



29TH SEPTEMBER 2023 | ISSUE 22

# THE LEGAL INSIGHT

The Official LSK Weekly Newsletter

## SENIOR LAWYERS CPD LUNCHEON



On 28th September 2023, the Law Society of Kenya hosted the Senior Lawyers CPD Luncheon under the theme, 'Reconnecting, Re-energising, Mentoring and Rekindling the Passion for Law' at Panafric Hotel, Nairobi.

The Key Note Speaker Mr. John Ohaga, SC underscored various ways the Seniors can engage with the Young Advocates to bridge the gap between them which included

getting involved. He urged the Senior Lawyers to be involved in the activities and events of the Society that brings in the various groups of Advocates. He continued to note that, the other way was to re-energize by diversifying is for the Seniors to engage in different activities away from their norm and encouraged them to have a support system in the event of hitting a brick wall.

Mr. Ohaga continued with his key note address by stating that mentoring is key as it teaches one to understand what drives the other party. In addition, he noted that as Seniors they could benefit and learn from the Young Advocates (reverse mentoring) especially when it comes to technology as they are tech-savvy.



### FEATURED

News Segment

Case Update

Notices/Vacancies

Upcoming Events

Weekly Bites



Other issues raised by the Seniors during plenary included; a member appreciated the Seniors for taking in pupils as this is usually the first step of mentoring. The Seniors were challenged to remain relevant and keep up with their values of the profession while instilling the same to the younger lot. A member also reminded the Seniors that there was need to look at the younger advocates in a wholesome perspective especially on issues to do with mental health.

In conclusion, the Seniors unanimously concurred that mentorship is key in bridging the gap and proposed that the Society to organize similar forums to allow them to reconnect and chart a way forward for the professions.



### COUNCIL DECISIONS TAKEN ON 11TH SEPTEMBER 2023

The Council Decisions on applications taken on 11th September 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/1dbFGckRLNnorm0xpSNScTD3hL9bGUN-z?usp=sharing>



## TRAINING OF PRO BONO ADVOCATES ON THE CHILDREN ACT 2022

The Law Society of Kenya Child Law Committee Convened by Ms. Riziki Emukule, collaborated with the International Law Development Organisation (IDLO) and conducted a training of Pro-Bono Advocates on the Children Act 2022 with a focus on access to justice and litigation.

The training was undertaken in light of the new Children Act No. 29 of 2022 which came into force on 26 July 2022 replacing the Children Act, of 2001.

The training was conducted in the Mombasa Whitesands Hotel on the 21st and 22nd of September 2023.

#ChildLaw #Access to Justice





## CASE UPDATE- IN THE MATTER OF THE KILLING OF SHEILA LUMUMBA

Dear Member,

In the matter of the killing of Sheila Lumumba:

We are glad to inform you that a plea bargaining agreement was entered and mitigation was done as well. The court directed that the victim impact statement and pre-sentencing report to be done and submitted in court.

Please note that our Counsel attended court on 20th September 2023, when this matter came up for mention to confirm the filing of the victim impact assessment and pre-sentencing reports by the probation office. Unfortunately, the said reports were not availed before the Honourable Court. The advocate watching brief on behalf of the victim's family, Mr. Mitullah requested that the Probation Director, Nyeri County be summoned to court and interview the Victim's family as the family was present in court. The summons were issued to the Probation Director to appear before in court at 3:00 p.m.

At 3:00 p.m., the Probation Director of Nyeri County, Mr. Stephen Mwangi, appeared before court and he stated that he managed to interview about seven (7) persons belonging to the Victim's family. He prayed for another date to present the Probation Report together with the Victim's assessment Report.

The matter has a further mention on 12th October 2023 for the reports to be availed before the Court.



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# PROFESSIONAL MEDIATION TRAINING COURSE- NOVEMBER 2023

## 5 DAY PROFESSIONAL MEDIATION TRAINING COURSE



**VENUE:** CONVENT INT'L HOTEL, LAVINGTON, NAIROBI

**DATES:** 13th - 17th November 2023

**COST:** KSHS. 55,000/- Plus 16% VAT PP



LAW SOCIETY OF KENYA

Are you looking to enhance your career as a certified professional mediator and gain international recognition for your skills? Look no further than our international professional mediation training program.

**Mediation Training Institute International East Africa (MTI E.A)** is pleased to announce to you a 5 day Professional mediation training course in collaboration with **Law Society of Kenya (LSK)**. MTI E.A has earned a reputation of excellence in the field of Mediation Training. MTI E.A conducts ongoing reviews of content, processes, and is widely acknowledged as one of the leading providers of Professional Mediation training in the world. Our training program has been subjected to extensive scrutiny by leading International standards setting and credentialing institutions.

In just a week face to face training or in four weeks online training, our intensive training program can help you become an internationally certified professional mediator. Our program covers all aspects of mediation, providing you with the skills and knowledge necessary to succeed in international settings. Our experienced and Certified Professional mediation trainers will lead your training, which includes hands on practice through simulated mediation exercises and role-playing.

### Benefits of our program

- Internationally recognized certification
- Comprehensive training from experienced and certified professional mediation trainers
- Hands on practice through simulated mediation exercises and role playing
- Three certifications upon completion \*IMI \* SIMI \* MTI. E. A
- This course is accredited by the Law Society of Kenya. **Participants will receive 3CPD units.**

All MTI E. A. trainers are practicing mediators who have undergone extensive Train the Trainer (TOT) Training and have experience in mediation practice. At the end of the training, participants are assessed with highly qualified external assessors.

### Payment by Cheque or bank transfer to:

Account Name: **Mediation Training Institute International East Africa**  
 Bank: **Absa Bank, Harambee Avenue Branch, Nairobi**  
 Account Number: **2027798090**  
**PAYMENT BY MPESA: Paybill 303030 Account No.: 2027798090**

### Registration for the course ongoing

For clarification and registration contact:

**MTI EAST AFRICA**

Physical address: Jeevan Bharati, 5th Floor (Opp. Electricity House), Harambee Avenue, Nairobi

Tel: Emma 0725-538 320, Hesbon 0714-390 371

Mangerere 0707-124 831 / 0733-854 901

Email: [info@mtieastafrica.org](mailto:info@mtieastafrica.org) / [mangererej2015@gmail.com](mailto:mangererej2015@gmail.com)

Website: [www.mtieastafrica.org](http://www.mtieastafrica.org) / [www.mtieastafrica.or.ke](http://www.mtieastafrica.or.ke)



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## KSL- INTRODUCTION TO LEGAL AUDIT AND COMPLIANCE

### SEMINAR NOTICE



THE KENYA SCHOOL OF LAW

**COURSE:** Introduction to Legal Audit and Compliance

**DATE:** 13th- 17th November 2023

**VENUE:** Mombasa

**CPD POINTS:** 3 LSK CPD Points

For More Information on the Course, click here [Link](#)

For any query, contact the Course Coordinator, Ms.

Sandra Soi on [ssoi@ksl.ac.ke](mailto:ssoi@ksl.ac.ke), or Christine

[cmwanza@ksl.ac.ke](mailto:cmwanza@ksl.ac.ke)

and

[Jacqueline](mailto:jacqueline@ksl.ac.ke)

[jacqueline@ksl.ac.ke](mailto:jacqueline@ksl.ac.ke)

## KSL- PUBLIC PROCUREMENT & DISPOSAL- NOVEMBER 2023

**COURSE: PUBLIC PROCUREMENT AND DISPOSAL: MITIGATING AGAINST PRECEDURAL AND LEGAL PITFALLS (3 LSK CPD POINTS)**

**DATE:** 20-24 NOVEMBER 2023

**VENUE:** NAIVASHA

### About the Course

The Government has made key reforms to ensure contracting for goods and services is done in a system that is fair, equitable, transparent, competitive and cost effective and that public money is used in a prudent responsible manner. Despite these measures organizations still find themselves in the red in so far as adherence to the rules and regulations is concerned. The course aims at equipping participants with in-depth knowledge of the procurement law and processes with a view to mitigating against procedural and legal pitfalls. The course is meant to ensure organizations avoid the burden of litigation, reputational risk, extra cost and time spent by government departments on investigations and the risk of fines and imprisonment for concerned officers.

### Course Delivery

The training will be conducted by a highly experienced team of seasoned data protection experts who are practitioners and professors in the field. The training will be conducted through interactive lectures, assignments and plenary discussions to ensure that it is participatory, interactive and practical.

### Intended Participants

The course is open to both legal and non-legal professionals. It is particularly intended for:

- Legal professionals, Procurement professionals and other consultants, who want to be equipped with the relevant practical knowledge in order to advise their clients appropriately on procurement laws.
- Heads of departments, both national and county, who are responsible for ensuring their organizations, businesses, corporations, and institutions comply with Procurement laws.
- Officers from National Treasury, PPRA, PPRB Members officers tasked with the responsibility of interpreting and enforcing the Procurement laws.
- Academicians and researchers on Procurement law.
- Representatives of institutions, professional and regulatory bodies associated with Procurement law.



# EAST AFRICA LAW SOCIETY (EALS) ANNUAL CONFERENCE 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.

For more information and registration details here [events.ealawsociety.org](https://events.ealawsociety.org) or <http://tinyurl.com/2mmvuduk>

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



## 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 <small>DATE &amp; LEG</small> | ARRIVAL <small>DATE &amp; LEG</small> |
|-----------|-------|-------|---|---------------------------------------|
| NBO - KGL | WB464 | G     | 22 NOV 23 05.35                         | 22 NOV 23 06.00                       |
| KGL-BJM   | WB482 | G     | 22 NOV 23 14.20                         | 22 NOV 23 15.05                       |
| BJM-KGL   | WB483 | G     | 25 NOV 23 15.45                         | 25 NOV 23 16.30                       |
| KGL-NBO   | WB402 | G     | 25 NOV 23 17.30                         | 25 NOV 23 20.10                       |

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✉ [zurieltravelke@gmail.com](mailto:zurieltravelke@gmail.com)





## 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.

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](mailto:symposium2023@cak.go.ke)



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## DISCOUNTED RATES FOR YOUNG ADVOCATES WITH LESS THAN 5 YEARS PRACTICE

The Competition Authority of Kenya (CAK) is hosting the 10th Annual Capacity Building Workshop and Symposium on Competition Law and Policy. The Annual Capacity Building Workshop will comprise a four-hour in-person engagement at the Sarova Stanley Hotel in Nairobi on 25th - 26th October 2023. The Symposium will take place on 27th October 2023.

The Authority invites young advocates with less than five (5) years of practice to participate in the capacity-building workshop.

This training has been accredited by the Law Society of Kenya. Advocates will earn two (2) Continuous Professional Development (CPD) points. A discounted rate of Kshs 20,000 per advocate has been extended to those interested on a first-come first-served basis by 13th October 2023.

For more information, contact Mr. Benard Ayieko on cellphone; +254 (0) 722 484805 or email: [symposium2023@cak.go.ke](mailto:symposium2023@cak.go.ke).

Register via the link: <https://rb.gy/0xzhfw>

## COLUMBIA LAW SCHOOL LL.M. PROGRAMS INFORMATION SESSION

The graphic features a blue and yellow color scheme. At the top right, the Columbia Law School logo (a crown) and name are displayed. Below this, the text 'Learn more about Columbia and our graduate degree programs!' is written. The main title 'EXECUTIVE LL.M. AND LL.M. INFORMATION SESSION' is prominently displayed in white on a blue background. To the right, 'COLUMBIA GLOBAL CENTERS | NAIROBI' is written. The date and time 'NAIROBI MONDAY, OCTOBER 23 18:00/6:00 PM EAT' are listed at the bottom right. A circular portrait of Julie Sculli, Assistant Dean, is shown at the bottom left.

Learn more about Columbia and our graduate degree programs!

**EXECUTIVE LL.M. AND LL.M. INFORMATION SESSION**

**NAIROBI**

**MONDAY, OCTOBER 23**  
**18:00/6:00 PM EAT**

**JULIE SCULLI**  
Assistant Dean  
Office of Graduate Degree Programs



# NOTICE- LAND ACQUISITION TRIBUNAL AND WATER TRIBUNAL



THE JUDICIARY  
OFFICE OF THE REGISTRAR TRIBUNALS

## IMPORTANT NOTICE

**TAKE NOTICE** that the **Land Acquisition Tribunal** and the **Water Tribunal** are now operational and have their **Registry Services** at Kenya Re Towers, Ground Floor, Upper Hill.

To file matters online, kindly log into **[efiling.court.go.ke](http://efiling.court.go.ke)**

**TAKE FURTHER NOTICE** that all filing fees shall be deposited through the provided **Account**.

Please obtain an invoice from the system before making payment to enable processing.

**Bank:** Kenya Commercial Bank  
**Account:** 1259881911  
**Branch:** Moi Avenue Branch  
**Account Name:** Tribunal Secretariat Revenue Account

For further information, kindly contact the Tribunal Administrator on 0726715993 or write to us on [lat@court.go.ke](mailto:lat@court.go.ke) and [watertr@court.go.ke](mailto:watertr@court.go.ke) respectively.

**Registrar & Head of Tribunals Secretariat**



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NOTICES/VACANCIES

# REGISTER NOW FOR THE BORNEO RAINFOREST LAW CONFERENCE 2024- COMMONWEALTH LAWYERS ASSOCIATION



 **Commonwealth  
Lawyers Association**

**The Borneo  
Rainforest Law  
Conference 2024**  
26th-28th February 2024  
Kota Kinabalu, Sabah

**Registration is now open for the Borneo Rainforest Law Conference 2024**

The Commonwealth Lawyers Association and Sabah Law Society invite you to join us in Malaysian Borneo for this pan Commonwealth conference which will consider human rights, climate justice, funding, constitutionalism and action within legal and governmental frameworks.

Visit <https://www.cla-ent.com/BorneoRainforestLawConf2024> to take advantage of the early bird discount registration rate and secure your hotel accommodation all on one platform.

**Guarantee Your Early Bird Rate**

Join the CLA today as a member to gain access to discounts on conference registration rates.

**Become a CLA Member**



## 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](#).



# NEW GUIDELINES - FILING OF APPLICATIONS FOR APPOINTMENT AS NOTARIES PUBLIC



Advocates who would like to apply for appointment as Notaries Public are hereby notified of the following:

**1. Mode of Application:** Effective 16th January 2023, applications for appointment of Notaries Public will be done **exclusively online** through the **Judiciary Advocates Management System** which is accessible through <https://jams.court.go.ke/>

**2. Account Activation:** Details of all Advocates have been pre-loaded onto the system and each Advocate is to activate his/her account before making the application. For this, click **"Sign Up,"** select **"Advocate"** and provide the required info (P.105. Number and e-mail address). A unique code will be sent to your e-mail address for account activation.

**3. Application Process:** Click **"Applications"**, select **"Commissioner for Oaths"** and upload the required documents. NB. A list of requisite documents is displayed at every application function on your portal.

**4. Service on LSK:** The Judiciary Advocates Management System has been integrated with the LSK System. LSK will have access to your Application, review and give their recommendation.

**5. Appointment:** Upon recommendation by LSK, the Chief Justice will appoint the Notary Public by issuing a digitally signed **Instrument of Appointment** of a Notary Public. **NB** Where LSK objects, the applicant will be notified accordingly

**6. Payment:** Upon appointment by the Chief Justice, an invoice for KSh. 1,500 to be paid via M-Pesa will be sent to your JAMS portal. Payment instructions will be on the invoice. The Applicant is to make payment then submit the payment transaction code in order to complete payment.

**7. Signing the Roll:** The system will send a notification inviting the applicant to sign the Roll of Notaries Public before the Chief Registrar on a specified date and time.

**8. Certificate of Enrolment.** Upon signing the Roll, the Chief Registrar will issue a digitally signed **Certificate of Enrolment** that will be available on email and JAMS portal for download.

**9. Authentication:** The system allows any member of the public to authenticate all digitally signed documents issued to Advocates, including the Instrument of Appointment and the Certificate of Enrolment.

**10. User Support:** Every effort has been made to develop a system that is user friendly for all Advocates. Those with challenges may e-mail [advocatessection@court.go.ke](mailto:advocatessection@court.go.ke) for support.

**11. Training:** The Advocates Section and LSK Secretariat will also hold joint training sessions on the system for Advocates in the coming days. Look out for announcements of these sessions on LSK and Judiciary communication channels.

**12. Feedback:** As this is a new system, we anticipate that users may experience a few challenges. We welcome positive/constructive feedback that will help us address the challenges and enhance the system for the benefit of all users and stakeholders. Feedback on the system can be sent to [judiciary.advocates.system@gmail.com](mailto:judiciary.advocates.system@gmail.com).



LSK COMPLIANCE AND ETHICS DEPARTMENT

## Our 6 step process on how to issue a notice of intention for taking out a Practicing Certificate Under Section 25 Advocates Act Cap 16

- 1 Write a letter to the Chief Registrar of the Judiciary, indicating the reasons for not taking out the PC. Attach necessary supporting documents and a duly commissioned statutory declaration. This should be in duplicate.
- 2 Have the letter received and stamped at the Advocates' Section, Room 61 and thereafter share with us the stamped copy.
- 3 The Notice is then placed before the Council for consideration.
- 4 The Council decision shall thereafter be communicated to members, through the provided email and post office address.
- 5 Upon fulfilment of the provided conditions by the Council, the applicant shall proceed to apply for the current year's Practicing Certificate.
- 6 Right to appeal if aggrieved by the decision of the Council and with valid grounds. Provide sufficient documents.



This applies to advocates who have not taken out practicing certificates for more than twelve months.

Inquiries: [compliance@lsk.or.ke](mailto:compliance@lsk.or.ke)



# NEW GUIDELINES - FILING OF APPLICATIONS FOR APPOINTMENT AS COMMISSIONERS FOR OATHS



**Advocates who would like to apply for appointment as Commissioners for Oaths are hereby notified of the following:**

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**3. Application Process:** Click **"Applications"**, select **"Commissioner for Oaths"** and upload the required documents. NB. A list of requisite documents is displayed at every application function on your portal.

**4. Service on LSK:** The Judiciary Advocates Management System has been integrated with the LSK System. LSK will have access to your Application, review and give their recommendation.

**5. Appointment:** Upon recommendation by LSK, the Chief Justice will issue a digitally generated Commission appointing the Advocate as a Commissioner for Oaths. **NB** Where LSK objects, the applicant will be notified accordingly

**7. Signing the Roll:** The System will send a notification inviting the applicant to sign the Roll of Commissioners for Oaths before the Chief Registrar on a specified date and time. Thereafter, the Commission will be available on the Portal and email for download.

**8. Stamping:** The Advocate will be required to take the Commission to the Ministry of Lands for stamping as provided for under Sec. 2(2) of the Oaths and Statutory Declarations Act. Thereafter, the Advocate is to **scan and upload to the system a franked copy of the Commission.**

**9. Gazettement:** In accordance with Sec 2(3) of the Oaths and Statutory Declarations Act, the Chief Registrar will publish in the *Gazette* the names of Advocates who have been appointed as Commissioners for Oaths and uploaded the franked Commissions.

**10. Authentication:** The system allows any member of the public to authenticate all digitally signed documents issued to Advocates, including the Commission.

**11. User Support:** Every effort has been made to develop a system that is user friendly for all Advocates. Those with challenges may e-mail [advocatessection@court.go.ke](mailto:advocatessection@court.go.ke) for support.

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## CSs APPEARING BEFORE THE NATIONAL ASSEMBLY: HOW IS IT WORKING

BY SOPHIE KAIBIRIA- DIRECTOR PRACTICE STANDARDS

In the current regime, Kenyans have seen the exercise of Parliamentary authority on the executive. It is important to be reminded that the Sovereign power of the people of Kenya is delegated to several State organs including Parliament. The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament



The Parliament of Kenya performs its functions in accordance with the Constitution by representing the will of the people and upholding their Sovereignty. The Sovereignty of the People of Kenya refers to the supreme power or authority of the people to govern themselves or determine how they want to be governed.

The Constitution is the supreme law of the Republic of Kenya and binds all persons and all State organs at the national and county levels of government. The National Assembly is equally guided by the Supreme law and in addition, there are rules of engagement that are developed and adopted by the house. Such as the Standing order. Standing Orders are the rules and regulations that govern the business conduct of the National Assembly

In this vein, the National Assembly adopted the Report of the Procedure and House Rules Committee that amended various sections of the Standing Orders that now allow the Cabinet Secretaries (CSs) to physically appear before the National Assembly and answer questions. Previously, the CSs would appear before committees for purposes of providing information and giving evidence. The chairpersons of the committees would then prepare and present committee reports before the whole House. This method proved ineffective as the chairpersons would provide inadequate responses to issues presented during plenary due to limited access to information that the CS possessed. CSs appear before the plenary of the National Assembly every Wednesday afternoon as of 23rd March 2023. This will allow the CSs to expound on government policy, respond to questions from MPs, and provide reports concerning matters under their docket. Prior to the amendment of the Standing Orders, only the CS in charge of the National Treasury had the opportunity to speak in the National Assembly together with the President, visiting Heads of State, and other dignitaries.



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Since the amendment several cabinet Secretaries starting with the Interior CS Prof Kindiki Kithure have appeared before the National Assembly. This has generated quite a debate in the governance circle as well as making the National Assembly vibrant focusing the National Discourse on the oversight role of the house.

The Constitution in Article 125 of the Constitution states that either the House and any committee may summon anyone before it to give evidence or provide information. In contradistinction, Article 153(3) says that CSs "shall" (which we should read as they have no choice) appear before a committee of either House when the committee requires it. It is silent on the question of their doing the same before the full House. According to prof. Jill Contrell this becomes a principle of constitutional interpretation (it applies to ordinary laws, too) which says that if one thing is stated expressly, and the document is silent on another closely related thing, the omission was deliberate and that other thing is excluded.

This was an issue that was heavily discussed during the Constitutional Making process in the pre-2010 Constitutional Commission. However, as the historians have stated the question of 'separation of powers' arose most prominently in the Supreme Court case of The Institute of Social Accountability vs. the National Assembly petition no. 1 of 2018 The Supreme Court said that separation of powers is "never conceived as involving a perfect and hermetically sealed division of responsibility between the three branches of government." In other words, they do not take an extreme and rigid view of what separation of powers means.

As we consider these reforms within the governance structure as #Wakilis let us be vigilant on the spirit of the Constitution to advance accountability. Three questions should be asked:

1. Are we implementing the basic function of the doctrine of separation of Powers?
2. Is the practice improving the accountability of the executive?
3. Are the Constitutional imperatives being upheld?



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