



# Kenya: Domestic Media Monitoring Report

Montreal Institute for Genocide and Human Rights Studies

*Unless otherwise stated, all articles were written in English.*

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June 14th to June 21st, 2011

Report Content:

1. Kenya's gay community – stories in this week's media
2. Top judicial officials sworn in on Monday
3. Supreme Court nominees blocked due to gender disparity
4. Fraud in the Ministry of Education and a food security assessment

## **1. Kenya's gay community – stories in this week's media:**

### **Privately-owned media:**

**“Clerics seek harsher laws for gays”**

**Daily Nation, privately-owned newspaper**

**June 14<sup>th</sup>, 2011**

A section of Muslim clerics are calling for the government to allow them to apply Shariah laws to deal with rising cases of homosexuality.

Sheikh Khalifa urged Christians and Muslims to shun religious leaders who condone homosexuality. “We are asking Kenyans to shun businesses owned by such people and further show them open discrimination as a way of stopping the beastly act. They grossly abuse rights of others and should not be accepted among the society.”

Khalifa calls for the death penalty or life sentences as the only possible treatment for “such people” as is done in China and Iran. The clerics are also demanding a crackdown on organizations that promote gay and lesbian rights.

### **UN-affiliated news service**

**“Homosexuals in Kenya too afraid to seek health services”**

**Report by Nairobi-based online news service of UN regional information network**

**June 15<sup>th</sup>, 2011**

Due to discriminatory laws and a largely homophobic society, men who have sex with men (referred to as MSM) have a difficult time accessing HIV-related information and health services. MSM in rural areas especially are unwilling to seek medical help for fear of exposing their sexuality. Local health workers have minimal experience and no training for helping homosexual men.

According to a 2008 Modes of Transmission study conducted by UNAIDS and the Kenyan government, MSM and prisoners account for 15.2 per cent of new HIV infections annually in Kenya.

The local district AIDS officer, Dr. Festus Kanyako says it is essential for MSM in rural areas to know that they have the same rights to health care as other members of the community.

## **2. Top judicial officials sworn in on Monday:**

### **Privately-owned media:**

**“Mutunga takes office as Kenya CJ [Chief Justice]”**

**Daily Nation, privately-owned newspaper**

**June 20<sup>th</sup>, 2011**

Dr. Willy Mutunga was sworn in today, Monday June 20<sup>th</sup>, as Kenya’s Chief Justice. “It should no longer be possible to speak about corruption and the judiciary in one breath” said Mutunga at the ceremony. He is vowing to rebuild the public’s trust of the judiciary system. Mutunga stated that he commits to ensuring that the courts are accessible to all and that its rulings uphold the deeds of the law-abiding.

Mutunga was sworn in on Monday June 20<sup>th</sup> along with Deputy Chief Justice Nancy Baraza and the Director of Public Prosecution, Keriako Tobiko.

The Chief Justice is due to address the nation to outline his approach for administering justice and to speak to the executive, parliament, and the public.

No mention of fraud allegations against Keriako Tobiko in this week’s headlines. News story from last week:

**“NGOs headed to court to block Tobiko”**

**Capital FM, privately-owned radio station**

**June 13<sup>th</sup>, 2011**

Ten civil society organizations went to court to block the nomination of Keriako Tobiko for Director of Public Prosecutions. The African Centre for Open Governance drew attention to numerous corruption allegations leveled against Tobiko. He is accused of facilitating illegal transfer of land in the Mau as well as using intermediaries to extort sh5 million (54,208 \$CAD) from former local government Permanent Secretary Sammy Kirui. Tobiko firmly denies both allegations.

### **Government-owned media:**

**“Mutunga, Baraza and Tobiko sworn in”**

**KBC News, government-owned broadcasting company**

**June 20<sup>th</sup>, 2011**

President Mwai Kibaki and Prime Minister Raila Odinga presided over the swearing in celebration of the three top judicial officers this Monday morning at State House Nairobi.

Chief Justice Willy Mutunga, Deputy Justice Nancy Baraza, and Director of Public Prosecution, Keriako Tobiko, following the protocol of the new Constitution, swore allegiance to the people and the Republic of Kenya, rather than swearing allegiance to the president.

In his speech, Mutunga recognized the sacrifices the Kenyan population has made in order to pass the new Constitution. According to Mutunga, the Constitution provides a chance for the reconstruction of a judiciary that will earn public trust.

He called for citizens to be actively involved in ensuring that the judiciary is accountable to all Kenyans by monitoring and reporting its actions. Mutunga spoke of the necessity to protect the separation of powers, saying that a failure to uphold this separation will be an insult to the sacrifices Kenyans made in adopting the Constitution.

The five nominees to the Supreme Court were not sworn into office as a High Court ruling barred them with a suit surrounding gender disparity.



From left to right Chief Justice Willy Mutunga, Deputy Chief Justice Nancy Baraza, and Director of Public Prosecution Keriako Tobiko <http://in2eastfrica.net/mps-disagree-over-team-to-vet-nominees/>

### **3. Supreme Court nominees blocked due to gender disparity:**

#### **Privately-owned media:**

**“Annan speaks as swearing-in of judges blocked”**  
**The Standard, privately-owned daily newspaper**  
**June 18<sup>th</sup>, 2011**

The swearing in of five Supreme Court judges set for Monday has been stopped.

High Court Judge, Lady Justice Jeanne Gacheche issued an order restraining the Attorney General from appointing the five judges. She issued the order after receiving applications from various women’s leagues to stop the swearing-in process. The organizations included Federation of Women Lawyers Kenya, Centre for Rights Education and Awareness, the League of Kenya Women Voters, Women in Law and Development in Africa, and the Caucus for Women Leadership and Coalition on Violence Against Women.

Kofi Annan, Former Secretary General of the United Nations, who mediated Kenya’s political conflict in 2008, said the appointments will usher in a new era in the judiciary. “Kenya wants to see a fully independent, accountable and efficient justice system. These new appointments are a positive sign that reform in this sector is irreversibly under way,” said Annan in a statement on Friday.

The swearing-in of the Supreme Court justices was halted after six applicants filed an urgent case. Lawyer Judy Thongori said that when the Judicial Service Commission recommended five judges for appointment by President Kibaki, it was breaching the Constitution. Article 27 of the Constitution requires women to occupy at least one third of the government positions. Justice Gacheche fixed a hearing date for June 27.

*Article 27 of the Kenyan Constitution: “the State takes legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies must be of the same gender.”*

## Government-owned media:

### “Women caucus uphold Supreme Court ruling”

KBC News, government-owned broadcasting company

June 18<sup>th</sup>, 2011

The women political caucus hailed the Supreme Court’s decision to block the swearing-in of the five proposed Supreme Court judges until gender parity is achieved as dictated by the constitution.

The women’s caucus was gathered to celebrate one of their members, Nancy Baraza (now Deputy Chief Justice) having qualified as the second most senior officer in the country’s judiciary. However the caucus was disappointed with the gender imbalance in the Supreme Court judges nominations.

Judge Jean Gacheche ruled in favor of the women and temporarily stopped the swearing in of the five Supreme Court judges recommended by the judicial service commission, appointed and gazetted by the President.

### “Mutula says vetting will not beat August deadline”

KBC News, government-owned broadcasting company

June 20<sup>th</sup>, 2011

Justice and Constitutional Affairs Minister Mutula Kilonzo says that the vetting of Supreme Court Judges will not be possible by the August 26<sup>th</sup> constitutional deadline. Parliament will therefore have to extend the timelines drawn up in the constitution, implemented ten months ago.

Mutula expressed concerns that 2012 succession politics may jeopardize the successful implementation of the constitution. He cited coalition and personal interests of individuals in senior positions as a possible roadblock.

However Mutula points to the swearing in of Dr. Willy Mutunga, Nancy Baraza and Keriako Tobiko as Chief Justice, Deputy Chief Justice, and Director of Public Prosecution as a major achievement.

## 4. Fraud in the Ministry of Education; Food Security Assessment

## Privately-owned media

### “UK cuts education aid by 300m shillings”

Daily Nation, privately-owned newspaper

June 15<sup>th</sup>, 2011

4.2 billion Kenyan shillings ≈  
454 million Canadian dollars

British High Commissioner Rob Macaire said that his government will continue to fund education in Kenya but only through non-governmental channels, following investigations into a fraud of 4.2 billion shillings stolen from the education ministry.

Education permanent secretary James ole Kiyiapi recently said control systems have been put into place to ensure no leak in the system. Kiyiapi asked donors to come back on board.

A House team has demanded an overhaul of the education ministry after the revelation of the scandal.

## Government-owned media

**“ ‘I will not be Swayed,’ vows Karego”**

**KBC, government-owned broadcasting company**

**June 20<sup>th</sup>, 2011**

Local Government Permanent Secretary Karega Mutaji who is linked to corruption says he will not resign. A forensic audit report revealed that fraud in the education programme’s funding involved 4.2 billion shillings. Karega, who is in charge of the Education Ministry, insisted that the public must allow for investigations to be carried out first.

Participants of a head teacher’s conference in Mombasa declared their support for education minister Professor Sam Ongeru, saying his is clean and not to blame. The teachers are supporting Ongeru, saying that the ministry needs radical changes and not his resignation.

Civil society groups are mounting pressure on the Executive to fire the top Ministry of Education officials.

**“About 3.5 million people in need of relief food”**

**The Standard, privately-owned newspaper**

**June 13<sup>th</sup>, 2011**

Over 3.5 million people are in need of relief food until next September’s harvest.

Arid and semi-arid regions are the most vulnerable as they depend on peasant farming to sustain livelihood. Malnutrition in these communities has risen to over 20 per cent.

A food security assessment was done by the government in conjunction with other development partners. The assessment revealed that most areas within the country received 50-70 per cent below normal rains.

According to the article, the food security problem is also a result of crop and livestock losses, resource-based conflicts and high food and fuel prices.