

PUBLIC INTEREST LITIGATION/ COURT CASES

NO	Counsel	Case Situation	Details	Instruction Date
1.	Guandaru Thuita	PETITION NO. 50 OF 2020 INVESCO ASSURANCE CO. LTD, PUBLIC TRANSPORT INVESTMENT CO. LTD v. ATTORNEY GENERAL AND ANOTHER	Seeking orders that the Plaintiffs properties are necessary for the plaintiff's performance of trade or profession and deprivation violates Article 40, 48 and 50(1) of the Constitution.	9-May-2022
2.	Ivia Kitonga	WATCHING BRIEF IN COURT PROCEEDINGS ON THE ASSAULT OF A FEMALE MOTORIST ALONG FOREST ROAD	Sexual assault of a defenseless young lady by several bodaboda operators along Forest Road on 4th March 2022	9-Mar-2022
3.	Evans Ogada	PETITION NO. E288 OF 2021 KENYA JUDGES AND MAGISTRATES ASSOCIATION v. ODPF AND DCI	Petition filed at constitutional court seeking to stop any action against Hon. Justice Aggrey Muchelule and Hon. Justice Ali Said Chitembwe	5-Aug-2021
4.	Evans Ogada & Wakesho Kililo	PETITION E540 OF 2021 KATIBA INSTITUTE & ANOTHER v. INDEPENDENT ELECTORAL BOUNDARIES COMMISSION & 3 OTHERS	Seeking conservatory orders suspending the National Assembly's Resolution dated 28th September 2021, Gazette Notice 8024 of 2021 and reject the Elections Campaign Financing Regulations 2021	6-Jan-2022
5.	Wilfred Nderitu	MISCELLANEOUS APPLICATION NO. E013 OF 2022 THE DIRECTOR OF PUBLIC PROSECUTIONS v. MARK MUTARI MAKHUTU & OTHERS	Various petitions and applications seek to declare the Sexual Offences Act unconstitutional. LSK was enjoined as an interested party	20-Apr-2022

6.	Peter Wanyama & Felix Okanga	PETITION NO. E005 OF 2022 MWAURA KABATA v. THE HON ATTORNEY GENERAL & THE FINANCIAL REPORTING CENTRE (LSK AS INTERESTED PARTY)	Seeking temporary conservatory orders to stop any further implementation of Section 2(c)(i) and Section 14(b) of the Proceeds of Crime and Anti-Money Laundering (Amendment) Act, 2021	6-Jan-2022
7.	Mokaya Orina	HCCHRPET E179 OF 2022 WANJIRU GIKONYO & KHRC v. AG AND ANOTHER	The Petitioner seek to challenge the constitutionality of the Respondents' failure to disclose information relating to treaties/agreements and/or contracts concerning sovereign bonds signed between the Republic of Kenya and other states	13-May-2022
8.	Brian Christopher Odongo	HIGH COURT CONSTITUTIONAL PETITION E075 OF 2022 COPLERS ATTORNEYS & CONSULTANCY v. THE ATTORNEY GENERAL & ANOTHER	Petitioners seek orders that Part 10 of the Marriage Act be declared unconstitutional because it violates constitutional provisions and undermines the rights of parties who mutually agree to dissolve their marriage	16-May-2022
9.	Ochiel Dudley & Wanjeri Wangui	JUDICIAL REVIEW APPLICATION NO OF 2022 REPUBLIC v. SAFARICOM LTD & OTHERS	Applicants are challenging Safaricom's unilateral decision to compel all subscribers to visit Safaricom outlets physically and have their photos taken	20-Apr-2022
10.	Omwanza Ombati	HIGH COURT PETITION E128 OF 2022 KATIBA INSTITUTE v. JSC & OTHERS	Advocate appointed to represent the Society in taking action that will protect the public interest and facilitate the realization of a transformed legal	13-Apr-2022

			profession	
11.	Steve Ogolla	WATCHING BRIEF IN COURT PROCEEDINGS ON THE ASSAULT OF MAMA KWAMBOKA	Video recording circulating captured the brutal assault of a defensive lady and her child by several persons	21-Apr-2022
12.	Carol Guy	WATCHING BRIEF IN COURT PROCEEDINGS ON THE KILLING OF SHEILA LUMUMBA	Sheila Lumumba was killed in Nyeri. She/they was/were last seen alive on April 14th 2022 and since then, Sheila's body has been positive identified and a post-mortem examination was performed	4-May-2022
13.	Caroline Kituku	PETITION NO E392 OF 2020 LEGAL ADVICE CENTER v. CHIEF JUSTICE AND OTHERS	The petition challenges the electronic court system that has affected many members of the society that have pending cases in court or intend to institute new ones	5-Feb-2021
14.	Omwanza Ombati	COACA/E337/202 2 JUDICIAL SERVICE COMMISSION & HON. CJ VS KATIBA INSTITUTE AND OTHERS	This is an appellate case from High Court Petition E128 of 2022. LSK have lodged this appeal because they are aggrieved by the decision of the court which favoured Katiba Institute	7-Jun-2022
15.	Colin Warutere	HCCR NO. E021 OF 2022 R v CHARLES GITHINJI (KIAMBU)	Maureen Wangui Kioi, a 12-year-old girl, was reported missing on 20 the April 2022 in Githurai. Her parents and neighbors anxiously searched for her after filing a case at Mwiki Police Station, but to no avail. Unfortunately, the young girl was discovered dead on 1st May 2022, according to Missing Child Kenya. A matatu driver has since been arraigned for the	17-Jun-2022

			suspected murder of Ms. Kioi and the case was assigned case number HCCR NO. E021	
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			<p>searched for her after filing a case at Mwiki Police Station, but to no avail. Unfortunately, the young girl was discovered dead on 1st May 2022, according to Missing Child Kenya. A matatu driver has since been arraigned for the suspected murder of Ms. Kioi and the case was assigned case number HCCR NO. E021 persons to fill 6 positions in the Office of Judge of Court of Appeal and 20 positions in the Office of Judge of High Court.</p> <p>On March 31, 2022, Katiba Institute filed Constitutional Petition No. E128 of 2022 in the High Court, challenging the constitutionality and rationale of the Judicial Service Commission's invitation and call for applications in the face of pending litigation concerning the appointment of judges, including Civil Appeal Case No. 369 of 2019 and Civil Appeal Case No. 268 of 2020.</p> <p>The Petitioners, who were supported by the third interested party, prayed for an injunction to halt the process of recruiting new Court of Appeal and High Court judges, among other prayers. The Law Society of Kenya (LSK) mandated to inter alia protect the public</p>	
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			<p>interest and exclusive statutory mandate of dealing with the welfare of its members, joined the petition as 2nd interested party and opposed the petition. A similar position was taken by the 1st interested party. On 3rd June 2022, the Court delivered judgment in favor of the petitioners and issued a conservatory order suspending any further action by the 1st Respondent including invitation, consideration, evaluation, deliberation, processing, review and/or interview of Applicants and or applications for appointment to the Office of Judge of the Court of Appeal and Office of Judge of High Court pursuant to the decision contained in Gazette Notice No. 2529 and 2530 dated 4th March 2022 in the Kenya Gazette Vol. CXXVI-No. 44 dated 11th March 2022 pending the hearing and determination of the Petition.</p> <p>JSC, dissatisfied with the decision, filed an appeal with the Court of Appeal, arguing that the recruiting should proceed in the public interest due to the paucity of judges. After assessing the merits of the Appeal, the Court of Appeal</p>	
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			delivered judgment on 16th June 2022 and held that the applicants successfully demonstrated both arguability and the nugatory aspect, and bolstered this with a demonstration that it is in the public interest that the recruitment process of the much needed Judges proceed uninterrupted pending the hearing and determination of the petition before the High Court and conversely that the 1st and 5th respondents failed to demonstrate what prejudice they stand to suffer if the recruitment process proceeds as intended.	
21.	Evans Ogada	THE LATE CYNTHIA NANJALA'S CASE	<p>Ms. Cynthia Nanjala passed away at Kenyatta Hospital on June 3rd 2022, the after sustaining injuries from an alleged assault while working as a house assistant at a senior military officer's home in Embakasi. Since then, two suspects linked to the murder were apprehended and investigations are ongoing. A postmortem examination on Ms. Nanjala's body was conducted, but it yielded inconclusive results.</p> <p>The Society recruited Mr. Evans Ogada to assist Ms. Nanjala's family in obtaining justice. He recorded the witness accounts and</p>	3-June-2022

			<p>requested that the Chief Government Pathologist evaluate the initial (inconclusive) postmortem report on June 16, 2022.</p> <p>He also contacted The Independent Medico-Legal Unit (IMLU) to request a referral to a pathologist for an independent postmortem examination and third opinion.</p> <p>Steps are currently being made to ensure the safety of the witnesses.</p>	
22.	Collin Warutere	<p>THE LATE MAUREEN KIOI'S CASE KIAMBU HIGH COURT CRIMINAL NO. E21 OF 2022 HCCR E021/2022 R v CHARLES GITHINJI FOR VICTIM: MAUREEN WANGUI KIOI</p>	<p>The Society took note of the disappearance of 12 yr. old Maureen Kioi which occurred in April. Her body was discovered later, and a convicted matatu driver is being probed in Nairobi for the suspected murder of the Grade Six student.</p> <p>Mr. Colin Warutere was assigned by the Society to aid Ms. Kioi's family in getting justice.</p> <p>The police file was placed before the Deputy Registrar yesterday and she made the following orders;</p> <p>Mental assessment is done to the accused before plea is taken;</p> <p>Plea deferred to 5th July, 2022 before Hon. Lady Justice Ng'etich;</p> <p>remain in custody till then;</p> <p>Mental assessment report to be filed and</p>	5-July-2022

			served before the next court date.	
23.	Evans Ogada & Antoinette Zowade	ELC NAKURU PETITION 18 OF 2022 KITUO CHA SHERIA V AG AND OTHERS	In this case, the petitioner is suing on his behalf as well as on the behalf of 66 other aggrieved people of Bartum and Ngarwa in Baringo County who are members of the Ichamus and Tugen communities. The petitioner has prayed that the court declares that the five defendants failed, refused, or neglected to take precautionary measures to predict, prevent, or mitigate the causes of climate change. As a result, that the Petitioners are entitled to full restitution for their losses, and programs to provide access to land for squatters and others displaced by natural disasters are implemented. Thousands of people have been displaced, and property and livelihoods have been destroyed as a result of rising water levels in Kenya's lakes.	27- September- 2022
24.	Karori Kamau	NAIROBI ELRC PET E194 OF 2022 LEGAL ADVICE CENTER VS AG AND OTHERS	The Petitioner challenges the rampant extrajudicial killings and enforced disappearances in the country and inter alia prays that; A declaration that the IPOA, and not any other investigatory body including the NPS, shall initially, independently, and	

			<p>exclusively, investigate all incidents of death and serious injury caused by a member of police on service or occur while in police custody</p> <p>A declaration that all inquiries into all cases of fatality or serious injury resulting from police action, brought on by a police officer who is on duty, or occurring while the officer is in detention are null and void.</p> <p>1. An order directed to the attorney general and the ministry of foreign affairs to begin the process of ratifying the international convention for the protection of all persons against enforced disappearances.</p>	
25.	Okwach & Company Advocates	<p>NAIROBI CONSTITUTIONAL PETITION NO. E407 OF 2020</p> <p>DIGITAL FINANCIAL SERVICES ASSOCIATION OF KENYA VS NATIONAL ASSEMBLY ET AL</p>	<p>The petitioners, in this case, Digital Financial Services, are a 2019-founded organization of 25 members that offers digital-first loans. Its goal is to bring together top digital-first loan providers and related stakeholders to support responsible growth in the digital lending sector and a wider range of digital financial services in Kenya.</p>	

			<p>Clause 34(d)(6) of the First Schedule to the Excise duty Act has been amended and substantially changed by the Finance bill, which imposes a 20% excise tax on fees that digital lenders may charge. It is interesting that the impugned provision, which was adopted as Section 35 (6) of the amending act, first emerged in the amending act and had not been mentioned at all in the bill or departmental committee report. It was never debated in parliament and was introduced on the floor of the house at the committee of the whole house stage and after public hearings were concluded. The petitioner filed the instant petition seeking orders that the impugned change introduced in paragraph 6 of part II of the first schedule to the Excise Duty Act 2015 as amended by Sec 35 (d) (ii) is unlawful, null, and void. LSK is Petitioner in HCCHRPET/E372/2022 Law Society Of Kenya VS Kenya Revenue Authority AND National Assembly AND 4 Others (Petition as against adjustment of excise duty in Finance Act 2022) alongside the Kenya Association of Manufacturers challenging a separate clause on excise duty. All the related petitions were consolidated.</p>	
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26	Cheserek Jepchumba Judy	NAKURU CONSTITUTIONAL PET 20 OF 2022 KIPKOECH NG'ETICH VS IGP AND 2 OTHERS	The petitioner, in this case, filed a petition against the IGP on the grounds that highway officers have persistently intimidated motorists and have turned Kenyan highways and roads into hotspots for extortion. The appeal seeks conservatory orders to prevent the DPP and police from further detaining, arresting, or accusing drivers for violating no existent or ambiguous arbitrary speed limits. He additionally demanded that KenHA divulge the number of signs that had been installed along the highways and to prominently post speed restriction signposts.	
27	Antoinette Zowade	THE APPLICATION FOR LEAVE ON MOTOR VEHICLE DIGITAL PLATES; PETER OKIRO VS CABINET SECRETARY, MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT & 2 OTHERS	All vehicles driven on Kenyan roads are registered and issued with registration plates by relevant institutions of the Governments under whose laws they are so registered. On 1st April 2016, the Cabinet Secretary, Ministry of Transport And Infrastructure enacted the Traffic (Registration Plates) Rules 2016 gazetted vide Legal Notice No. 62 of 2016 of 15th April 2016. On 30th August 2022, a declaration was issued	

			<p>out on the implementation of the Traffic (Registration Plates) Rules 2016 and directed motor vehicle owners to apply for digital registration plates within the next 18 months. It also directed that the issuance of the digital registration plates will commence with newly-registered vehicles beginning with the registration number KDK series while replacement of existing registration plates with the digital registration plates shall commence on the 1st day of October 2022. It further directed that motor vehicle owners who fail to replace registration plates shall be liable to a fine of Kshs.20,000/= or imprisonment for six months. The directive requiring mandatory replacement of registration plates for already registered motor vehicles at the expense of motor vehicle owners has no backing of the law, is arbitrary, irrational, unreasonable, unfair, punitive and generally ignorant of consumer rights and it was made without any or any reasonable public participation. Further, the impugned decision is afoul Articles 10, 47, 94 and 118 of the Constitution of Kenya 2010 and Sections 4 and 5 of the Fair Administrative Action Act, 2015.</p>	
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28.	<p>Mr. Eric Theuri- President</p> <p>Ms. Faith Odhiambo- VP</p> <p>Mr. Mwaura Kabata- Convener</p> <p>PIL Committee</p> <p>Ms. Wangari Kagai- Secretary</p> <p>PIL Committee</p> <p>Mr. Stephen Mwenesi- Lead</p> <p>Counsel</p> <p>Ms. Wakesho Kililo- firm on record</p> <p>Mr. Bernhard Kipkoech</p> <p>Mr. Dan Okemwa</p> <p>Ms. Jane Onyango</p> <p>Mr. Evans Ogada</p> <p>Ms. Judith Cheserek</p> <p>Ms. Antoinette Ogange</p> <p>Dr. Benjamin Musau- Volunteer</p>	<p>SCORK ELECTION PETITION NO. E005 OF 2022</p>	<p>The Law Society of Kenya (LSK) is statutorily obligated by section 4 of the Law Society of Kenya Act, 2014 to assist the courts and the public in matters relating to the rule of law.</p> <p>In discharging this mandate, the Law Society of Kenya has filed an application for admission as amicus curiae to the petition. The Supreme Court granted the Society's application to join the petitions as amicus curiae (friend of the court) following the outcome of the presidential election and the disputation of the results in SCORK consolidated Petition E005 of 2022, ruling that the Society has expertise in assisting the court in reaching a just decision.</p> <p>LSK provided the court with further research to help develop the law on the standard of proof, the IEBC's quorum, and the meaning of a vote cast. To accomplish this, the PIL Committee advised, citing the PIL code that governs the committee's operations, that with regard to appointments, which are explicitly covered by article 12 (1) of the code, and pursuant to</p>	
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			the committee's resolution during a meeting held on TUESDAY 2ND AUGUST, 2022 AT 2:30 P.M. AT THE ADVOCATES LOUNGE - MILIMANI that appointment parameters take election petitions into account.	
29.	Elisha Zebedi Ongoya	CONSTITUTIONAL PETITION NO. E 290 OF 2022	The Society is dissatisfied with the judgment in the constitutional Petition E 290 of 2022 and relying on Court of Appeal rules on the accreditation of governors, Justice Attony Murima ruled and termed unconstitutional the degree requirement which is provided for under section 22 (2) of the election act requiring gubernatorial aspirants to have a degree before they have been cleared to vie. Mr Elisha Zebedi Ongoya is record for the Society	
30.	Dan Okemwa	WATCHING BRIEF IN COURT PROCEEDINGS ON THE MURDER OF MR. DANIEL MUSYOKA –IEBC OFFICER EMBAKASI EAST	Mr. Daniel Mbolu, the IEBC returning officer for Embakasi East, was kidnapped and later found dead. The Society contacted the family and the IO, ascertaining the progress of the investigations and engaging IMLU for the postmortem and site visit to Oloitoktok. The lawsuit is still underway, and Mr. Dan Okemwa Advocate is keeping a close eye on it on behalf of the Society.	
31.	Gilbert Mitulla	LSK VS NATIONAL LEGAL AID SERVICE & ATTORNEY	The Law Society of Kenya challenged the accreditation requirement for	4-November-2022

		GENERAL	Advocates in the Legal Aid Act 2016 for conflict of interest with the Advocates Act 2016. The society also wishes to challenge the passing of the Legal Aid Code of Conduct for Accredited Legal Aid Providers, 2019-Legal Notice 121 of 2020 and the Legal Aid (General) Regulations 2021- Legal Notice 187 of 2021 for lack of public participation	
32.	Ann Ngigi	ELRC 174 OF 2022 LAW SOCIETY OF KENYA VS PUBLIC SERVICE COMMISSION & ANOTHER	The Law Society of Kenya filed a petition dated 7 September 2022, at the Employment and Labour Relations Court in Nairobi. The petition seeks to challenge the constitutionality of the Public Service Commission's notice calling for applications to the position of Chief Administrative Secretary in the Public Service. The Society also filed an interim application seeking orders of the Court to stay the implementation of the Office of the Chief Administrative Secretary in the Public Service following conclusion of the collection of the public views pending the hearing and the determination of the petition.	3- November- 2022
33.	David Ochieng Ayuo	WATCHING BRIEF IN HCCR NO. 74 REPUBLIC VS TITUS YOMA & 11	The Office of the Director of Public Prosecution sued	13- November- 2022