

# 2016 ANNUAL JURISTS CONFERENCE

## Communique of the 2016 Annual Jurists Conference

### Introduction

1. The International Commission of Jurists Kenyan Section (ICJ Kenya) in partnership with Konrad Adenauer Stiftung and the Kenya Human Rights Commission (KHRC) held the 2016 Annual Jurists Conference (AJC) in Durban, South Africa from 9-13 November, 2016. The theme of the conference was "State of Democracy and Transitions in Africa: Addressing the Regression".
2. The Conference was officially opened by Hon. Judge Jody Kollapen, Judge of the High Court of South Africa and Vice Chairperson of the South African Law Reform Commission. Hon. Dr. Kizza Besigye, Leader of the Forum for Democratic Change (FDC), the leading Opposition Party in Uganda also delivered a special Keynote address. Other opening remarks were delivered by Mr. Njonjo Mue, Chairman of the Kenyan Section of the International Commission of Jurists, Mr. Samwel Mohochi, Executive Director of the Kenya Section of the International Commission of Jurists and Mr. Andrew Songa, Programme Manager at the Kenya Human Rights Commission. The conference was privileged to have an interactive dialogue session with Retired Justice Albie Louis Sachs. Mr. Isaac Okero, the President of the Law Society of Kenya delivered the closing remarks.
3. A total of 117 participants were present at the conference consisting of members of the judiciary, National Assemblies and Jurists drawn from Kenya, Uganda, Zimbabwe and South Africa.
4. Five (5) panels were held at the conference and discussed the following:
  - The State of Peace, Security, Stability and Governance in Africa.
  - Comparative Perspectives on Electoral Democracy and Building Peaceful States.
  - Beyond the will to intervene: Preventing Chronic Conflicts on Africa
  - Resisting political arrogance through civic engagement
  - From fragility to stability: Cultivating responsible and responsive leadership in Africa.
5. On the basis of extensive and highly interactive deliberations guided by moderators and thematic experts for each panel, the participants adopted the following resolutions:

### To African Heads of State, Government and the African Union:

- i. We call on political leaders, policy makers and mandate holders to fully implement and consistently apply already established norms on democracy, peace and security.

**This entails:** A commitment to provide adequate resources mandated institutions; the domestication of these norms within respective state jurisdictions; effective coordination among Regional Economic Communities (RECs); availing access to regional mechanisms for the public and abiding by judicial decisions; treaty-body reporting obligations and recommendations from other mandate holders.

- ii. We call on Heads of government and the African Union to facilitate models of effective public participation at all levels through easing access to decision-making platforms and reflecting the aspirations of citizens in resultant policy actions.
- iii. We acknowledge ongoing initiatives by the African Union and Heads of Government to mediate existing conflicts in various countries on the continent and facilitating the ratification of peace agreements. We however call for the advancement of effective and holistic models of peace agreements that are responsive to the need for restoration of democratic governance and human development alongside peace and security. We urge stronger sanctions for actions that undermine peace and accountability processes particularly in relation to the ongoing conflicts in Burundi and South Sudan.
- iv. We recognize the furtherance of justice in conflict and post-conflict settings as an essential pillar of rebuilding democracies and restoring rule of law. We call on Heads of Government and the African Union to support and engage in building effective justice mechanisms at the national, regional and international level to advance the fight against impunity.

### As Jurists and Civil Society:

- v. We shall continue to support and invest in catalyzing non-violent, citizen-led efforts we shall seek strong democratic institutions that further the agenda of people-centered governance and citizen leadership while also resisting the notion of 'strong man' leadership and State capture.
- vi. We shall critically analyze Africa's political landscape and historical context as the initial step to addressing the challenges of failed and regressing democracies on the continent. On this basis, we shall advocate for democratic and electoral governance models that advance inclusive politics and consolidates peace and security while also addressing citizen aspirations for sustainable development and prosperity.
- vii. We commit to developing sustainable collective action at the national and regional levels to seek strategic engagement with policy actors to operationalize the normative standards on democracy, peace and security. Such collective action will be based on a developed shared vision and an open engagement policy with governments, the opposition and protagonists on either side of conflict.
- viii. We shall utilize our privileged position as Jurists and advocates for human rights to express solidarity with the oppressed in society and front-line human rights defenders as well as challenge acts of retrogression including through public interest litigation and fostering public debates on transformative interpretation of constitutions.

- ix. We undertake to reflect on, reinvigorate and provide leadership in the prevailing debate on the future of international justice by engaging African States in a holistic conversation that acknowledges the inconsistencies and challenges within the current international justice system and advocates for appropriate reforms.
- x. We shall also fully engage with the effort to establish the African Court of Justice and Human Rights with an expanded criminal jurisdiction in a manner that critically addresses the issues of the court's capacity, accessibility, legal standards outlined for crimes under international law and provisions regarding immunity for sitting Heads of State and senior government officials.
- xi. We undertake to advance conversations with state officials on the establishment of robust national mechanisms that address the accountability question at first instance and in complementarity with regional and international mechanisms while also broadening policy considerations to include comprehensive reparation programmes for victims and redistributive justice to address legacies of colonialism, discrimination and marginalization.
- xii. We shall engage in and facilitate public participation in monitoring state compliance with its obligations under the African Charter on Democracy, Elections and Governance; formulating and operationalizing the African Union Transitional Justice Framework and the African Union Ten-Year Action Plan on Human Rights.
- xiii. We commit to advance legal education that furthers the agenda of transformative leadership and responds to the socio-economic aspirations of citizens.

### To Africa's Citizens:

- xiv. Demand and elect leadership based on ethics, integrity, competence, capacity, and fidelity to the rule of law.
- xv. Take up the responsibility of transforming governance structures by demanding accountability for errant state officers and reforms to compromised state institutions.
- xvi. Initiate self-sustaining movements for people-centered governance that are not dependent on donor cycles or mobilization by civil society and politicians.
- xvii. Demand and utilize opportunities to participate in the decision making processes that inform the priorities for political, social and economic development within your community.
- xviii. Champion equitable distribution of state resources and repudiate intolerance, discrimination and myopic governance of these resources.

Done in Durban, South Africa on November 12, 2016.