing with complaints relating to the adequacy of professional, disciplinary bodies considers several factors. These include; the nature of instructions to the advocate, the fees paid by the client or the fee agreement between the advocate and the client, the services rendered by the advocate and whether the advocate acted competently, diligently and ethically.

In their defence, advocates usually allege that their clients did not pay any or sufficient fees. There are instances where the Advocates Disciplinary Committee has dismissed complaints such as where an advocate has been accused of failing to render professional services on the ground the client did not pay sufficient fees or the legal fees paid falls below the minimum

instructions fees. This then raises the questions such as:

1. Is legal fee the foundation of advocate-client relationship?
2. Can advocate-client relationship exist where a client has not paid any legal fees?

Establishing the Advocate -Client Relationship

The creation of this relationship triggers a series of legal and ethical duties. There are various situations in which a court of law or an advocate's disciplinary body may be called upon to determine whether advocate-client relationship exists. The most common of these situations are cases of professional negligence and professional misconduct.

When it comes to the creation of advocate-client, there exists two schools of thought; the traditional and non-traditional. The traditional school of thought holds the view that the advocate-client relationship is a relationship between two contracting parties and therefore the principles of contract law should apply.³⁷

The Alabama Supreme Court in a disciplinary proceeding case expressed this strict view, based on

³⁷ State Bar vs Jones 291 Ala 371, 281 So. 2d 267 (1973).

traditional contract law principles. Calling the relationship "purely contractual," and stating that it **"is based only upon the clear and express agreement of the parties as to the nature of the work to be undertaken by the attorney and the compensation which the client agrees to pay [for],"** the court apparently envisioned no circumstances in which the relationship could be created informally.³⁸

This school of thought also holds the view that the attorney-client relationship is a consensual one and generally does not arise without the manifest intent of both parties.³⁹

The non-traditional school of thought on the other hand, holds the view that the advocate-client relationship **can be implied from the conduct of the parties.** Those who subscribe to this school of thought argue that notwithstanding the absence of an express agreement between the parties, their conduct in totality of the circumstances may nevertheless establish an advocate-client relationship.⁴⁰

The 1980 US *Tongstad* case⁴¹ is the case that established this non-traditional school of thought.

The facts of the case are that Mrs. Tongstand consulted a Minnesota attorney with regard to a possible medical malpractice claim. They discussed the matter for less than an hour at the attorney's law office; no fee arrangements were discussed or authorization requested. At

that point, there were 10 months left before the 24 months statute of limitations would render any claim meaningless. There was a dispute between the attorney and the client as to what was said at the consultation but in any case Mrs. Tongstand was left with the impression that her case was weak and the attorney would consult with others to discuss the case, only getting back to her if she had viable claim. A year later after not hearing from the attorney, Mrs. Togstad consulted with another attorney only to find that the statute of limitations had run. Eventually, the Minnesota law firm was held liable for \$649,500, the amount the jury found Mrs. Togstad would have received if she had proceeded with her case in a timely manner.

Even if the parties did not enter into a formal agreement as to the nature of the professional relationship, the nature of their communication was sufficient to establish an expectation in the mind of a reasonable person that the attorney had undertaken to advise Ms. Tongstand.

The concept of implied advocate-client relationship is important when it comes to holding advocates accountable for their actions especially where they fail to render services after accepting instructions. It is clear that in **an implied advocate-client relationship**, legal fee is not an important consideration and that an advocate-client relationship can exist without any legal fees being paid to the advocate.

³⁸ Id at 377, 281 So.2d at 273

³⁹ Williams vs Waldman, 108 Nev, 466,471, 836 P.2d 614 (1992)

⁴⁰ *Togstad v Vesely, Otto, Miller and Keefe*, 291 N.W. 2d,686 (Minn.1980).

⁴¹ Id

Even though, in Kenya, the concept of implied advocate-client relationship has not been embraced, it is important to note that **the Advocate's Act defines a "client" as any person who as a principal or on behalf of another or trustee or personal representative, or in any capacity, has power express or implied, to retain or employ, and retains or employs, or is about to retain or employ an advocate and any person who is or may be liable to pay to an advocate any costs.** This means that advocates may have certain obligations to persons other than those who expressly instructed them.

Dealing with complaints of professional misconduct in cases where there is no fee agreement

Section 45 of the Advocates Act provides that an advocate and his client may before, after or in the course of any contentious business make an agreement fixing the amount of the advocate's remuneration, advocate's instruction fee or his fees for appearing in court. Such an agreement is binding on the parties provided it is in writing and signed by the parties.

If the parties can enter into a fee agreement after or in the course of any contentious business, it means the Act recognizes the fact that an advocate can offer his services even before a client pays any legal fees. Difficulty arises where the advocate-client have not entered into a fee agreement and the client accuses the advocate of failing to render any/adequate professional services.

An advocate being the service provider **has the obligation to make it clear to a client or potential client the basis on which fees will be charged.** Paragraph 65 of the Law Society of Kenya Code of

Standards of Professional Practice and Ethical Conduct (**SOPPEC**) provides that it is good professional practice for an advocate to make it clear the basis on which fees will be charged and the likely amount of fees involved in handling a matter. This should be done in the discussion held with the client at the time instructions are being given. **Where no agreement is reached with the client regarding fees,** the Advocate should not accept instructions, or, if the instructions are already issued, the advocate should not commence the work until such agreement is reached.

Where an advocate is faced with a complaint of failing to render services, the onus is on the advocate **to prove that he or she advised the client on the issue of legal fees.** Regulatory bodies ought to consider several factors when dealing with such complaints. These include:

- Whether the advocate accepted the client's instructions unconditionally.
- Whether the advocate acted in a manner that suggested that he or she is acting for the client.
- Whether the advocate and the client manifested an intention to create an advocate-client relationship.
- The amount of contact between the advocate and the client
- Whether the client paid fees or the advocate and the client entered into a fee agreement.
- What was the putative client reasonable expectation?
- Whether the advocate informed the client of his or her intention to cease from acting.

When an advocate fails to render any or adequate professional services, he may be

found guilty of other grounds of professional misconduct, including:

1. **Fees-** Paragraph 65 of SOPPEC stipulates that it is good professional practice to always make clear the basis on which fees will be charged and the likely amount of fees involved in handling a matter. If it is clear, the client/complainant was not advised accordingly, the advocate may be charged with **failing to provide information of fees to the client.**

The advocate may be charged with **undercutting** where he or she received payment from the client that is less than what is prescribed under the Advocates Remuneration Order and through his conduct intimated to the client that there would be no further costs.

2. **Withdrawal from acting** - The advocate has the duty to inform the client that he is not taking up the brief or that he or she is withdrawing from acting. Paragraph 59 of SOPPEC stipulates that upon discharge or withdrawal from acting in a matter, the Advocate has an obligation to deliver to the client all papers and property belonging to the client, subject to any right of lien that the advocate may have on account of unpaid fees; Provide to the client all material information about the case; account for all funds of the client and refund any remuneration not earned by virtue of the services rendered; and cooperate with successor Advocates to enable them take over the case. Where an advocate does not fulfil the stipulated duties, he may face disciplinary action for professional misconduct

An advocate has an obligation to carry out the work given to him or her by a client in a diligent and timely manner. Once he/she accepts instructions it is professional misconduct **to neglect the brief or withdraw from acting without proper notice to the client.**

Conclusion

An advocate who renders legal service or gives advice to a person under circumstances that the person places reasonable reliance on the advocate's legal assistance or advice is accountable to that person, even in the absence of an express agreement for provision of legal services or a fee agreement. **Payment of legal fees is not the foundation of an advocate-client relationship.**

There are various measures advocates **can and should take** to avoid accidental advocate-client relationships. These include: -

- i. **Written instructions/memorandum of agreement-** Advocates are encouraged to ensure their clients issue written instructions. Advocates and clients should sign agreements which clearly define who the client is, the scope of engagement and the understanding between the parties as regards legal fees **[SOPPEC 66]**.
- ii. **Declination letter-** When an advocate who turns down a request for representation, the advocate should inform the client in writing that he or she is not taking up the client's instructions.
- iii. **Withdrawal letter-** An advocate who intends to withdraw from acting for a client, should serve the client with a proper notice in writing

and give the client adequate opportunity to instruct another advocate. Upon withdrawal, the advocate has an obligation to deliver to the client all papers and property belonging to the client, provide to the client all material information about the case, account for all funds of the client and cooperate with successor advocates to enable them take over the case or transaction [SOPPEC 57].

- iv. **Discharge-** At the conclusion of a case or transaction, an advocate may send a letter to his or her client confirming that the matter has been concluded and may require the client to sign a discharge.

Therefore, advocates must carefully manage inquiries from prospective clients.

Officers at OAG&DOJ feted by Head of State

During the 2019 and 2020 Jamhuri Day celebrations, President Uhuru Kenya recognised various officers attached to OAG&DOJ who had rendered distinguished and outstanding services to the nation in various capacities and responsibilities.

The individuals conferred National Honours include:

2019:

1. Mr. Ogeto Kennedy Nyaguti, Chief of the Order of the Burning Spear
2. Mr. Gichuhi allen Wayaki, Elder of the Burning Spear (EBS);
3. Mr. Gure Hussein Mohamed, Moran of the Order of the Burning Spear (MBS);
4. Prof. Mumma Albert Oduor, Moran of the Order of the Burning Spear (MBS);
5. Mr. Nyene Oscar Eredi, Order of the Grand Warrior (OGW);
6. Ms. Nyacuru Felister, Order of the Grand Warrior (OGW);
7. Ms. Kalondo Mercy Wambua, Order of the Grand Warrior (OGW);
8. Ms. Irungu Sharon Gatwiri, Head of States Commendation (HSC) Civilian;
9. Mr. Odede Tom Edwin Obonyo, Head of States Commendation (HSC) Civilian.

2020:

1. Ms. Gatungu Nancy Janet Kabui, Chief of the Order of the Burning Spear (CBS);
2. Miss Kimani Muthoni, Elder of the Burning Spear (EBS);
3. Ms. Ondieki Alice Osebe, Order of the Grand Warrior (OGW);
4. Ms. Akal Agnes Teresa, Order of the Grand Warrior (OGW);
5. Prof. Sullivan Micheal Jerome, Order of the Grand Warrior (OGW);
6. Mr. Kimunya Charles, Head of States Commendation (HSC) Civilian;

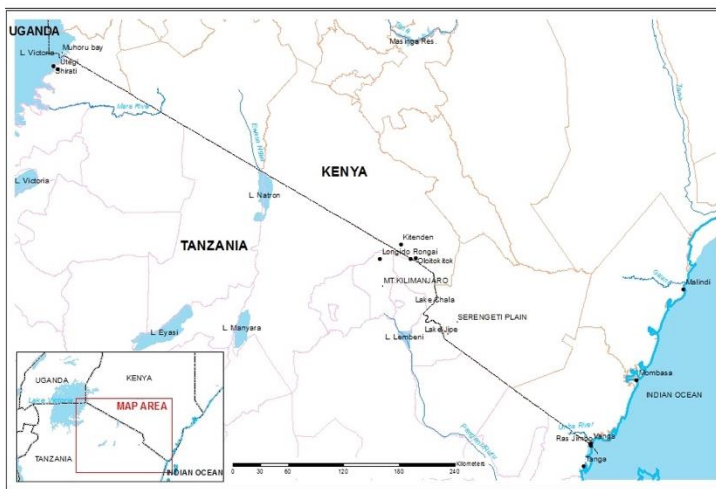
7. Mr. Odongo Mohammed Wanzetse, Head of States Commendation (HSC) Civilian;
8. Ms. Omanwa Josephine Moraa, Head of States Commendation (HSC) Civilian;
9. Ms. Kungu Janet Wanjiku, Head of States Commendation (HSC) Civilian;
10. Ms. Githui Naomi Wanjugu, Head of States Commendation (HSC) Civilian;



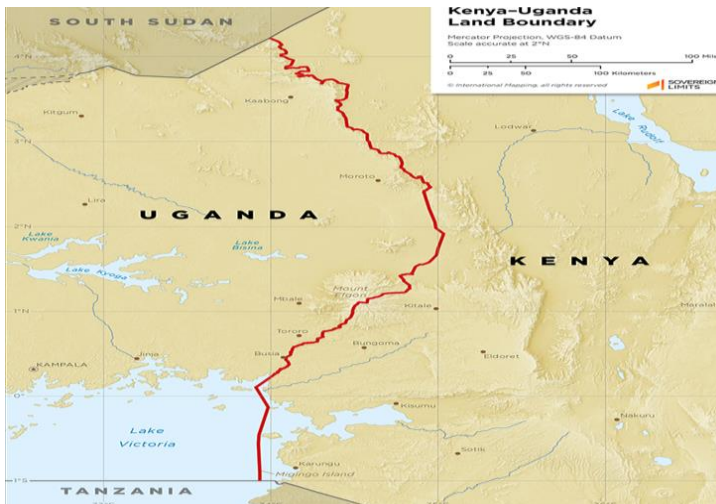
Solicitor General, Kennedy Ogeto with recipients of various Presidential awards.



Kenya seeks to reaffirms its international boundaries⁴² by J. Rotich MBS (KIBO), I. Agum



Kenya is scheduled to complete the exercise of reaffirming its boundaries with her neighbours, Uganda and Tanzania at the end of the year. The purpose of the exercises which started in October 2021 and coordinated by the Kenya International Boundaries Office (KIBO) and the Ministry of Lands together with the Ministries of Housing and Human Settlements Development (Tanzania) and Ministry of Foreign Affairs (Uganda) is to ensure that the international boundaries are visibly marked on the ground. This process involving the erection of boundary pillars marks the limits of the respective country's territory.

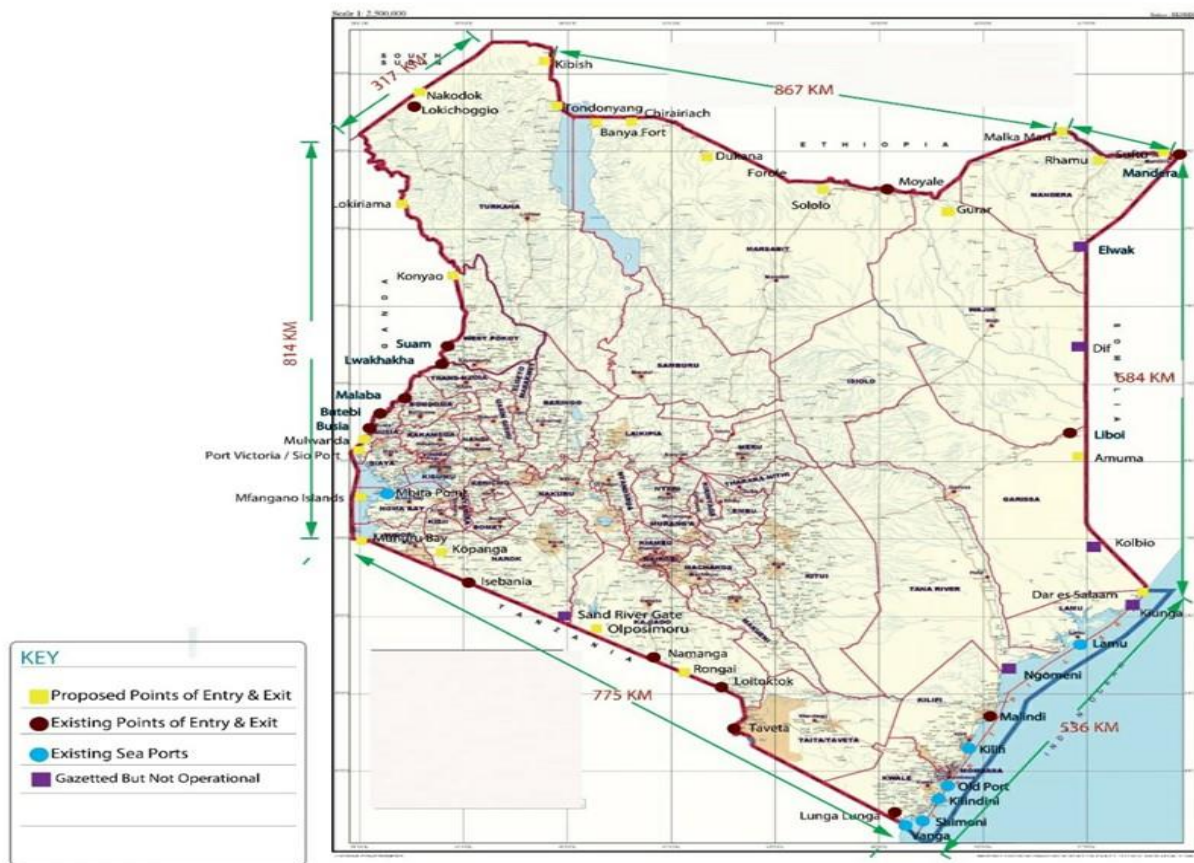


Kenya-Tanzania boundary

The reaffirmation process for Kenya-Tanzania boundary commenced from Lake Victoria to the Indian Ocean covering a distance of approximately 760

Kilometers. The process for the Kenya-Uganda boundary was undertaken in four different phases and commenced with the inspection and later reaffirmation of the boundary from Lake Victoria to Mount Zulia, a distance of approximately 933 kilometers. These phases extended from the Kenya-Uganda-Tanzania Tripoint in Lake Victoria to the Mouth of Sio River in Busia; from the Mouth of Sio River to Amudat/West Pokot (UK239); from Amudat/West Pokot (UK240) to Turkana Escarpment (Turkwel Gorge), UK1 and from UK2 (near Turkwel Gorge) to Mount Zulia near the Kenya-Uganda-South Sudan Tri-junction.

⁴² In the previous edition of Mwanasheria Mkuu, we highlighted the history of the Kenya Tanzania border. We are covered in detail the background of borders in Africa as well as the border making process terminologies. See www.statelaw.go.ke/publications.



Official Kenya Boundary Map. <http://immigration.go.ke/border-management/kenya-borders-map/>

Of particular interest will be the formal establishment and development of gazetted new points of entry/ exit along the Kenya Uganda boundary. The two countries have agreed to reaffirm and demarcate the boundary at the proposed points of entry/ exit of Lokirama in Turkana County, Konyao in West Pokot, and Mulwanda in Busia County. Presently, the existing points of entry/ exit along the Kenya Uganda boundary include Busia, Malaba, and Lwakhakha. The expanded points of entry/exit will enhance trade facilitation, promote efficient movement of persons and goods and reduce the cost of doing business between the two countries while facilitating the ease and speed of movement of persons and services within the community and adjoining countries together with delivery of services jointly to the communities.

The process of identification and determination of the present status of all the pillars along the boundaries was undertaken in some parts simultaneously, with the re-establishment of destroyed boundary pillars and construction of new pillars where none existed. Equally important during the processes was the sensitization of the local border communities about the boundary inspection and reaffirmation exercises. The processes will culminate in the construction of a boundary line that is clearly visible and marks the limits of the respective territories and the drafting of new boundary treaties to replace all the old colonial agreements.



Illustration of visible Boundary Line and the recording of coordinates along the Kenya Tanzania border

Also undertaken during the Joint Reaffirmation Exercises was the collection of geographical names, features and public utilities from a coverage of two kilometers on both sides of the border by the cartographic teams. The joint cartographic team visited all the villages within all the sub-locations touching the international boundaries and interviewed various people to gather information. As a result of these exercises, different names are given to different places within the boundary areas. Sirari/Isebania and Mwishoni/Muhuru Bay are joint community names along the Kenya- Tanzania boundary as Suam and Lokirama/

Lotipiki/ Lokomori are joint community names at the Kenya-Uganda boundary.



Cartographical teams undertake discussions at Maosa Assistant Chief's office (Narok County) with community leaders

During the joint public sensitization exercise at the Lokirama Peace Accord Monument Grounds in Lokirama, Turkana County, Kenya and at the Moroto Local Council offices in Moroto, Uganda, involving Turkana and Karamoja communities, leaders emphasized the urgent need to involve the local communities in all the activities relating to the boundary marking process. The Lokirama Peace Accord of Dec 19, 1973 signified the end of the vicious feud between the Turkana and the Matineko communities. The Kenyan delegation was led by Mr. Julius Rotich, Secretary Kenya International Boundaries Office and Ambassador Julius Kivuna from the Ugandan Ministry of Foreign Affairs.



Ambassador Kivuna sensitises the community of Lokirima and Lotipiki along the Kenya Uganda border. Mr. Rotich leads the Kenya and Uganda surveyors view the site of a destroyed pillar UK19 in Lokirima/ Lotipiki location, Turkana/ Amudat County at the boundary between Kenya and Uganda in Nov 2021.

The involvement of the local border communities ensures that the communities are responsible for providing labour for the construction of the pillars and clearance of vista; supplying construction materials for the pillars; taking care of the pillars to ensure that they are not destroyed; and sharing information on the international boundary including the local names of the sites where the pillars are located. The community engagement during the reaffirmation exercises is equal to public participation in the boundary making process. Equally important is that these processes help to demystify on the existence of mineral resources beneath the pillars. Majority of all the destroyed pillars stem from the belief that therein contains minerals such as mercury. It is for this reason that the local communities are engaged in the construction process as they get to witness first-hand the boundary making process and are charged with the responsibility of protecting and maintaining the pillars for eternity.

Community members join the Kenya Tanzania survey teams in the construction of the boundary pillars at the Mara Triangle.





The reaffirmation and construction of 2nd of 3 control points along the Kenya Tanzania international boundary at Nyabikongori Primary School in Migori County and at the Mara Traingle respectively.

Considering that the boundary traverses the vast mountainous Elgon from the Turkwell Gorge to Lake Victoria, the joint inspections teams undertaking the exercise must contend with extremely poor road network to access some of the sites, complete absence of communication networks especially within the different national parks, extreme harsh weather conditions and hordes of marauding wild animals in the parks, challenges which delay the entire process.



Lions play at the Boundary pillar at the Maasai Mara/ Serengeti National Park

The sensitisation exercise which takes place during all the processes of border making is the appreciation of **Border Resource Management** which look at harmonizing and strengthening the existing relationships of the states. This is fundamentally

important as it takes into consideration the review and appreciation of the trans boundary natural resources and trans-border communities. Border communities share a number of relationships including historical and cultural similarities, kinship ties, development and tourism opportunities. They share diverse natural resources like forests, rivers, wildlife, fish and mountains. It is through the management of these trans-boundary resource and trans-border communities to include carrying out activities, biodiversity conservation, promotion of regional economic development, regional and trans-border cooperation, that peace building is strengthened between states and local communities.



Kenya and Tanzania surveyors prepare the site for the construction of a new Boundary Pillar BP18/1/I at the Maasai Mara National Park/ Serengeti National Park in Nov. 2021.

Strengthening Peace and Development among the communities at the Kenya South Sudan Border by. I. Agum

On the Kenya South Sudan boundary, the governments of Kenya and the South Sudan signed a Memorandum of Understanding (MOU) to promote peace and development along the common border and to allow for the completion of the 601- Kilometer A1 Kenya South Sudan Road Network that runs from Eldoret to Nakodok extending to Juba in South Sudan.

During the October 2021 meetings, the leaders from the two communities along the Kenya South Sudan Border, committed to jointly coordinate community visits to the different border towns in Kenya to learn how the border communities coexist. A peace and development Caravan comprising community members from the Toposa and Turkana is expected to visit the border towns of Namanga, and Isebania in the coming months. The two communities will learn from the Maasai and Kuria communities; border communities along the Kenya and Tanzania border who share similar cultural, linguistic and socio-economic values and family bonds. The border visits will expose the communities to the dynamics of border relations with a view of replicating the same along the Kenyan South Sudan border.

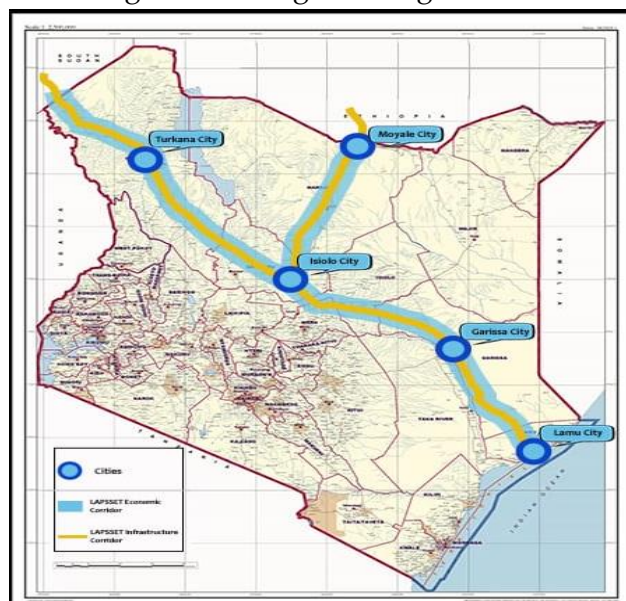
This and other peace initiatives will anchor trade and development along the vast Northern Kenya Transport Corridor and are aligned to the African Union Convention on Cross- Border Cooperation, known as the Niamey Convention. The Convention adopted during the 23rd ordinary Session of the Assembly of the African Union, held in Malabo, Equatorial Guinea, from 26th to 27th June 2014 aims to promote cross-border cooperation and to ensure peaceful resolutions of border disputes. Coordinated through joint activities between neighbouring countries, the Convention seeks to facilitate the development of borderlands and to ease free movements of persons and goods.

Kenya and South Sudan have signed a Memorandum of Understanding (MOU) on delimitation and demarcation of their common boundary. During various planning meetings to implement the MOU, both countries agreed to use the 1914 Order in Council as the primary document for delimitation of the boundary supported by colonial boundary maps

and other technical records as secondary documents. The delimitation and demarcation will resolve some of the transboundary issues such as cattle rustling and determining the extent of development of infrastructure in both countries. In addition, the three neighbouring countries of Kenya, Uganda and South Sudan have agreed to demarcate the trijunction (where three boundary line meet) to the north west of Turkana County. A trijunction is a very rare point in land boundary where one stands and is in three countries at once. Trijunction in European countries have special boundary pillars constructed that serve tourists resorts that generate revenue for the three countries.

Infrastructural Developments for Kenya and South Sudan:

The Kenya South Sudan Road Network classified as A1 provides an important link along the Biharambo–Mwanza- Musoma- Sirari-Isebania via Mukuyu, Kisumu, Kakamega, Kitale, Lodwar, Lokichogio to Nakodok–Juba Transport Corridor of the East African Community's regional trunk road network. The road provides a shorter route between Kenya and South Sudan allowing traders to get their goods faster and



connect with other road networks including the Northern Corridor (Corridor 1) A8 Highway and LAPSSET Corridor A10 Highway at Webuye and Lokichar respectively.

The Kenya South Sudan Road Network presents opportunities for enhanced cross-border trade as it will open up the marginalised areas and increase opportunities for the pastoral communities by providing access to livestock markets within the region. It will similarly support the regional integration objective for joint trade and development between



The African Union projected Road network from Lamu, Kenya to Duala, Cameroon. The LAPSSET Road Network from Lamu to Nakodok. (Photo, courtesy of LAPSSET)

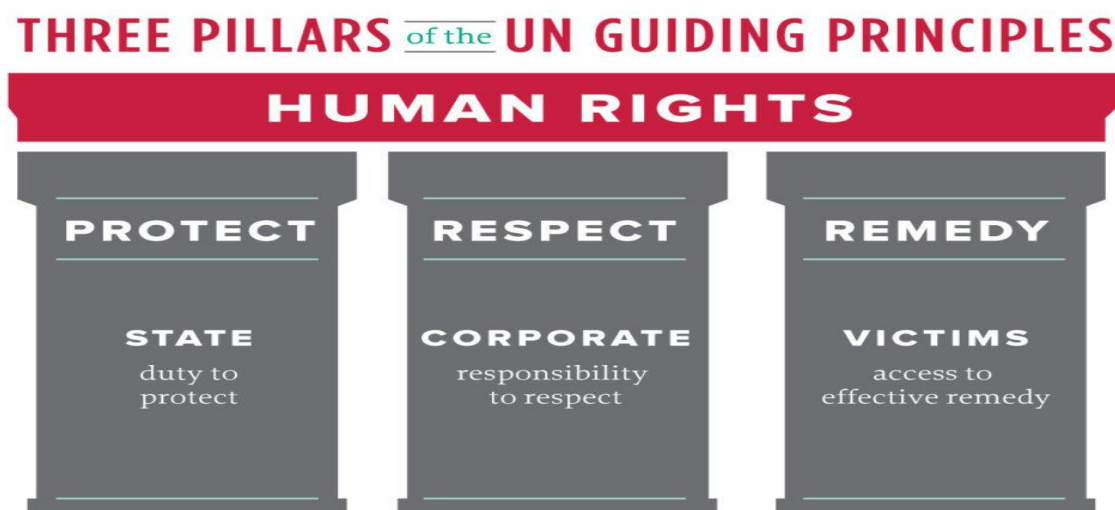
cheaper as compared to the much longer and expensive route through Uganda to South Sudan. Further, through the support of the African Development Bank (AfDB), Kenya will construct a road corridor linking West Pokot and Turkana Counties. The road will connect the Northern Corridor (A1) at Kitale-Lodwar- Nadapal Nakodok road and Kitale-Endebes- Suam- Kapchorwa corridor in efforts to enhance regional integration, trade and development. This road is expected to

Kenya, Uganda and South Sudan. It is note worthy to recall that Kenya’s main transport artery runs from Mombasa through Nairobi to the border with Uganda at Malaba.

Other aspects of infrastructural projects being developed along the Kenya South Sudan Transport Corridor include the expected establishment of a one-stop border post at Nadapal/ Nakodok to supplement the role of the new highway in boosting regional trade. Other projects along the road include the laying of the **fibre optic cable** which will deliver high-speed support investments, improve service delivery by the government while boosting connectivity in East Africa. The fibre optic cable is being developed along the Lokichar – Nadapal road.

As Kenya makes inroads in the expansion of its transport and infrastructure network facilitating the ease of movement of goods and services, the government has set aside a 10-acre parcel of land for South Sudan’s dry port at the Inland Container Depot (ICD) in Naivasha for goods destined to South Sudan. This is a significant indication that South Sudan is open for business as there exists a huge trade potential between the two countries.

New dawn for responsible business conduct by C. G. Kariuki.



The Constitution of Kenya, 2010, has laid the foundation for corporate respect for human rights in Kenya. It has clarified the responsibilities of business with respect to human rights. Article 260 of the Constitution defines a ‘person’ to include **a: “company, association or other body of persons whether incorporated or unincorporated.”** The Constitution therefore envisages a role for business enterprises with regard to human rights, a departure from the traditional view that only States have obligations in respect to human rights. This is in tandem with emerging global and regional norms, which recognise that businesses share in the responsibilities for human rights.

In 2011, the United Nations Human Rights Council unanimously adopted the UN Guiding Principles on Business and Human Rights (UNGPs).

The UNGPs are a set of 31 guidelines for states and companies –both private and state owned- to not only promote and respect human rights, but to also prevent and address human rights violations occasioned by business operations. The UNGPs are grounded on three pillars namely the state duty to protect human rights, the corporate responsibility to respect human rights and access to remedy (the Protect, Respect and Remedy Framework).

Before the adoption of the UNGPs, many businesses never accepted the notion that business could or should have any responsibilities towards human rights, whose protection they deem remains a main government obligation.

The UNGPs apply to all types of businesses (Multi-National Corporations, Small and Medium Enterprises (SMEs), Private Companies as well as State Owned Enterprises). In addition, the UNGPs have become highly relevant to the practice of law. Since 2012, Bar associations in different countries have formally endorsed the UNGPs and advocated for their integration into legal practice by providing extensive guidance to their members on how to implement the UNGPs.

In order for businesses to ensure respect for human rights, the UNGPs direct enterprises to three basic elements of this work: The Company/ Business

- i. Must have a human rights policy commitment to meet its responsibility to respect human rights, and this must be embedded and implemented in the organization.
- ii. Must carry out human rights due diligence to identify, prevent, mitigate and account for how the company addresses its responsibility to respect human rights.
- iii. Must have a process in place that enables it in to remediate any adverse human rights impacts that it has caused or contributed to.

To give effect to the UNGPs, countries are encouraged to develop national action plans that are specific to the business and human rights concerns within their borders. Kenya is one of two African Countries to have developed a National Action Plan on Business and Human Rights (NAP). The Office of the Attorney General, through the Department of Justice and in partnership with the Kenya National Commission on Human Rights embarked on a four- year journey that began in 2016 to develop the NAP. The NAP was approved by Cabinet in February 2021 and was assigned as **Sessional Paper No. 3 of 2021** by the National Assembly in May of the same year.

What is NAP and Why does it matter?

The NAP is a comprehensive policy document that guides businesses, both private and state owned enterprises on their human rights obligations as envisaged under Article 20(1) of the Constitution.

The National Action Plan (NAP) has domesticated the UNGPs and has focused on five thematic issues namely;

- i. Land and Natural Resources,
- ii. Labour rights,
- iii. Revenue transparency,
- iv. Environmental protection and
- v. Access to remedy.

NAP outlines concrete commitments by the Government for addressing adverse business-related human rights impacts under these themes. It does not create new obligations but restates those already recognized under the Constitution. It is oriented towards addressing actual and potential business and human rights challenges by both the Government and businesses⁴³.

Increasingly and more so since the COVID-19 pandemic, more investors and stakeholders are demanding more than just financial reports from companies. There is more awareness on the interconnectedness of sustainability and financial systems. There is a demand for companies today to demonstrate how their activities are impacting the environment, human rights and transparency in company operations. In a nutshell, this is now referred to as Environmental, Social and Governance (ESG) reporting.

In a bid to fully implement the National Action Plan on Business and Human Rights and promote responsible businesses in Kenya a number of activities are in the pipeline. These include;

- i. Building Capacity of diverse stakeholders on the UNGPs and Business and Human Rights generally;
- ii. Dissemination of the National Action Plan on Business and Human Rights and the Introduction of a requirement for conducting Human Rights Due Diligence, before approval of licenses /permits to businesses;
- iii. Leveraging on public procurement to promote human rights;
- iv. Prioritizing access to legal aid for victims of business-related human rights abuses, and
- v. Increasing the capacity of labour officers to monitor implementation of diverse policies in the workplace.

⁴³ As indicate in another section, the next issue of Mwansheria Mkuu will highlight the various implementation....

Restructuring and re-establishing the Advocates Complaints Commission as a Semi Autonomous Government Agency by L. Ochako & H. Cheptanui

The Advocates Complaints Commission (ACC) is established under Section 53 of the Advocates Act, Cap 16 Laws of Kenya. The mandate of the Commission is to receive and enquire into complaints made by any person regarding the conduct of any advocate, firm of advocates or any member or employee thereof. Administratively, ACC operates as a department in the Office of the Attorney General and Department of Justice (OAG&DOJ).

In the current OAG&DOJ Strategic Plan⁴⁴, provision of quality legal services to the government and the public is a key strategic objective to be achieved through the restructuring of ACC by de-linking it from the OAG&DOJ and re-establishing it as a Semi-Autonomous Government Agency (SAGA).

The decision to restructure ACC as a SAGA was also informed by the recommendation of the Office of the Attorney General Diagnostic Review Report of 2013 that recommended that departments within OAG&DOJ that are executing statutory functions under the supervision of the Attorney General pursuant to Section 5 of the Office of the Attorney General Act, No. 49 of 2012, should be established as SAGAs.

ACC as currently structured, faces structural and technical challenges that include:

- i. The ACC's continued operation as a department in the OAG&DOJ creates a structural flaw because the Honorable Attorney General is the head of the ACC while at the same time the chairperson of the Disciplinary Committee (DC). In effect the Honorable Attorney General is the investigator, the prosecutor and the judge in his own case;
- ii. The ACC is established by an Act of Parliament, but institutionally and financially is a department under the OAG&DOJ. Consequently, it depends on the OAG&DOJ's budget line for the remuneration of its Commissioners, the State Counsel, the support staff; funding of its programmes and activities; and payment of allowances to the members of the DC. This has posed a challenge to ACC with regard to accessing funds to effectively and efficiently operate;
- iii. The use of the name ACC, while it operates as a department within the OAG&DOJ, is misleading and confusing to the public since Commissions are known for their independence from the formal government;
- iv. ACC on average receives 1000 complaints annually, a number expected to increase with the current rapid growth of legal professionals in the Country. However, ACC remains under-funded and under-resourced affecting its ability to effectively and efficiently cope with the increased number of complaints it receives;

⁴⁴ Strategic Plan 2018/19 - 2022/23. See page 35 Strategy 10

- v. The ACC is not the only body that receives complaints against advocates in Kenya. The DC and the Law Society of Kenya (LSK) may also receive complaints against advocates. The Report of the Taskforce on Legal Sector Reforms⁴⁵ observed that this creates overlap and duplication of aspects of regulation, oversight and discipline. It, concluded that this remains a key challenge in the professional and ethical standards and disciplinary framework of advocates in the Country.
- vi. Further, the Report of the Taskforce on Legal Sector Reforms noted that most complaints against advocates in Kenya are dealt with by ACC but its current institutional structure, as a department within the larger OAG&DOJ, diminishes its visibility in turn limiting access of its services by members of the public.

As a result of these structural and technical challenges the Solicitor General approved the commencement of the Advocates Complaints Commission De-linking process in February 2021 and twelve (12) Members were appointed to the Advocates Complaints Commission De-Linking Implementation Committee (Committee). The membership is drawn from Advocates Complaints Commission, Legislative Drafting, Legal Research and Advisory, Human Resource and Finance Departments at the OAG&DOJ. The Committee is assisted by a Secretariat composed of the ACC staff.

The Committee's responsibilities and deliverables include:

- a. Review of the proposed structure and the budget of the independent body
- b. Review of the Draft Advocates Complaints Commission Bill
- c. Conduct consultative meetings with stakeholders
- d. Review of the Final Draft Advocates Complaints Commission Bill
- e. Preparation of the final report accompanying the Advocates Complaints Commission Bill.
- f. Submission of the Final Report and Bill for approval.

The Committee in performance of its duties and responsibilities has developed and published the ACC Bill, 2022 whose salient provisions include.

- a. Establishment of ACC as a body corporate with perpetual succession and common seal
- b. Appointment, qualifications, disqualifications, terms of service, remuneration and quorum of Commissioners
- c. Procedure for appointment and grounds for removal from office of the Secretary to the Commission
- d. Appointment and secondment of staff to the Commission

⁴⁵ The Taskforce was chaired by SC Fred Ojiambo and it handed over its Report to Hon. Attorney General on 25th February 2019 proposing that the government should form an Implementation Committee to urgently roll out the recommendations of the Taskforce Report.

- e. Investigative, taxation of advocates Bills of Cost and prosecutorial powers of the Commission
- f. Provision of funds, annual estimates, accounts and audit of the funds of the Commission and,
- g. Independence of the Commission.

The Bill was published for public participation and the Committee has received comments from the public and is planning to conduct consultative meetings with its stakeholders before it prepares the final Report and Bill for approval.

Victim Protection Board sensitizes public on the VPB Act, 2014 by VPB- Technical Committee

The Victim Protection Act was enacted in 2014 to give effect to Article 50(9) of the Constitution. The Act was enacted to provide protection to victims of crime. It outlines the rights of the victims of crime which include victim rights before, during and after the trial process. The Act also establishes



Opinion leaders participants in Kajiado County during the Sensitization workshop on the victim protection Act

the Victim Protection Board with the mandate of advising the Cabinet Secretary in charge of matters of justice on issues of victim protection. The Board also has the responsibility of implementing programs which facilitate the protection and rehabilitation of victims of crime.

The key objective intended by the Board was to comply with the provisions of Article 3, 10, 35 of the Constitution, to involve the members of the public in dissemination of information and ensuring access to justice.

The Board endeavored to bring to the attention of the public the existence of the Victim Protection Act, 2014 and its contents; educate the public on their rights and the rights of the Victim as outlined in the Constitution; and collect views and challenges the citizenry face towards accessing justice.

The Civic Education exercise in the 12 Counties of Machakos, Kajiado, Embu, Nyeri, Busia, Bungoma, Uasin Gishu, Nakuru, Nandi, Kericho, Kirinyaga and Muranga covered the



Ms. Nancy Chepkwony, Senior State Counsel-OAG&DOJ with the National Government Administration Officers (NGAOs) in Machakos County during the Sensitization workshop on Victim Protection Act 2014

constitutional provisions that provide for the enactment of the Victim Protection Act as well as the contents of the Victim Protection Act. The areas given prominence included:

- a) Provisions relating to victims of crimes covered under the Victim Protection Act, 2014;
- b) Provisions relating to the guiding principles under the Act;
- c) Provisions on the rights of victims;
- d) Provisions on the victim services; and
- e) Procedures of registering a victim under the proposed Regulations

The public were apprised of the Victims of Crime and the **rights of the victims of crime** including the right to information, right to participate in trial and the right of involvement in every decision-making process touching on their case.

Victim's **right to participate in trial** constitutes part of the rights afforded to victims of crime. The Victim by law can therefore participate in trial either by themselves or by hiring an advocate to convey their views to the court. However, the participation of the victims is only to the extent of the rights of the accused persons are not affected in the process.

The law enforcement officers including chiefs and police officers have been trained on how to handle vulnerable victims such as victims of sexual offences and gender-based violence. This is considering that these victims require special care and attention. It is noteworthy that it is very possible to that those without proper training may not offer the victims the required support.

Victims Assistance and Support: the Board is only supposed to coordinate and facilitate services rather than directly offer the services to the victims. It is emphasized that victims can receive different forms of support which include but are not limited to Psycho-social support; Access to medical treatment; and Access to justice.

The Public Trustee hereby requests the heirs to the deceased persons named below to urgently contact her to assist in processing payments due to them through:

PUBLIC TRUSTEE OF KENYA-NAIROBI OFFICE, SHERIA HOUSE, HARAMBEE AVENUE, P.O. BOX 49672-00100 NAIROBI

S.No.	Pt File No.	Name Of The Deceased	Date Of Death	Address	Sub-County
1.	786/2012	John Chege Kinuthia	2/09/1993	P.O. Box 427-00605, Uthiru	Dagoretti
2.	586/2012	Philiph Saikaya Ketere	26/05/2005	P.O. Box 8-01103, Mashuru	Mashuru
3.	321/2012	Abdulkadir Ahmed Kala Bante	19/06/2011	P.O. Box 1, Moyale	Moyale
4.	33/2011	Gerald Gitahi Muriithi	9/07/2008	P.O. Box 55872-00200, Nairobi	Kajiado North
5.	714/2011	Florence Wanjiku Gicheha	03/09/1997	P.O. Box 22354-00100, Nairobi	Mirangine
6.	407/2011	Richard Kimeli Barno	6/07/2001	P.O. Box 30231, Nairobi	Londiani
7.	310/2011	Bernard Ikumbi Mbogo	23/04/2010	P.O. Box 7403-00300, Nairobi	Thika West
8.	551/2011	Peter Kaingi Muchiri	03/05/2011	P.O. Box 13286-00200, Nairobi	Murang'a East
9.	565/2011	Joseph Wachira Gikonyo	04/08/2011	P.O. Box 104457-00101, Nairobi	Nyahururu
10.	453/2011	Leprasa Lenyekopiro	26/06/2009	P.O. Box 30083-00100, Nairobi	Samburu Central
11.	407/2012	Rose Apiyo Gor	20/05/2010	P.O. Box 77120-00611, Nairobi	Rachuonyo North
12.	383/2012	Aaron Kimotho Ndirangu	22/01/2012	P.O. Box 58186-00200, Nairobi	Tetu
13.	386/2012	Salome Wanjiru Mungai	5/08/2011	P.O. Box 229, Limuru	Limuru
14.	569/2012	Wilson Rugongo	22/07/2012	P.O. Box 30541-00100, Nairobi	Imenti North
15.	259/2012	Andrew Muturi Njuguna	31/08/2006	P.O. Box 890, Thika	Gatundu North
16.	78/2011	Eunice Ngina Njuguna	18/10/2009	P.O. Box 170, North Kinango	Nyandarua South

17.	1/2011	Gibson Kingau Lazaro	19/10/2005	P.O. Box 297, Nyahururu	Nyandarua North
18.	394/2012	Sammy Edu Mathew	3/04/2011	P.O. Box 30026- 00100, Nairobi	Cheptais
19.	386/2011	Emma Oyuga Obiero	15/03/1998	P.O. Box 53020- 00200, Nairobi	Siaya
20.	278/2012	Samson Giita Gikonyo	22/08/2009	P.O. Box 154, Muranga	Mathioya
21.	789/2012	Geoffrey Ndicu Mwaura	15/03/2012	P.O. Box 101, Kikuyu	Gachui
22.	228/2011	Joseph Miringu Kaigai	26/06/1999	P.O. Box 206-10201, Kahuro	Gatundu North
23.	617/2014	Julia Wanjiru Muraya	14/03/1997	P.O. Box 11687- 00400, Nairobi	Ongata Rongai
24.	443/2013	Damaris Waithira Mwituria	11/10/2011	P.O. Box 22448- 00400, Nakuru	Naivasha
25.	447/2014	David Nyamisoa Onger	05/07/2014	P.O. Box 61774- 00200, Nairobi	Nyamache
26.	144/2007	Safia Mohamed Ali	24/12/2002	P.O. Box 13560, Nakuru	Mandera East
27.	408/2013	Virginia Waitherero Kanganjo	30/08/2012	P.O. Box 179-01013, Gatura	Kiria-Ini
28.	358/2012	Jane Muthoni Mwangi	15/05/2006	P.O. Box 45-00902, Kikuyu	Imenti South
29.	281/2013	Sylvester Sammy Katana	20/02/2012	P.O. Box 25, Kaloleni	Kaloleni
30.	100/2013	Charles Mirera Mkiri	11/12/2012	P.O. Box 166, Mweiga	Kieni West
31.	653/2017	Justus Samuria Ole Nalangu	13/07/2014	P.O. Box 30599- 00100, Nairobi	Narok East
32.	324/2011	Peter Mwangi Karanja	11/04/2004	P.O. Box 7994- 00300, Nairobi	Murang'a South
33.	75/2013	Dahabo Adan Wario	08/12/2012	P.O. Box 1-60700, Moyale	Moyale
34.	277/2011	Mwihaki Kimani	02/02/2008	P.O. Box 515, Ruiru	Gatundu North
35.	21/2011	Abdalla Sheikh Abdi	16/12/1997	P.O. Box 42, Masalani	Ijara

36.	58/2012	Martha Nyakairu Gatuma	26/12/2006	P.O. Box 107, Kiambu	Oloirien
37.	618/2014	Mario Waswa Omondi	28/07/2003	P.O. Box 60, Mumias	Mumias
38.	512/2015	Alice Muthoni Gikuhi	13/5/2013	P.O Box 20191- 00200, Nairobi	Nyeri South
39.	035/2013	Philip Kiringu Ngure	14/12/2009	P.O Box 677, Thika	Gatanga
40.	871/2015	Peter Onyango Owenga	12/10/2015	P.O Box 8395-00100 G.P.O Nairobi	Kisumu Central
41.	751/2011	Joseph Guchu Mwangi	22/11/2007	P.O Box 27, Kagundu-Ini Muranga	Murang'a South
42.	014/2011	George Muniu Ngige	26/02/2009	P.O Box 239, Ruiru	Ruiru
43.	369/2014	Charles Kamau Wanjaga	22/08/2012	P.O Box 27, Kihoya	Kangema
44. 3	257/2011	Peninah Seleiyen	16/06/2008	P.O Box 123-00207, Namanga	Kajiado Central
45.	855/2016	Diba Dadacha Guyo	30/06/2015	P.O Box 912, Ruiru	North Horr
46.	602/2014	Kioi Kaboro	04/04/2013	P.O Box 104, Kigumo	Kigumo
47.	286/2014	Berhanu Dinka	07/07/2013	P.O Box 3001, Addis Ababa	Embassy Of The Federal Democratic Republic Of Ethiopia
48.	371/2006	Joseph Karigi Ndegwa	16/05/2003	Karatina	Nyeri
49.	782/2006	Ruth Wangechi Mwangi	04/10/2002	P.O Box 1236, Nairobi	Nyandarua North
50.	118/2007	Mohamed Aden Abdi	28/11/2005	P.O Box 68, Garissa	Garissa
51.	388/2005	Ibrahim Hussein Dagane	21/12/2003	P.O Box 68, Garissa	Garissa
52.	513/2009	Abdinoor Ali Maalim	30/08/2007	P.O Box 1, Moyale	Moyale
53.	422/2010	Omar Abdi	17/03/2009	P.O Box 33, Garissa	Tana North
54.	174/2010	Douglas Kariuki Mwangi	17/01/2005	P.O Box 619, Thika	Thika West
55.	283/2012	Samuel Mwangi Ngugi	03/08/2010	P.O Box 526, Thika	Kandara
56.	689/2008	Teresia Mogaka Kemunto	14/04/2006	P.O Box 65697- 00607, Nairobi	Central Kisii
57.	049/2005	Cosmas Oduor Ojiambo	06/04/2003	P.O Box 2799 00200, Nairobi	Busia
58.	600/2010	Eliud Shihemi Amihanda	13/01/2006	P.O Box 18095, Nairobi	Kakamega East

59.	249/2010	Noor Ali Adan	07/08/2007	P.O Box 437, Mandera	Mandera East
60.	334/2009	Christopher Kundu Sikuku Mbinga	21/01/2009	P.O Box 30028- 00100, Nairobi	Bungoma South
61.	182/2010	Jacinta Wanjiru Kihianyu	15/01/2009	P.O Box 46662- 00100, Nairobi	Nairobi
62.	035/2010	Raphael Ooko Aboka	29/01/2002	P.O Box 14288-0800, Nairobi	Siaya
63.	390/2008	Anthony Muriuki Njagi	15/06/2007	P.O Box 319, Embu	Embu West
64.	120/2010	Joseph Kipbii Rotich Alias Joseph Kibii	21/12/2003	P.O Box 6, Chogoria Meru	Bomet
65.	272/2015	Grace Munjiru Kinuthia	3/5/2014	P.O Box 216, Thika	Murang'a South
66.	377/1991	Anne Francisca Makasa Kinyanjui	15/7/1991	P.O Box 68, Nakuru	Nyandarua
67.	364/1991	Louis Muraya Ngugi	20/10/1989	-	-
68.	369/1991	Hillary Kariuki Mwaniki	4/3/1989	-	-
69.	370/1991	Patrick Ndugu	11/5/1989	-	-
70.	398/1991	Kipruto Baigo	11/11/90	P.O Box 9, Kamara	Molo
71.	14/1991	Johnson Wainaina Ndirima	6/12/1988	P.O Box 99, Githunguri	Kiambu
72.	499/1983	John Kamau Kibe	13/1/1983	P.O Box 279, Thika	Murang'a
73.	285/1991	Leonora Adede	6/12/81	-	-
74.	607/1983	Meshack Mathew Theri	4/10/1982	P.O Box 32, Maragwa Kiria Village	Kirinyaga
75.	520/1983	Jeremiah Ogango Onderi	11/7/83	P.O Box 1475, Kisii	Kisii
76.	306/1987	George Kipkoech Arap Ngeno	5/4/1983	P.O Box 81, Longisa	Kericho
77.	307/1987	Murage Waweru	25/5/1977	-	-
78.	472/1987	Joseph Matheka Muia	9/03/1986	P.O. Box 73, Makueni	Makueni
79.	51/1983	Sebastian Masi Oburu	13/01/1983	P.O. Box 590, Kisii	Kisii
80.	438/1983	Harrison Njogu Njuguna	14/4/82	P.O. Box 20, Ruiru	Kiambu
81.	9/1969	Elijah Arap Nyamweno	19/07/1968	P.O. Box 30031, Nairobi	Kericho

82.	68/1991	Titus Kinyua	29/7/1990	P.O Box 6027, Nairobi	Nakuru
83.	105/1991	Daniel Wandurua Mwangi	6/2/1991	P.O Box 57, Othaya	Nyahururu
84.	99/1987	Kairu Mwai	31/12/80	P.O Box 10414, Nairobi	Starehe
85.	130/1991	Erasto Ndeto Usyu	18/8/90	P.O. Box 1016, Kangundo	Machakos
86.	226/1987	Ikusya Kiilu Mbuvi	01/01/1987	P.O. Box 10, Machakos	Mwala
87.	542/1987	Simon Maweu Mueke	05/05/1986	P.O. Box 875, Machakos	Machakos
88.	535/1987	Japheth Muchiri Njoka	22/12/1981	-	-
89.	537/1987	John Gichiri Kamau	18/08/1979	P.O. Box 8, Londiani	Kericho
90.	520/1987	Kibarus Kipkutor	11/04/1986	-	Baringo
91.	495/1987	Lawrence Bore	24/04/1982	P.O. Box 5212, Eldoret	Nandi
92.	33/1983	Jackson Njaga Ngaruiya	3/7/1982	P.O Box 41469, Nairobi	Kiambu
93.	113/91	Samuel Mugaru Kin'gang'i	23/08/1988	P.O. Box 23445, Nairobi	Nairobi
94.	670/1983	Jotham Gasavai Chononyie	2/4/1980	P.O Box 695, Maragoli	Kakamega
95.	876/1981	Muteti Muinde	11/03/1981	P.O. Box 1001, Kangundo	Machakos
96.	4/1981	Michael Githuka Iraya	28/5/1980	P.O Box 7, Kiambu	Kiambu
97.	850/1981	Mathew Ong'era Nyaigoti	29/4/78	P.O. Box 342, Molo	Kisii
98.	358/19	Muchira Mugo	19/11/77	P.O. Box 2, Kianyaga	Kianyaga
99.	143/1981	Fanuel Owino Ogumo	23/11/1980	P.O. Box 30530, Nairobi	Siaya
100.	728/1981	Andrew Amoth S/O Oganga	08/08/80	P.O. Box 30095, Nairobi	Kakamega
101.	18/1981	Dr. Walter Otsyula	25/04/80	P.O. Box 51236, Nairobi	Busia
102.	42/1983	Mark Ayugu Shitsama	1/06/1981	-	Bungoma
103.	44/1987	Gladys Wanja Wanjire	16/08/86	P.O. Box 44769, Nairobi	Thogoto

104.	474/1983	James Nguru Kimotho	17/5/1983	P.O Box 92 Kikuyu	Kiambu
105.	535/1983	Philip Muchanga Toko	26/02/1981	-	Bungoma
106.	598/1983	Mwangi Chege	21/3/81	P.O. Box 9, Njoro	Nakuru
107.	327/1983	Michael Gitonga	3/12/80	P.O. Box 19001, Nairobi	Nyeri
108.	128/1987	Gathecha Kinyanjui	20/07/1980	-	-
109.	546/1983	Jacob Armstrong Inyangacha	23/12/1981	-	-
110.	551/1983	Michael Robo Kiruma	2/9/1979	P. O Box 40797, Nairobi	Nyandarua
111.	483/1983	Timothy Kiminza Mukula	06/12/82	P.O. Box 46, Kitui	Taita Taveta
112.	147/1987	Alfred Nauna Namunyu	29/03/84	P.O. Box 172, Kakamega	Kakamega Central
113.	164/1987	Nemwel Keoro Okiega	14/9/1984	P.O. Box 34790, Nairobi	Nyamira
114.	703/1983	Potter Omete	26/8/82	P.O Box 1067 Kisii	Kisii
115.	548/1983	Re. Hannington Ouma Ondier	27/09/1979	P.O. Box 41788, Nairobi	South Nyanza
116.	557/1983	Re. Robi Akoyo Nikodemu	27/8/83	P.O Box Ilungu Pr. School 65-Bunyere	Kakamega
117.	370/1983	Simon Muturi Ngunjiri	10/4/1983	P.O Box 124 Naro- Noru	Nyeri
118.	37/1988	Simon Kirima Ndungu	1/2/1986	P.O Box 336 Nyeri	Nyeri
119.	254/1985	Chira Mbaria	16/3/1978	P.O Box 225 Muranga	Murang'a
120.	287/1989	Gladys Njuka Nyoro	10/12/1988	P.O Box 21082 Nairobi	Nairobi
121.	286/1985	Gesicho Kerongo	4/5/1980	P.O Box 315, Kisii	Kisii
122.	250/1991	John Makimei	-	P.O Box 73015 Nairobi	Kiambu
123.	121/1983	Gerrishon Thurania	2/9/1983	P.O Box 295 Meru	Meru
124.	57/1953	Hassan Bin Haji	-	-	Kilifi
125.	518/2001	Mary Wanini Burugu	03/05/1998	P.O. Box 509, Ruiru	Kiambu
126.	255/2017	Benter Achieng Otieno	9/08/1999	P.O. Box 6556, Nairobi	-
127.	389/82	Joseph Ngaruiya Nganga	7/9/1981	P.O Box 107 Kambaa	Kiambu

128.	433/82	Josicah Martha Andeyo	2/7/1974	P.O Box 688 Kitale	Trans Nzoia
129.	434/2017	Susan Yegon	-	-	-
130.	268/1995	Moses Gutu Njogu	-	P.O. Box 28, Kerugoya	-
131.	334/1986	Norman Kuria Kimama	22/05/08	P.O. Box 70232, Nairobi	Murang'a
132.	424/1982	Gladys Opiata Odongo	6/1/1980	P.O Box 1970 Kisumu	Kisumu
133.	418/2002	Pius Kyenga Mukumbu	-	-	Makueni
134.	371/2001	George O. Gero	21/04/1997	P.O. Box 25, Butula	Busia
135.	83/2002	John M. Gerald	15/5/2001	P.O Box 00300 7418 Nairobi	Nyeri
136.	324/2002	Muhidin Abdallah	6/8/2001	P.O Box 15258 Nairobi	-
137.	367/1981	Daniel Indumba Shitsi	10/07/1978	P.O. Box 138, Serem- Nandi	Nandi
138.	144/2001	Joseph Anyonga Odhiambo	15/05/1997	P.O. Box 17143, Nairobi	Siaya
139.	427/1985	Peter Gituri Mugo	07/06/1982	P.O. Box 367, Kiambu	Kiambu
140.	9/1985	Kawiu Ndenge	1/12/1984	P.O Box 687 Kitui	Kitui
141.	21/1985	Muchiri Kagwi	1/7/82	P.O Box Kampi Ya Moto	Nakuru
142.	636/1983	Ogara Muduyi	-	-	-
143.	675/1982	Hon. James Samuel	-	-	-
144.	86/1987	Francis Gitau Kingangi	13/5/1983	-	Riruta
145.	33/1972	Kelengoi A Tuimising	24/07/70	P.O. Box 59, Molo	Nakuru
146.	194/1991	Moitaso Ole Koti	05/1982	-	-
147.	259/1985	Mbabazi Benjamin Kifaka	21/3/85	P.O. Box 7173, Kampala-Uganda	Kampala
148.	366/1992	Beatrice Nabwire Muturo	07/02/1990	-	-
149.	388/1992	Jacob Moe Eyanae	27/07/1980	-	Turkana
150.	380/1992	Justus Wamalwa	19/2/88		
151.	361/1992	Francis Aloo Sule	15/12/87	-	-

152.	411/1992	Korat Masai	28/05/80	P.O. Box 353, Kapenguria	West-Pokot
153.	468/1992	Habil Onyango Opondo	9/05/1992	P.O. Box 59876, Nairobi	Homa-Bay
154.	312/1992	Prontus Kisuna Tarus	11/05/89	P.O. Box 339, Turbo	Nandi
155.	382/1992	Simiyu Simwelo	13/10/84	-	-
156.	372/1992	Cyrus Kariuki Gathumbi	16/09/89	-	-
157.	376/1992	Kasidi Mwanzumari Nzego	7/12/88	P.O. Box 29, Kilifi	Kilifi
158.	388/1984	Juma Boy	19/07/1983	P.O. Box 87650, Mombasa	Kwale
159.	55/1988	Said Juma Mwachangu	19/07/87	P.O. Box 118, Naivasha	Nakuru
160.	51/1988	Lelei Chepkwony	14/08/87	P.O. Box 166, Lessos	Uasin Gishu
161.	60/1988	Leonard Wambua Mutuku	16/02/86	-	-
162.	770/1981	Alfred Odhiambo Osogo	24/08/1981	P.O. Box 30050, Nairobi	Siaya
163.	31/1991	Philip Kilemi	31/8/88	P.O Box 11 Maua Meru	Meru
164.	285/1986	Jacob M.M. Mrucha	31/08/88	-	Meru
165.	74/1983	Joel Tapkeino Keiyo	11/12/1980	-	-
166.	548/1986	Zacharia Maube Mahoti	30/01/84	-	-

The Public Trustee hereby requests the heirs to the deceased persons named below to urgently contact her to assist in processing payments due to them through:

PUBLIC TRUSTEE OF KENYA-KISUMU OFFICE, HAKI HOUSE, P.O. BOX 993, KISUMU.

167.	700/2002	Abdallah Abdullahi	01-07-95	P.O. Box 31, Kendu Bay	Homa Bay
168.	322/1991	Adonija Ayiora Busaka	26-07-91	P.O. Box 1142, Kisumu	Kisumu
169.	223/1991	Agnes Njeri Ndung'u	01-05-82	P.O. Box 356, Uasin Gishu	Uasin Gishu
170.	163/2011	Agnes Ogutu		P.O. Box 1, Awasi	Kisumu

171.	784/2002	Alice Awino Okoth	12-10-00	P.O. Box 358, Yala	Siaya
172.	450/2000	Andrew Fredrick O. Wade	17-07-98	P.O. Box 10, Kombewa	Kisumu
173.	328/2010	Anton Odume		C/O Everline A. Omoga	
174.	294/88	Ayub Ombuni	03-01-86	P.O. Box 9, Luanda	Vihiga
175.	17/2000	Charles Nyamwanga Ayaga	29-07-98	P.O. Box 70, Reru	Kisumu
176.	697/2010	Charles Omolo Orego		Reli Sacco	
177.	111/2014	Charles Omondi Airo	29-03-08	P.O. Box 120, Bondo	Siaya
178.	106/1997	Charles Osiro Nyarwath	23-08-90	P.O. Box 181, Sondu	Kisumu
179.	320/2010	Christine Rangili		C/O Benson Ochieng Opiyo	
180.	310/2000	Christopher Wabwire Sogoto	13-11-93	P.O. Box 626, Busia	Busia
181.	345/2010	Cosmos O Onyango		C/O Mary Aoko Oyor Onyango	
182.	378/1992	Dalmas Ogola Osuru			
183.	50/1989	Daniel Mibanda Wekesa	02-07-88	P.O. Box 100, Webuye	Bungoma
184.	637/2000	Daniel Oywer Nyakwar Yongo	21-11-95	P.O. Box 96, Bondo	Siaya
185.	409/2000	David Osiago Orengo	12-07-98	P.O. Box 9, Ikonge	Nyamira
186.	345/2004	Denis Roninson Okut Ngong'a	23-02-99	P.O. Box 16, Ukwala	Siaya
187.	69/1992	Dismas Onyango Angango	17-11-88	P.O. Box 61, Rangwe	Homa Bay
188.	587/2008	Dorah T. Ouko		Reli Sacco	
189.	266/2008	Duncan Ochieng Otieno		Kombewa	Kisumu
190.	231/1988	Elfas Kipkorir Barngatuny	22-10-86	P.O. Box 476, Eldoret	Uasin Gishu
191.	767/2002	Eliakim Obunge Asugo	10-03-98	P.O. Box 426, Sare Awendo	Migori
192.	330/2010	Elisha H. Onyango		C/O Rashid Omondi Ogolla	
193.	349/2010	Fanuel O Onyando		Belline Rollie Aguko	
194.	89/1989	Fanuel Manyi Otego	19-01-88	P.O. Box 41, Magunga	Homa Bay

195.	171/2011	Florence A Onyuka		P.O. Box 1, Awasi, Nyando	Kisumu
196.	774/2001	Francis Odhiambo Otieno	04-03-97	P.O. Box 17, Ngiya	Siaya
197.	229/1991	Fredrick Onyango Otina	08-11-85	P.O. Box 57, Akala	Siaya
198.	810/2004	George Odiro Siaji	24-02-00	P.O. Box 120, Ugunja	Siaya
199.	512/2010	George Ogweno Omogo	18-04-03	C/O Urianda Primary Sch.	
200.	111/2009	Grace Adongo Olenyo	20-09-08	P.O. Box 84, Yala	Siaya
201.	145/1987	Habil Owiti Owino	30-12-85	P.O. Box 5, Luanda	Siaya
202.	137/1992	Harison Onyango Owenga	02-12-91	P.O. Box 4365, Kisumu	Migori
203.	99/1987	Hellen Awuor Ombogo	30-01-87	P.O. Box 229, Maseno	Kisumu
204.	149/1986	Inyasi Wale Ombo	05-06-83	P.O. Box 110, Kakamega	Kakamega
205.	236/1990	Issa Wanalo Malimbote	22-04-92	P.O. Box 363, Mumias	Kakamega
206.	931/2004	Jack Benard Otieno	30-03-01	P.O. Box 236, Bondo	Homa Bay
207.	353/2000	Jacob Mogalo Odhiambo	21-10-95	P.O. Box 29, Butere	Kakamega
208.	432/2001	Jacob Oguna Ofya			
209.	404/2003	Jacob Omondi Ngoma	27-05-03	P.O. Box 4, Kadongo	Homa Bay
210.	340/2010	Jactone O Odida			
211.	166/1986	James Aggrey Odero	14-11-77	P.O. Box 66, Sidindi	Homa Bay
212.	698/2001	James Bosire Maturwe	01-05-92	P.O. Box 197, Nyamache	Kisii
213.	173/2011	James O Orina			
214.	326/2001	James Onuonga Waindi	26-06-95	P.O. Box 17, Oyugis	Homa Bay
215.	26/2007	Jane Cheronoh Misoi		Id/No. 3826637	
216.	498/2010	Jared Adenyo Okuru		Angoga S/Loc. Seme N. C.	Kisumu
217.	753/2010	Jecinter Migare Obare		S. Alego Loc. Mur Ngiya	Siaya
218.	770/2010	Jerim Odera Ngeso		Reli Sacco	

219.	128/2001	Joab Onyango Oswe	27-07-00	P.O. Box 8, Nyangande	Kisumu
220.	455/2010	Joanes Ronga Oyugi			
221.	147/2001	John Akelo Achianda	19-10-00	P.O. Box 109, Muhoroni	Kisumu
222.	678/2001	John Amollo Abila	22-10-98	P.O. Box 49, Magunga	Homa Bay
223.	650/2001	John Benz Okindo Otieno	27-05-96	P.O. Box 187, Homa Bay	Homa Bay
224.	389/2004	John Felix Ouko	21-12-01	P.O. Box 4, Pap Onditi	Kisumu
225.	36/2004	John Obuon Abiero	30-11-00	P.O. Box 2019, Kisumu	Kisumu
226.	596/2010	John Odera Mola		Kombewa, Seme N. C. Katieno	Kisumu
227.	384/2004	John Omenda Rawo	04-01-02	P.O. Box 127, Kadongo	Homa Bay
228.	223/1990	Josaphat Ouma Osewe	18-05-87	P.O. Box 72, Mbita	Homa Bay
229.	553/2001	Joseah Ogwayo Sule	03-08-01	P.O. Box 824, Kisumu	Kisumu
230.	414/2000	Joseph Owino Okello	23-12-93	P.O. Box 362, Rongo	Migori
231.	193/1982	Joseph Tom Kemeneti	09-02-77	P.O. Box 172, Bungoma	Bungoma
232.	331/2001	Joshua Onyango Odera	24-09-98	P.O. Box 563, - Homa Bay	Homa Bay
233.	141/2001	Joshua Oyugi Oigo	05-03-98	P.O. Box 157, Ndori	Siaya
234.	485/2001	Joyce Awuor Yago	06-04-96	P.O. Box 70, Rodi Kopany	Homa Bay
235.	152/2004	Julius Kondos Omollo	13-09-03	P.O. Box 1921, Kisumu	Kisumu
236.	108/2001	Julius Ogecha Ochola	20-06-00	P.O. Box 41, Kombewa	Kisumu
237.	147/1991	Karan Agutu	28-07-89	P.O. Box 91, Ukwala	Siaya
238.	146/1989	Kennedy Ndiema	10-01-88	P.O. Box 913, Webuye	Bungoma
239.	344/2004	Leonard Arodi Omollo	06-11-99	P.O. Box 25, Ahero	Kisumu

240.	562/2004	Linus Barasa Obilo			
241.	577/2008	Lucas O Onyango	19-05-08	P.O. Box 50, Butere	Kakamega
242.	180/2011	Magdaline Okeyo		P.O. Box 1, Awasi Nyando	Kisumu
243.	735/2001	Marcelluce Otieno Odipo	23-05-98	P.O. Box 66, Boro	Siaya
244.	181/2011	Margaret O Ochola		P.O. Box 1, Awasi, Nyando	Kisumu
245.	223/2004	Mark Ochieng Silala	04-05-99	P.O. Box 9280, Kisumu	Kisumu
246.	725/2004	Mark Odera Mboya	17-01-04	P.O. Box 39, Kendu Bay	Homa Bay
247.	84/2001	Mark Outa Mbeya	14-09-97	P.O. Box 95, Ahero Kisumu	Kisumu
248.	342/2004	Markisho Mboga Yoga	16-02-00	P.O. Box 308, Kisumu	Kisumu
249.	681/2001	Martin Odhiambo Ogudha	28-05-97	P.O. Box 42, Kadongo	Homa Bay
250.	619/2010	Maurice Abuto Odindo		Pan Africa Life Insurance	
251.	157/2011	Maurice O Ongany		P.O. Box 1 Awasi, Nyando	Kisumu
252.	331/2010	Merab Ating'a		C/O Sarah Apondi Atinga	
253.	325/2004	Meshcak Ogongo Okoth	06-08-99	C/O Andingo, Sondu	Kisumu
254.	887/2004	Michael E. Otieno Mac Omondy	03-11-01	P.O. Box 16, Ukwala	Siaya
255.	191/1989	Michael Nyakinye Ngare	01-04-87	P.O. Box 377, Rongo Migori	Migori
256.	148/1991	Michael Omondi Ambiro	29-01-90	P.O. Box 63, Boro	Siaya
257.	60/2010	Milton Eric Otieno Agoro	30-01-05	P.O. Box 24, Daraja Mbili Kisumu	Kisumu
258.	141/2011	Monica A. Oloo		P.O. Box 1, Awasi, Nyando Kisumu	Kisumu
259.	33/2009	Mourice Odhiambo Owidi			
260.	595/2010	Naboth Uhuru Opiyo		Ramogi Village, Sigoti S/Loc./Kisumu	Kisumu
261.	35/1987	Newton Machoka	03-05-86	P.O. Box 169, Kisii	Kisii

262.	342/2010	Newton O Omondi		C/O/ Jotham O. Opio/Eunice A. Ongewe	
263.	71/2001	Nicholas Daniel Otieno	05-01-00	P.O. Box 191, Ndhiwa	Homa Bay
264.	775/2010	Odhiambo M J		Reli Sacco	
265.	766/2010	Okina Willis		Reli Sacco	
266.	33/1982	Okoth Nyadimo	01-02-81	P.O. Box 289, Ugunja	Siaya
267.	272/2007	Omache Dalmas Nyangau			
268.	765/2010	Omollo George		Reli Sacco	
269.	775/2001	Pamela Anyango Alwanda	29-01-97	P.O. Box 1, Pap Onditi	Kisumu
270.	314/2010	Pamela Ojwang			
271.	712/2001	Patricia Akinyi Omeno	13-10-99	P.O. Box 83, Siaya	Siaya
272.	670/2000	Patrick Odhiambo Waringa	07-09-98	P.O. Box 5, Siaya	Siaya
273.	233/2002	Paul Muthiga Omungo	29-06-98	P.O. Box 91, Bar Olego	Siaya
274.	142/2000	Paul Omolo Adiwa	02-06-99	P.O. Box 54, Usenge	Siaya
275.	465/2004	Paul Otieno Obuya	04-07-03	P.O. Box 60, Ahero	Kisumu
276.	144/2011	Pauline Akongo		Nyando	Kisumu
277.	167/2004	Pauline Nyakech Okech	28-09-01	P.O. Box 44, Bondo	Siaya
278.	493/2002	Peter Arogo Oracha	13-04-99	P.O. Box 95, Kadongo	Homa Bay
279.	316/2010	Peter N Miseti		C/O Mary Akinyi Nyamanga	
280.	521/2004	Peter Okello Lombo	12-02-99	P.O. Box 27, Omboga	Homa Bay
281.	299/1989	Peter Oswat Odede	14-11-88	P.O. Box 157, Busia	Busia
282.	19/2000	Petronala Awino Odhiambo	09-10-95	P.O. Box 69, Ndhiwa	Siaya
283.	115/1992	Philemon Ogosi Adie	03-01-91	P.O. Box 27, Kadongo	Homa Bay
284.	790/2001	Philip Odero Nyangweso	27-11-98	P.O. Box 64, Migori	Migori
285.	01/2001	Pius Mbadi Adede	23-08-00	P.O. Box 19151, Kisumu	Kisumu

286.	78/2009	Priska A Awino		P.O. Box 1921, Kisumu	Kisumu
287.	153/2000	Richard Okongo Otieno	03-01-95	P.O. Box 35, Miwani	Kisumu
288.	210/1990	Rogito Maurume	15-02-90	P.O. Box 289, Kisii	Kisii
289.	346/2010	Rose Adhiambo Ayoma		C/O Moses Owili Ayoma	
290.	381/2011	Samsom Kere Oyaa			
291.	233/2001	Samwel O. Godia	25-09-99	P.O. Box 84, Mtumbu	
292.	52/1988	Samwel Oteki	03-04-84	P.O. Box 60, Gesima	Kisii
293.	244/2000	Samwel Oyuga Agar	06-04-97	P.O. Box 29, Nyangweso	Homa Bay
294.	347/2010	Shadrack A Obiene			
295.	36/2008	Shem O. Opondo			
296.	639/2010	Shem Otiende Dianga		Karateng' North West	Kisumu
297.	252/2000	Susan Atieno Adhola	04-03-00	P.O. Box 97, Akala	Siaya
298.	115/1986	Teresa Lunyiro Wanjala	08-07-81	P.O. Box 1204, Kakamega	Kakamega
299.	161/2001	Thomas Nunda Owinyi	28-10-99	P.O. Box 9165, Kisumu	Kisumu
300.	693/2001	Thomas Ochieng Mbaria	29-05-01	P.O. Box 131, Ahero	Kisumu
301.	392/2010	Thomas Olala Jorim		Kolunje, Seme (Reli Sacco) Kisumu	
302.	117/1990	Tom Ogola Owuor	05-07-89	P.O. Box 81, Nyilima	Siaya
303.	9/2011	Vitalis Odede			
304.	763/2004	Vitus Oraro Odera	16-01-00	P.O. Box 123, Maseno	Kisumu
305.	81/2007	Walter Otieno Olale	17-02-04	P.O. Box 53, Karungu Homa Bay	Homa Bay
306.	322/2010	Wilkister A Anyango		C/O Samsom Ochieng Gumba	
307.	772/2010	Willies Ochieng		Reli Sacco	

The Public Trustee hereby requests the heirs to the deceased persons named below to urgently contact her to assist in processing payments due to them through:

PUBLIC TRUSTEE OF KENYA- MALINDI OFFICE, MALINDI COMPLEX, ROOM 18, LAMU ROAD, P.O. BOX 111, MALINDI.

308.1	41/2017	Mary Njeri Miki	03/08/1998	P.O Box 20184, Nairobi	Kilifi
309.2	40/2017	Joyce Hadara Jaluo	06/03/1999	P.O Box 3, Malindi	Kilifi
310.3	21/2013	Nyevu Mramba Katiki	15/09/2004	P.O Box 49, Gede	Kilifi
311.4	31/2015	Mary Purity Gaturi	16/12/2012	Po Box 90-80108, Kilifi	Kilifi
312.5	79/2021	Justin Ngumbao Mramba	10/02/2017	P.O Box 1, Malindi- Watamu	Kilifi
313.6	26/2008	Francis Charo Ngari	16/01/2008	P.O Box 701, Malindi	Kilifi

The Statutes administered by the Office of the Attorney General and Department of Justice include:

1. The Constitution of Kenya 2010
2. The Coat of Arms Act
3. The Societies Act
4. The Marriages Act
5. The Public Trustees Act.
6. The Litigation Penal Code
7. The Advocates Act.
8. The Business Registration Service Act, of 2015 to operationalize The Business Registration Service (BRS).
9. Proceeds of Crime and Anti-Money Laundering Act, Cap 59B of the Laws of Kenya to operationalise The Assets Recovery Agency, established as a body corporate, which is one of the principal institutions within the criminal justice system implementing the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) framework in Kenya.
10. The Copyright Act 2001 was established by section 3 of the copyright Act 2001 to operate The Kenya Copyright Board (KECOBO).
11. The National Legal Aid Service (NLAS), was established under the Legal Aid Act 2016, Laws of Kenya.
12. The National Anti-Corruption Campaign Steering Committee (NACCSC) is established vide Gazette Notice N0.

13. The National Anti-Corruption Campaign Steering Committee (NACCSC) is established vide Gazette Notice N0. 6707 of 2014. NACCSC operates under the Office of the Attorney General and Department of Justice (OAG&DOJ)
14. The Victim Protection Board (VPB) is established by section 31 of the Victim Protection Act, 2014. The Act was enacted on 4th September 2014, to give effect to Article 50 (9) of the Constitution of Kenya. The Act provides for the protection of victims of crime, reparations, compensation, special protection for vulnerable victims, the development of a mechanism for dissemination of information and provision of support services.
15. The mandate of the School, as set out in section 4 of the Kenya School of Law Act, 2012
16. Kenya Law Reform Commission was established by the Kenya Law Reform Commission Act, No. 19 of 2013.
17. The Auctioneers Licensing Board was established under the Auctioneers Act, No. 5 of 1996.
18. The National Council for Law Reporting is a state corporation established by the National Council for Law Reporting Act No. 11 of 1994.
19. The Council of Legal Education is a corporate body established under the Legal Education Act No. 27 of 2012.

WHERE TO FIND THE OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE IN THE REGIONAL OFFICES AND LOCATIONS

The Office serves a number of courts within the Republic of Kenya. For ease of bringing services closer to the people, the OAG&DOJ has decentralized the following services: Civil Litigation, Public Trustee and Registration of Marriages in the following field offices;

S/No.	Region	Location
1	Machakos	Machakos Town
2	Kisii	Kisii Town
3	Kisumu	Kisumu Haki House and Governor's Office
4	Malindi	Malindi Complex
5	Nyeri	Advocates Plaza
6	Meru	Ntaara Place
7	Garissa	Maendeleo Plaza
8	Mombasa	NSSF Building
9	Kakamega	PCs Building
10	Nakuru	PCs Building
11	Embu	Faith House
12	Kericho	Kericho Town
13.	Eldoret	KVDA Plaza



The Justice Cup 2022

SEMI AUTONOMOUS GOVERNMENT AGENCIES ASSOCIATED WITH THE OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

Kenya School of Law (KSL)

Is established by the Kenya School of Law Act, No. 26 of 2012 to provide legal education and professional training as an agent of the Government and specifically to train persons to be advocates under the Advocates Act, provide continuous professional development for all cadres of legal profession, provide paralegal training, develop curricular and training manuals, undertake research and offer consultancy services.

Council of Legal Education (CLE)

Is a public body corporate established under the Legal Education Act No. 27 of 2012 with the mandate to promote legal education and training. The Council also licenses legal education providers, harmonizes legal education programmes, recognizes and approves qualifications obtained outside Kenya for purposes of admission to the Kenya School of Law, administers Advocates Training Program (ATP) examination as prescribed under section 13 of Advocates Act and advises Government on legal education and training.

Nairobi Centre for International Arbitration (NCIA)

Is established under the Nairobi Centre for International Arbitration Act (No. 26 of 2013). Its mandate is to promote international commercial arbitration in Kenya and the use of other alternative disputes resolution (ADR) mechanisms through administration and training so as to enhance the ease of doing business through enforcement of contracts.

Kenya Law Reform Commission (KLRC)

Is established by the Kenya Law Reform Commission Act, 2013 with the mandate to keep under review all laws and recommend reform(s) to ensure conformity to the letter and spirit of the Constitution; to provide advice, technical assistance and information to the National and County Government legislation; formulate by means of draft Bills or otherwise, proposals for reform of National or County legislation; and to advise National and County Governments on the review and reform of their legislation.

Assets Recovery Agency (ARA)

Is established under the Proceeds of Crime and Anti-Money Laundering Act, Cap 59 B of the Laws of Kenya and is one of the principal institutions within the criminal justice system implementing the

Anti Money Laundering and Counter Financing of Terrorism (AML/CFT) framework in Kenya. Its principal mandate is identification, tracing, freezing, seizing and confiscation of all proceeds of crime. The Agency is an integral institution against money laundering, terrorist financing and transnational organized crime. Its mandate is to identify, trace, freeze, seize and recover assets acquired from or are the profits or the benefits of proceeds of crime or used for or intended for the commission of crime. The Agency is therefore integral in the criminal justice system involved in combating money laundering, terrorist financing and other transnational organized crimes.

Victim Protection Board (VPB)

Is established vide the Victim Protection Act, 2014 and mandated to advise the Cabinet secretary on inter-agency activities aimed at protecting victims of crime and the implementation of preventive, protective and rehabilitative programs for victims of crime. The Act was enacted on 4th September 2014, to give effect to Article 50 (9) of the Constitution of Kenya. The Act provides for the protection of victims of crime, reparations, compensation, special protection for vulnerable victims, the development of a mechanism for dissemination of information and provision of support services. The Board's mandate is to advise the Cabinet Secretary responsible for matters relating to Justice on inter-agency activities aimed at protecting victims of crime. The Board is also tasked with the implementation of preventive, protective and rehabilitative programmes for victims of crime.

National Anti-Corruption Campaign Steering Committee (NACCSC)

Is established under the State Law Office and Department of Justice vide gazette notice No. 6707 dated 19 September 2014 mandated to undertake a nationwide public education sensitization and awareness creation campaign aimed at effecting fundamental changes in the behavior, attitudes, practices and culture of Kenyans towards corruption. The objectives of NACCSC is to fully empower citizens through awareness campaigns against corruption, change of attitudes, behaviour, practices and culture of Kenyans towards the vice and mobilizing them to support and actively participate in fighting and preventing corruption.

Business Registration Service (BRS)

Is established under the Business Registration Service Act, No. 15 of 2015. It is responsible for the general implementation of policies, laws and other matters relating to the registration of companies, partnership and firms, individuals and corporations carrying on business under a business name, bankruptcy, hire purchase and chattels transfers. This role is critical in improving the ease of doing business in Kenya and economic growth at large.

National Legal Aid Service (NLAS)

The National Steering Committee (NSC) for the National Legal Aid and Awareness Programme (NALEAP) with the mandate to facilitate access to justice for all and create an enabling environment for the establishment of a national legal aid scheme in Kenya was established through Gazette Notice No. 11589 of 2007. The Programme transitioned to the National Legal Aid Service under the Legal Aid Act, No. 6 of 2016, in 10 May 2016. Its mandate is to provide and fund legal aid services in Kenya through a Legal Aid Fund, establish and administer a national legal aid scheme that is affordable, accessible, sustainable, credible and accountable, encourage and facilitate the settlement of disputes through alternative dispute resolution, provide an oversight over legal aid providers and facilitate access to justice to the indigent persons in Kenya, in accordance with the constitution.

Kenya Law Reform Commission (KLRC)

Is established by the Kenya Law Reform Commission Act, 2013 with the mandate to keep under review all laws and recommend reform(s) to ensure conformity to the letter and spirit of the Constitution; to provide advice, technical assistance and information to the National and County Government legislation; formulate by means of draft Bills or otherwise, proposals for reform of National or County legislation; and to advise National and County Governments on the review and reform of their legislation.

Nairobi Center for International Arbitration (NCIA)

Established in 2013 by an Act of Parliament and the Nairobi Centre for International Arbitration Act No. 26 of 2013 as a Centre for promotion of international commercial arbitration and other alternative forms of dispute resolution. The NCIA offers a neutral venue for the conduct of international arbitration with commitment to providing institutional support to the arbitral process. NCIA also caters for domestic arbitration and other forms of dispute resolution such as mediation. The principal mandate of the Centre is promotion of international commercial arbitration

in Kenya and the use of other alternative dispute resolution (ADR) mechanisms. The vision of the Centre is to be "the Premier Centre of choice for Alternative Dispute Resolution" and the mission is *"to be recognized as a Centre for International Commercial Arbitration and Alternative Dispute Resolution through provision of quality and innovative processes"*.

Auctioneers Licensing Board (ALB) Established in 1997

under an Act of Parliament to consolidate and amend the law relating to auctioneers, to provide for the licensing and regulations of the business and practice of auctioneers, and for connected purposes. The mandate of the Board is to exercise general supervision and control over the business and practice of Auctioneers. The functions of the Board are to: license and regulate the business and practice of auctioneers, supervise and discipline licensed auctioneers, develop and facilitate adequate training programs for licensed auctioneers, conduct routine inspections and visits of auctioneer's premises, set, maintain and continuously improve the standards of learning professional competence and professional conduct for the provision of auctioneering services in Kenya. Executive Order 1 of 2018 placed the Auctioneers Licensing Board under the Office of the Attorney General (OAG) effective financial year 2018/2019.

National Council for Law Reporting

Kenya Law Reports is a public body established under the National Council for Law Reporting Act (Act No. 11 of 1994). The mandate of the Council is to publish the Kenya Law Reports which contain the judicial opinions of the superior courts of record and which are the official law reports of the Republic of Kenya; to revise, consolidate and publish the official Laws of Kenya; to issue such other related publications and to undertake such other functions as may be conferred by law.

Witness Protection Agency (WPA) is a body corporate established under the Witness Protection Act, (**Cap 79 Laws of Kenya**) which came into operation on 1st September 2008 vide **Legal Notice No. 110/2008** dated 19th August, 2008 as amended by the Witness Protection (Amendment) Act, 2010. The **object** and **purpose** of the Agency is to provide the framework and procedures for giving special protection, on behalf of the State, to persons in possession of important information and who are facing potential risk or intimidation due to their co-operation with prosecution and other law enforcement agencies.

