



## **THE JUDICIARY**

OFFICE OF THE CHIEF JUSTICE AND PRESIDENT  
OF THE SUPREME COURT OF KENYA

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### **HONOURABLE CHIEF JUSTICE'S KEYNOTE ADDRESS DURING THE AFRICA REGIONAL CONFERENCE ON ACCESS TO JUSTICE FOR PERSONS WITH DISABILITIES AT OLE SERENI HOTEL, NAIROBI – 14<sup>TH</sup> APRIL 2025**

**THEME: STRENGTHENING ACCESS TO JUSTICE  
FOR PERSONS WITH DISABILITIES THROUGH  
LEGAL REFORMS AND COMPLIANCE WITH THE  
CRPD AND THE AFRICA DISABILITY PROTOCOL**

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*Distinguished Guests, Colleagues, Dear Friends,  
Good Afternoon!*

1. I am delighted to join you this afternoon for this important regional convening that brings together distinguished judges, experts, lawyers, and disability rights activists from across our vast and diverse Continent of Africa.

2. I commend the International Commission of Jurists (ICJ) for organizing this Conference, providing us an invaluable opportunity to reflect, deliberate, and exchange insights on access to justice for persons with disabilities. Indeed, this is not only a moment of reflection but of renewed commitment to advancing access to justice for persons with disabilities in Africa.
3. Access to justice is a foundational human right – a gateway through which all other rights are protected and realized. As such, in every democratic society, justice must be accessible to all.
4. But as we all acknowledge, for far too long, persons with disabilities have had this gateway obstructed by structural, legal, and attitudinal challenges that undermine their full and equal participation in the justice sector.
5. In this regional Conference, we gather to confront these barriers, to listen, to learn, and to

act in solidarity towards advancing access to justice for persons with disabilities.

## **Access to Justice is a Right, not a Privilege**

### *Distinguished Guests, Ladies and Gentlemen*

6. For all persons in Africa including persons with disabilities, access to justice is a right, not a privilege. The right of persons with disabilities to access justice is firmly anchored in international and regional frameworks. Under Article 13 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) – to which many of our African states are party – persons with disabilities have a right to effective access to justice on an equal basis with others. It requires States to ensure procedural and age-appropriate accommodations in all legal proceedings, including at the investigations stage.

7. The Africa Disability Protocol, which is a uniquely African framework, further foregrounds this right. The Protocol contextualizes rights of persons with disabilities within our African realities – establishing a nexus between cultural, social, economic, and historical dimensions. Notably, it echoes the requirement to enhance access to justice as a cornerstone of inclusive governance and human rights in Africa.
8. Therefore, in measuring our progress towards ensuring access to justice for persons with disabilities, we must consider not only our obligations under domestic law but also the obligations set out in the CRPD and the Africa Disability Protocol.

### **Kenyan Context: Progress and Lessons**

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9. In Kenya, access to justice is both a constitutional mandate and moral imperative.

The 2010 Constitution lays a strong foundation for the inclusion, protection, and empowerment of persons with disabilities. The Constitution under Article 10 enshrines national values of inclusivity, equity, and human dignity. Article 54 of the Constitution expressly guarantees the rights of persons with disabilities to be treated with dignity, access public places and services, utilize accessible communication means, and use equipment to overcome disability-related barriers.

10. Additionally, Article 27 provides for equality and freedom from discrimination and Article 43 of the Constitution guarantees economic and social rights including access to health, education, and adequate housing. Article 21(3) makes it an obligation for state organs and public officers to address the needs of persons with disabilities. These provisions of the Constitution offer a robust basis for access to justice for persons with disabilities.

11. Notably, the recent enactment of the Persons with Disabilities Act 2025 is a transformative step towards the promotion and protection of the rights of persons with disabilities by ensuring, improved quality of life, financial inclusion, and disability mainstreaming. Importantly, the Act guarantees greater access to justice for persons with disabilities by requiring courts to provide sign language interpreters, braille materials, and ensuring physical access. We must commend and appreciate the remarkable efforts by Senator Crystal Asige who sponsored the Bill.

12. As judges, advocates, academics, policymakers, we have a shared responsibility to ensure that we translate these legal frameworks into reality. For the Kenyan Judiciary, under our blueprint, Social Transformation Through Access to Justice (STAJ), we have a clear mission – a mission to create a people-centred, inclusive justice system that leaves no one behind. STAJ

compels us to reimagine how justice is delivered, to challenge embedded inequalities, and to ensure that justice is accessible to all including the vulnerable members of our communities.

13. Under STAJ we have prioritized measures that enhance inclusion and access to justice for persons with disabilities. Some of the measures include:

- Mapping and establishing accessible infrastructure in Courts across the country.
- Targeted employment of persons with disabilities by the Judicial Service Commission. Currently, 1% of our workforce are persons with disability who continue to serve with exceptional diligence. Our aim is to ensure we meet the 5% legislative and institutional target.

- Incorporating sign language interpretation and assistive technologies in courtrooms and online platforms; and
- Training judicial officers on disability rights to ensure rights-protecting and dignity-enhancing decision-making.

14. The Judiciary is also committed to mainstreaming the concerns of persons with disabilities in all its operations, ensuring cost-effective, and efficient access to justice. Our mission is to restructure the provision of judicial services in a manner that avoids stigma and upholds the dignity of persons with disabilities. By doing so, the law becomes a **‘therapeutic agent’** that promotes and protects the dignity of vulnerable groups.

15. The Judiciary continues to play an instrumental role in shaping the legal landscape for persons with disabilities. For example:



- In ***HKK v. National Council for Persons with Disability & Another (2023)***, the High Court in Meru held that refusing to register a person with a disability and denying tax exemptions amounted to a violation of their rights to dignity and protection under Articles 27, 28, and 54 of the Constitution.
- In ***Wilson Macharia v. Safaricom PLC (2021)***, the Court upheld the rights to dignity, fair administrative action, and reasonable accommodation. The Court found that Safaricom's refusal to employ the petitioner based on his visual disability violated his rights under the Constitution, awarding him compensation for the humiliation and unfair treatment he endured.

16. These cases are more than legal victories – they are beacons of accountability and justice.

They remind us of the power that comes with access to justice for all of us.

## **A Call to Continental Action**

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17. As African Judiciaries and institutions of governance at national and regional level, we must move from just the model of accommodation to one of inclusion and transformation.
18. Each one of us must reflect on our role – not just as legal practitioners and experts, but as citizens – in upholding the dignity of every African including persons with disabilities. True justice is not passive. It is proactive. It is intentional. It listens, adapts, and transforms.
19. The transformation that we seek to ensure access to justice for all persons including persons with disabilities is not the work of one

arm of the government – it is a shared responsibility. Therefore, I call upon:

- **African Judiciaries** to lead from the front in ensuring that courts are legally and morally committed to inclusion.
- **African governments** to provide funds and resources in support of court accessibility, enact and amend laws to enhance access to justice, and promote legal aid for persons with disabilities.
- **Bar associations** to provide pro bono services and guidance to persons with disabilities in navigating the justice system.
- **Civil society organisations** to continue to document experiences, partner with judiciaries in creating awareness, and call for necessary legal reforms; and

- **Academic institutions and thinktanks** to promote ground-breaking research on legal reforms, access to justice, and protection of rights of persons with disabilities in Africa.

## **Conclusion**

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20. As I conclude, I must remind us that justice is not truly just until it reaches every corner of our society and is inclusive of every voice. Persons with disabilities must not only access justice systems in Africa– they must trust them, feel seen by them, and be empowered through them.
21. The compliance with the CRPD and the Africa Disability Protocol is not optional – it is critical. Through compliance and implementation, we move from paper rights to lived justice for persons with disabilities.
22. Let us walk this journey in the spirit of collaboration, with empathy and upholding

dignity, and with a firm resolve that all persons with disabilities in Africa must access justice. Together, we can build a future where no one is left behind.

Thank you. God bless you all!

**Hon. Justice Martha K. Koome, EGH**  
**Chief Justice and President of the Supreme Court of Kenya**

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