

1ST SEPTEMBER 2023 ISSUE 18

THE LEGAL INSIGHT

The Official LSK Weekly Newsletter

LSK JOINT PRESS STATEMENT



The Law Society of Kenya, Amnesty International Kenya, Kenya Human Rights Commission and HAKI Africa, note with deep concern the public statements made by the President of the Republic of Kenya H.E. Dr. William Ruto, issuing a warning to all those who have filed cases in Court over ownership and control of Mumias Sugar Company, to withdraw the said cases and gave them the following options:

- 1. Wahame Kenya, ama
- 2. Nitawaweka jela, ama
- 3. Wasafiri waende mbinguni.

The words taken in their literal sense constitute a threat to persons who are currently involved in court cases over the ownership and control of Mumias Sugar Company. The strong warning comes against the backdrop of the reported abduction and subsequent release of Mr. Jaswant Singh Rai, one of the parties involved in court dispute, over Mumias Sugar Company.





CONTD...

The unfortunate statement by the Head of State, call into question the Government's commitment to upholding the right to life and protection of persons against cruel and inhumane treatment, as well as the right to equal treatment before the law and the right to live anywhere in the Republic of Kenya, and to own property. These rights are guaranteed to every person by the Constitution and cannot be taken away, unless as decreed by the laws of this Country. It is regrettable that the utterances by His Excellency, the President, seem to suggest that he can disregard constitutionally guaranteed rights, at whim.

. To access the full statement, click here https://drive.google.com/file/d/1RuvUEXsFEraNuMQOHtMy0u3Ssxq_TNxT/view? usp=sharing





LSK CONTINUES TO CRACK WHIP ON MASQUERADERS



The LSK, through the Practice Standards Directorate, gave evidence against a masquerader in an ongoing hearing in Kakamega Law Courts. This is part of the move by the Society to ensure that the practice of law in Kenya is within the set out professional standards. #goodgovernance

#accesstojustice



ADVOCATES COMPLAINTS COMMISSION CALLS ON THE ADVOCATES DISCIPLINARY TRIBUNAL AND THE LAW SOCIETY OF KENYA

The newly appointed Commissioners of the Advocates Complaints Commission (ACC) led by the Chairperson Hon. Moses Cheboi, paid a courtesy call on the Advocates Disciplinary Tribunal led by Chairperson William Maema and the Law Society of Kenya led by Deputy CEO Mwathi Kitonga. The meeting discussed the importance of collaborations by entrenching bi-annual institutional meetings amongst the three institutions.

The ACC commended the Society for the recently concluded Advocates Disciplinary Tribunal Service Week which was received positively and aided in curbing the backlog of cases. They implored the LSK to consider having regular service weeks as this will ensure the disciplinary process gains credibility and legitimacy in the eyes of both advocates and the public. Further, it was agreed that there is need to raise the visibility of the Disciplinary Tribunal through sensitization and creating awareness amongst advocates and members of the public. In so doing, the Tribunal, LSK and ACC will hold regular webinars.

The three institutions deliberated on other pertinent issues that affected the administration of justice at the Tribunal, and made recommendations for improved performance. This was done in order to cement commitment in ensuring the image of the legal profession is preserved and protected, and in line with the statutory mandate of upholding ethical standards within the legal profession.

In conclusion, the three institutions reiterated their commitment to ensuring the maintenance of professional ethics, upholding the integrity of the legal profession, and safeguarding the interests of the public.

The Advocates Disciplinary Tribunal adjudicates on charges of professional misconduct, preferred against advocates. The LSK Secretariat, through the Compliance and Ethics Directorate, serves as the administrative arm of the Tribunal, while the ACC prosecutes matters before the Tribunal.







EAST AFRICA LAW SOCIETY (EALS) ANNUAL CONFEENCE AND GENERAL MEETING 2023

Registration Now Open for the 28th EALS Annual Conference and General Meeting

We are pleased to announce the commencement of registration for the 28th EALS Annual Conference and General Meeting slated for the Donatus Conference Centre in Bujumbura, Burundi between the 22nd and 25th of November 2023.

The premier and largest gathering of legal professionals in East Africa will this year be themed "One Region, One People: The Role of the Law and the Legal Profession in Defining the Future of the East African Community"

Hosted on the shores of Lake Tanganyika and with an elaborate mix of conference, networking and interactive activities, this premier event has been tailored to meet the needs of all cadres of our membership.

Please see attached details of how to register, how to plan your travel, the various panel sessions organised and other details of the Conference.

Feel free to visit this year's annual conference app for more information and registration details here events.ealawsociety.org or http://tinyurl.com/2mmvuduk

We look forward to hosting you in the beautiful resort city of Bujumbura.

KENYA SCHOOL OF LAW COURSE ON ADVANCED NEGOTIATIONS STRATEGIES



The Kenya School of Law

CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

COURSE: ADVANCED NEGOTIATION STRATEGIES FOR LAWYERS(3 LSK CPD POINTS)

DATE: 25 TH – 29 TH SEPTEMBER 2023

VENUE: KSL, KAREN CAMPUS

For any queries, contact the course coordinator Ms. Naserian Sitelu on msitelu@ksl.ac.ke, or Jacqueline@ksl.ac.ke; Christine cmwanza@ksl.ac.ke or cpd@ksl.ac.ke.





EALS CONFERENCE: EARLY BIRD FLIGHT OFFER





ZURIEL TRAVEL in collaboration with Rwandair is pleased to offer a special flight rate to Bujumbura for the EALS Conference

FLIGHT DETAILS

FROM - TO	FIGHT	CLASS	DEPARTURE LEG	ARRIVAL LEG
NBO - KGL KGL-BJM BJM-KGL	WB464 WB482 WB483	000	22 NOV 23 05.35 22 NOV 23 14.20 25 NOV 23 15.45	22 NOV 23 06.00 22 NOV 23 15.05 25 NOV 23 16.30
KGL-NBO	WB402	G	25 NOV 23 17.30	25 NOV 23 20.10

\$565 PER PERSON

Inclusion

- Return economy ticket on RwandAir
- Short kigali city tour during the layover on departure leg

VALID TILL 19TH SEPTEMBER 2023

PAYMENT VIA MPESA TILL NUMBER: 5314979

C 0721168343

✓ zurieltravelke@gmail.com







18th - 22nd Sep 2023 Radisson Blu Hotel, Nairobi Upper Hill

Gearing up for Changing Times: Exploring Perspectives for Arbitration.





/ ABOUT NAW2023

The Nairobi Centre for International Arbitration (NCIA) is pleased to OPEN REGISTRATION for the first Nairobi Arbitration Week (NAW). The event is scheduled to take place from 18th to 22nd September 2023 in Nairobi. The theme of NAW 2023 is "Gearing up for Changing Times: Exploring Perspectives for Arbitration."

The NAW will showcase Nairobi to users, practitioners, academics, investors, and other stakeholders as a seat of arbitration in the region. The week features a series of events including law firm led events, SOAS University of London training for counsel in Arbitration, young practitioners' event, judiciary event, and culminate in a main event all participants day followed by a Gala Dinner.

There will be a cocktail of discussion topics under the sub-themes of Third-Party Funding, Environmental, Social and Governance (ESG), Construction Arbitration, Ethics, Artificial Intelligence (AI) and Innovation, and the Africa Continental Free Trade Area Agreement (AfCFTA).

/ KEY HIGHLIGHTS



A Gathering for the arbitration community

- · Valuable insights and unparalleled networking opportunities
- · Comprehensive program featuring:
- · Law firm-led events
- · SOAS University of London counsel training
- · Young practitioners' event
- · Judiciary event
- · Grand finale with a Gala Dinner



Captivating discussions on:

- · Third-Party Funding
- · Environmental, Social and Governance (ESG)
- · Construction Arbitration
- · Artificial Intelligence (AI) and Innovation
- · Africa Continental Free Trade Area Agreement (AfCFTA)



Power of meaningful dialogue and knowledge sharing among participants

SIDE EVENTS SPONSORS & HOSTS



























SUPPORTING ORGANISATIONS

































For more information on participation and sponsorship opportunities Email: conference@ncia.or.ke Call: +254 771 293055



CONTINUING PROFFESSIONAL DEVELOPMENT (CPD) EVENTS FOR THE MONTH OF SEPTEMBER 2023

The Law Society of Kenya through the CPD Committee has organized various CPD events in the month of September as indicated on the table below. Members can book and pay for the events through the members portal which can be accessed on the link https://online.lsk.or.ke

Date	Topic	Facilitators	Time	Venue	Cost (Kes)	CPD Units
01/09/2023	Alternative Dispute Resolution	David Njoroge, Advocate Morris Kimuli, Advocate	8.30am-2.30pm	Parkside Villa, Kitui	4500/3500	2
01/09/2023	Procurement Law: Re-emerging Jurisprudence	Faith Waigwa, Advocate- Chairperson, Public Procurement Administrative Review Board	2.00pm -3.30pm	Online	1500	2
06/09/2023 to 08/09/2023	Specialized 3 day Seminar on Devolution and the law: A peep into the past to inform quality of legislation in the Counties.		8.30am-3.30pm (All 3 Days)	Pride Inn Paradise Beach Resort and Convention Centre, Mombasa	50,000	4



NOTICES/VACANCIES

CONTD ...

08/09/2023	Law on Trusts: implications on practice and drafting of Deeds.	Dianah Mureithi, AdvocateVictorine Rotich, Advocate	8.30am- 2.30pm	Waterbuck Hotel, Nakuru	4500/3500	2
08/09/2023	Mental Health and Wellness: As A person thinketh.	Ms. Lynette Odidi Yogo, Counselling Psychologist & Addiction Professional	2.00pm - 3.30pm	Online	1500	2
13/09/2023	Legal Audits and Compliance: Towards Accountability for effectiveness.	Diana Kaeni Nthiwa, Advocate	2.00pm- 3.30pm	Online	1500	2
14/09/2023 & 15/09/2023		 David Njoroge, Advocate Samuel Nderitu, Advocate Hon. Mercyline Lubia, Senior Resident Magistrate (SRM) Nyeri Hon. Justice Onesmus Makau 	8.30am- 2.30pm (both days)	White Rhino Hotel, Nyeri	8000/6500	4
15/09/2023	Trial Advocacy: The art, writing, and oral skills for effective lawyering in a trial process.	Eric Gumbo, Advocate	2.00pm- 3.30pm	Online	1500	2
20/09/2023	Environmental Law and Climate Change: Evolving practice and litigation	Hon. Justice Lucas Naikuni	2.00pm- 3.30pm	Online	1500	2
21/09/2023	Beyond the Bench: Exploring Alternative Justice Systems and the Evolving Role of a Lawyer	Hon. Justice Prof. Joel Ngugi, JA	2.00pm- 3.30pm	Online	1500	2
22/09/2023	Land Law and Conveyancing: Confronting the elephant in the room.	Hon. Justice Elijah Obaga	8.30am-2.30pm	Boma Inn Hotel, Eldoret	4500/3500	2
22/09/2023	Capital Gains Tax: Developments at Practice.	Mr. Aggrey Owino, Kenya Revenue Authority	2.00pm-3.30pm	Online	1500	2

NOTE:

- Booking for CPD events is mandatory before making any payments.
- For payments made via LSK pay bill, kindly use the invoice reference as the account number and not the P.105 number. Ensure that the invoice number is captured correctly as indicated in the invoice.
- Cancellation or transfer of payment requests must be made in writing (email or letter) at least 24 hours before the date of the seminar. Cancellations done after the expiry of 24 hours or after the event will not be granted.
- The amount paid is non-refundable but the funds can only be transferred to any upcoming event of your choice within the calendar year. Indicate the seminar you wish the payment to be allocated to at the time of cancellation. All cancellations/transfer of payments for CPD seminars should be in writing addressed to the accounts office or via email (accounts@lsk.or.ke)
- For virtual events, after payment members will receive the registration link to the Webinar on their portal under CPD events then "My CPD events". To access the webinar registration process click on the link <u>Click here</u> One (1) CPD Unit will only be awarded to attendees who stay on for the ENTIRE duration of the Webinar.
- On completion of the registration, the members will receive the log in credentials on the email address indicated in the webinar registration.
- Any member wishing to present or facilitate in any of the CPD sessions should contact the secretariat with an abstract of their preferred topic via email cpd@lsk.or.ke to be considered by the CPD Committee.



10TH ANNUAL CAPACITY BUILDING WORKSHOP AND SYMPOSIUM ON COMPETITION LAW AND POLICY

The Competition Authority of Kenya will host the 10th Annual Capacity Building Workshop and Symposium on Competition Law and Policy. The Capacity Building Workshop will comprise a daily four-hour in-person session on 25th and 26th October, 2023. The Symposium will take place on 27th October, 2023.

The Capacity Building Workshop will address core areas of competition law and economics, with a focus on practitioners' needs. Participants will benefit from case exercises informed by the Authority's past intervention cases.

Some topics of discussion include Procedural Framework for Competition Law Enforcement, Consumer Protection in the Financial Services Sector, Assessment of Vertical Agreements, and the Role of Market Inquiries/Studies in Competition Law Enforcement.

The Symposium on Competition Law and Policy will focus on Role of Competition and Consumer Protection Policy in Advancing Sustainable Consumption and Production as well as Complementarity or Conflict: Interaction between Competition and Industrial Policies.

AUTHORITY

Law Society of Kenya (LSK) members who participate in the Capacity Building Workshop will earn two Continuous Professional Development (CPD) points.

Package Options	Early Bird (Before 31st August 2023)	Standard Fee (From 1st September 2023)		
Capacity Building + Symposium	Kshs. 40,000.00	Kshs. 50,000.00		
Group bookings (Capacity Building Workshop/person (Minimum 6 pax)	Kshs. 40,000.00			
Symposium ONLY	FREE	FREE		

To reserve a slot for participation in the Workshop or Symposium, fill the booking form available via: https://t.ly/ntvZw

For more details regarding the Workshop and Symposium, see attached flyer-10th Annual Capacity Building Workshop & Symposium Flyer

In case of any queries, contact the Authority via; Email: symposium2023@cak.go.ke



BIENNIAL IBA AFRICAN REGIONAL FORUM CONFERENCE

Registrations are now open for the upcoming Biennial IBA African Regional Forum Conference: future-proofing the African legal profession, taking place in Kigali, Rwanda on 13-15 September 2023.

Sessions will include:

- Regional integration: prospects for the successful implementation of AfCFTA
- Technological disruption in the African legal sector
- The ESG agenda in Africa: from people, business and legal perspectives
- Opportunities and challenges for regulating new tech players in African services sectors
- Mapping international arbitration in Africa: what has changed in the last decade?
- Data protection and privacy: the art of risk-management
- Is the future of international criminal law domestic?
- Training the future lawyer: is current legal education fit for 21st century purpose?
- Making a success of the post-pandemic law firm

The evolution of Force Majeure clauses in commercial contracts to address emerging global treats Symposium for Young Lawyers and Bar Leaders Summit on 13 September 2023.

Advertising and sponsorship opportunities

For details of how to become a sponsor for this event, please email jenny.roote@int-bar.org.

NOTICE OF CHANGE OF OFFICE LOCATION C. MPUTHIA ADVOCATES



We wish to notify esteemed members of the change in the physical address of C. Mputhia Advocates. Please note that our new address from 1st September 2023 are as follows;

C. Mputhia Advocates
Karen Square Building
3rd Floor
Karen Close
Karen Shopping Center
Nairobi, Kenya



TRAINING ON PUBLIC PRIVATE PARTNERSHIPS 18TH SEPTEMBER TO 22ND SEPTEMBER 20233





TRAINING NOTICE

Course : "Fundamentals of Public-Private Partnerships

Date : 18th to 22nd September 2023

Venue : Fairview Hotel Nairobi County, Kenya

Points : 2 LSK CPD Points

For more information, click here, https://drive.google.com/drive/folders/1lkojK3fHJeHEOENa6P56r8mdQfNH0TIl?
usp=sharing

COUNCIL DECISIONS TAKEN ON 15TH AUGUST 2023

The Council Decisions on applications taken on 15th August 2023 for admission to the Roll of Advocates, Practicing Certificates, Notary Public and Commissioner for Oaths can be accessed on the link:

https://drive.google.com/drive/folders/1x5FGeUaG d7HXUhdsrOfESBxdO

LuIXD ?usp=sharing

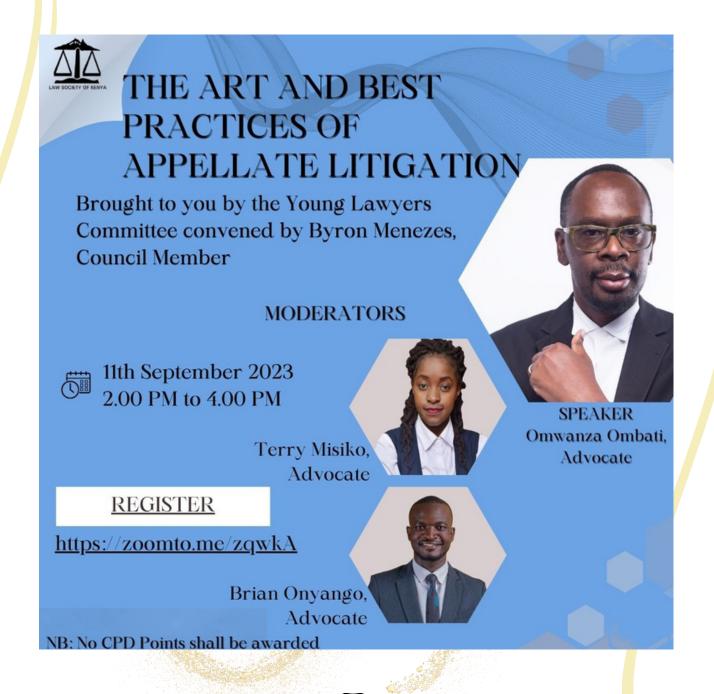


TRAINING NOTICE: KENYA SCHOOL OF LAW- TAX COMPLIANCE FOR LAWYERS



The Kenya School of Law has organized for a training on Tax Compliance for Lawyers from 18th to 21st September 2023 in Naivasha.

For more information, click here, https://rb.gy/bf67b







THE INTERNATIONAL BAR ASSOCIATION (IBA) ANNUAL CONFERENCE 2023







The International Bar Association (IBA) Annual Conference is the leading conference for Legal Professionals worldwide to meet, share knowledge, build contacts and develop business. It serves to advance the development of international law and its role in business and society, to provide members with world-class professional development opportunities to enable them to deliver outstanding legal services.

The IBA Annual Conference will be held at the Palais des Congrès de Paris from 29th October to 3rd November 2023. It will give members the opportunity to experience over 200 sessions on a wide range of legal topics, along with an abundance of business and networking opportunities on offer attended by some of the world's leading lawyers.

This conference is open to both members and non-members of the IBA, with lawyers from over 130 jurisdictions and all parts of the Legal Profession attending, including Lawyers in private practice, In-house Counsel, Human rights Advocates, Judges, Bar leaders, Regulators and Government Representatives.

For more information, click here.



13 YEARS YOUNG, A CONSTITUTION UNDER FOCUS.

BY SOPHIE KAIBIRIA



The Constitution of Kenya 2010 recently turned 13. As parents know too well a 13-year-old usually shows signs of wilfulness and tends to push the envelope as they have finally visualized adulthood. They also are at the stage where they face many challenges as they navigate delicately to maturity. It is therefore cognitively apparent that the Constitution has been fonder for governance discourse again at 13 years.

As we go on into this discussion it also important to draw some highlights of the phases that led to our Supreme law. It is hailed as a model Constitution in Africa for being both reform-oriented and human rights-heavy. The Kenyan Constitutional experience equally has regional significance. This is because it informs debates on fundamental issues of the organisation and exercise of political power, and the scope for democracy, social justice, and national cohesion all around the African continent and beyond. Evidentially, Kenya was not alone among African countries in transitioning to multiparty politics in the early 1990s as a great number of countries introduced political pluralism at the time. However, the expectations that first met these changes gradually faded away and there rose the push for further Constitutional reforms. Second was the phase of the inadequacies that were pointed out in managing governance issues that are presented in an African context. A phase that came after the multiparty politics in 1991, struggles for democracy had centered on the twin aims of removing from power the Kenya African National Union (KANU) government under the late President Daniel Arap Moi and effecting constitutional change. At the time, the constant manipulation of elections in 1992 and 1997 intensified the push for governance reforms. The political class and the Constitutional reform advocates at the time realized that the mere tweaking of the constitution to reintroduce multiparty politics was insufficient to entrench and safeguard democracy. According to CJ Emeritus Dr.Willy Mutunga the architecture of power created by the pre-2010 constitution made the effective practice of plural politics impossible and prevented the country's transition from an imperial presidency to a constitutional democracy. This led to the momentous push for Constitutional reform in the 2000s that gave us our current Constitution. Third, is the long-phased post-promulgation period that began in 2018 which is characterized by the top-down approach towards managing issues of representation in government positions. This stage has been characterized by rapid implementation of the Constitutional provisions through legislative reforms and governance restructuring. The result has been murmurs, hiccups, and discontent as not all provisions and political interests have been been implemented including the sticking sore area of the actualization of the two-third gender rule in electoral governance.

WEEKLY BITES

As we mark 13 years of the Constitution #Wakilis we are again drawn to the debate led by the recently formed National Dialogue Committee. The committee that mutated from the bipartisan talks has crafted issues that may push for Constitutional review. It is at this stage where the importance of the Constitution is to the Nation and the Political class is most visible. It will be a point to reflect on its strength in view of the forces pushing the current National Agenda and in particular since it has been opined that the history of Kenya is marked by false dawns. This includes the similar processes that led to the promulgation of the current constitution. Luckily at the time, the Act Constituting the Committee of Experts was responsive to the voice of the people in providing for an initiative to incorporate national needs as perceived by Wanjiku. As stated by Prof. H.W. O Ogendo in his writing in "The Politics of Constitutional Change in Kenya since Independence, 1963-1969, the adoption of the Westminster tradition into Africa has not led to stable nations. These types of Constitutions according to him did not take into consideration the 'homegrown' nature of customs and conventions of the government. Our very own Constitution sought to move away from this prescription by incorporating the will of the people, the character of interactions, and the existence of customary norms. At 13 years one would need to ask who is failing to breathe life into these very principles stated in the Preamble of the Constitution and the various provisions embedded in the document both in spirit and test.

It is therefore imperative #Wakilis that we are firm in juxtaposing the previous Constitutional review process with the current wave that will tinker with our Constitution. Four questions should be at the back of our minds:

- 1. Have the initiators of the process consulted the Kenyan People on the most critical political and constitutional issues?
- 2. Are the issues identified favoring functional operation for the current regime only or are they for prosperity?
 - 3. Has the Constitution been fully implemented to warrant a review?
 - 4. Is there a Constitutional moment?

As we answer that vigilance #Wakilis let us move to protect the rule of law at all times.







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CALL FOR NOMINATIONS TO THE NEW CLA COUNCIL 2024-2026



CLA members are invited to submit nominations for the election of the new CLA Council for the period 2024 - 2026

Nominations are sought for seats on Council for the next strategic period 2024 - 2026. Representation is required for each of the 56 Commonwealth member states, together with a member from each Crown Dependency and British Overseas Territory, Scotland, Northern Ireland, Zimbabwe and Hong Kong.

We are seeking nominations of candidates who are prepared to actively support and engage with the objectives of the CLA and the challenges of the new strategic period. Joining the CLA Council is a unique and prestigious opportunity to represent your jurisdiction's perspective and to work to promote the rule of law and integrity of the legal profession on an international footing.

We urge all our members to become involved with this expanded opportunity for direct involvement.

Please read the attached guidance documents for further information:

The roles and responsibilities of Council members

CLA Council countries list

Please submit your nomination, which should have the support of the nominee and of a seconder, via the online form below.

The deadline to submit all nominations is 5.00 pm BST on 15th September 2023.

The proposer, nominee and the seconder must all be members of the CLA at the date of nomination and the nominee may not self-nominate.

An e-vote will follow thereafter, with a declaration of results on 1st February 2024.

Nominate Now

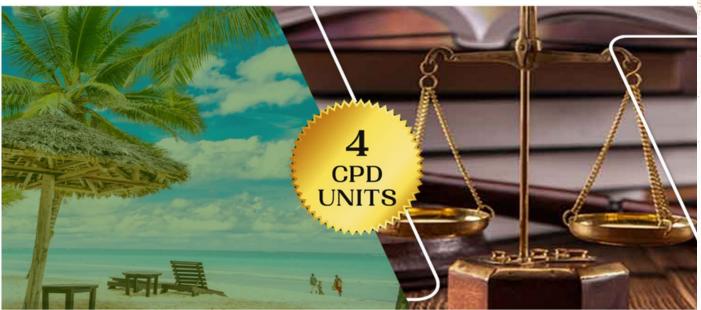
If you have any queries with the nomination process, please email info@commonwealthlawyers.com



TARGET GROUP: COUNTY ATTORNEYS



SPECIALIZED CPD SEMINAR



DEVOLUTION & THE LAW:

A PEEP INTO THE PAST TO INFORM QUALITY OF LEGISLATION IN THE COUNTIES



8:00^{AM} 3:30^{PM} (EXCLUDING TRANSPORT & ACCOMMODATION)

PRIDEINN PARADISE

BEACH RESORT & SPA
SHANZU (MOMBASA)

TOPICS:

- Context & History of Devolution: Role of The Senate, National Government & County Assemblies
- Legal Framework & Justification Underpinning the Office of the County Attorney
- Law Making in The Devolved System:
 Experiences, Hits & Misses
- Doctrine of Separation of Powers:
 Understanding Power Dynamics in The
 Devolved System
- Accountability & Integrity: The Impeachment Process as a Sword of Justice.

- County Attorneys & Human Resource Functions: Facilitators or Bystanders
- Role of County Attorneys in the Budget Making Process
- Legal & Governance Audits: Role of County Attorneys in the Process
- Entrenching National Values: Emerging Jurisprudence on Public Participation
- The Future of County Attorneys: Beyond The Legal Advisor of the County Government

BOOK NOW

Contact: cpd@lsk.or.ke 📞 0 110 677 188