

XIX

ARTICLE 19

For immediate release – 15 May 2009

Kenya: ARTICLE 19 Calls for Expansion of Freedom of Expression Rights to be Integrated into the New Draft Constitution of Kenya

Today, ARTICLE 19 Kenya and East Africa, based in Nairobi, Kenya, submitted its comments to the Committee of Experts for the new Constitutional Review Process currently ongoing in Kenya. ARTICLE 19 welcomes the review process and calls on the Committee of Experts to ensure the new Draft Constitution of Kenya is in line with freedom of expression and information best practice and international standards, as laid out in Article 19 of the International Convention on Civil and Political Rights (ICCPR), which Kenya has signed and ratified.

The Constitutional Review Process seeks to improve the current Constitution of Kenya which was first developed in 1963, and amended in 1996. The current process to review the Constitution will be the third of its kind. The Committee of Experts is responsible for developing a new draft Constitution by 1 December 2009. The final draft is expected to be adopted by Parliament by 2 March 2010 prior to a constitutional referendum.

In its note to the Committee of Experts, ARTICLE 19 highlights the areas where guarantee of freedom of expression falls short of international human rights law and standards on the right to freedom of expression, the right to access information, and media freedoms.

ARTICLE 19's recommendations to the Committee of Experts include:

- That the Committee should ensure that the new Draft Constitution of Kenya protects the right of freedom of expression, including the right to information, in compliance with international and regional human rights law and standards.
- That protection for the right to freedom of expression should be positive in nature – and should protect the right to seek, as well as to communicate and receive, information and ideas.
- That the Constitution should permit only restrictions on the right to freedom of expression, which are provided by law, and which are necessary in a democratic society to protect a limited list of stated interests, which do not go beyond those permitted under international law.
- That the Constitution should prohibit all prior censorship other than that which is strictly necessary to protect children.
- That the Constitution should also provide explicitly for the right to information.
- That the independence of bodies with regulatory or governance powers over the media should be explicitly protected in the Constitution.

ARTICLE 19's note on the constitutional review is part of ARTICLE 19 Kenya and East Africa's commitment to defend and strengthen the protection of freedom of expression and access to information within Kenya, as per the Machakos Declaration on Freedom of Expression agreed in April 2009 by Kenyan media, civil society and human rights bodies.

NOTES TO EDITORS:

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- The note is available in English at: <http://www.article19.org/pdfs/analysis/note-on-the-existing-kenyan-constitutional-provisions-on-freedom-of-expression.pdf>
- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.