

DR MUTHOMI THIANKOLU, MBS

Advocate of the High Court of Kenya, Partner at Muthomi & Karanja Advocates and Senior Lecturer at the University of Nairobi Faculty of Law.

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BRIEF PROFILE

Distinguished legal practitioner, academic and consultant with a proven record of shaping dispute resolution, constitutional law, administrative justice, public procurement regulation, pensions regulation, electoral processes and international economic law in Kenya and beyond.

Renowned for blending academic rigour with legal practice and widely recognised as a thought leader at the intersection of law, governance and development. Argued precedent-setting cases before the Supreme Court of Kenya, other superior courts of Kenya, the East African Court of Justice and specialised tribunals. Advised numerous national, regional and global institutions, including the World Bank Group, the UNODC, GIZ, the IDLO and the Judicial Service Commission.

ACADEMIC AND PROFESSIONAL QUALIFICATIONS

- ◆ PhD (Law), *The University of Nairobi* (2020).
- ◆ LLM in International Economic Law (with *Distinction*), *The University of Warwick* (2009).
- ◆ Dip. (Law), *The Kenya School of Law* (2007).
- ◆ LLB (*Hons*), *The University of Nairobi* (2005).
- ◆ Advocate, *The High Court of Kenya* (2007).
- ◆ Member, *The Law Society of Kenya* (2007).

KEY AWARDS AND HONOURS

- ◆ Litigation Practitioner of the Year (2024).
- ◆ Lawyer of the Year (Runner-Up, 2024).
- ◆ Moran of the Burning Spear (2024).

- ◆ Pupil Master of the Year (2nd Runner-up, 2022).
- ◆ C.B. Madan Prize (with others, 2020).
- ◆ Commonwealth Scholarship (2008).
- ◆ Justice (Prof) J B Ojwang Research Award (2nd Runner-up, 2005).

CORE PROFESSIONAL COMPETENCIES

- ◆ Dispute Resolution.
- ◆ Public Procurement Regulation.
- ◆ Constitutional and Administrative Law.
- ◆ Electoral Law.
- ◆ International Economic Law.
- ◆ Legal and Policy Advisory.

CURRENT POSITIONS

- ◆ Partner, *Muthomi & Karanja Advocates*.
- ◆ Senior Lecturer, *The University of Nairobi Faculty of Law* (on leave of absence).

PAST POSITIONS

- ◆ Partner, *Mohammed Muigai Advocates*.
- ◆ Member, *Retirement Benefits Tribunal*.
- ◆ Member, Board of Management, *Miathene Secondary School*.
- ◆ Member, Board of Management, *Mitùntù Girls Secondary School*.
- ◆ Member, *Meru University College of Science & Technology Council*.
- ◆ Lecturer, *Kenyatta University School of Law*.
- ◆ Legal Assistant, *BM Musau & Co. Advocates*.

EDUCATIONAL BACKGROUND

Doctor of Philosophy (PhD) in Law, *The University of Nairobi* (2020)

Research Project: *Balancing Economic and Social Objectives in Public Procurement in Kenya: A Review of the Law, the Policy and the Practice*.

Master of Laws (International Economic Law), *University of Warwick* (2009)

- ◆ The Breton Woods System.

- ◆ Legal Aspects of International Trade and the World Trade Organisation.
- ◆ Comparative Competition Law (International & European Perspectives).
- ◆ Conflict of Laws.
- ◆ Legal Aspects of International Investment and Transnational Corporations.
- ◆ International Commercial Arbitration (Foreign Investment Disputes).
- ◆ Legal Research and Writing Skills.
- ◆ International Corporate Finance.

Research Project: Reconciling Incongruous Policy Objectives and Benchmarking Kenya's Public Procurement Law: A Review of the Selex Case.

Postgraduate Diploma in Law, *Kenya School of Law* (2007)

- ◆ Accounts.
- ◆ Civil Procedure.
- ◆ Criminal Procedure.
- ◆ Conveyancing.
- ◆ Professional Ethics and Practice.
- ◆ Legal Advocacy and Drafting Skills.

Bachelor of Laws (LLB), *University of Nairobi* (2005)

Undergraduate studies. Graduated with Second Class Honours, Upper Division.

Research Project: *The Njoya Case: Emerging Issues in Kenyan Jurisprudence*.

KEY SUPREME COURT ASSIGNMENTS

- ◆ *Kenya Tea Growers Association & 2 others v The National Social Security Fund Board of Trustees & 13 others* [2024] KESC 3 (KLR), regarding the right to a fair trial and the Jurisdiction of the ELRC to entertain a dispute concerning the constitutionality of the National Social Security Fund Act 2013.
- ◆ *NGOs Co-ordination Board v EG & 4 others* [2023] KESC 17 (KLR), regarding the freedom of association and the state's refusal to register an NGO for the protection of the rights of the LGBTIQ community.
- ◆ *Odinga & 16 others v Ruto & 10 others* [2022] KESC 54 (KLR), on allegations of electoral fraud and the validity of Kenya's 2022 presidential election.

- ◆ *Munya v The Independent Electoral and Boundaries Commission & 2 others* [2014] KESC 38 (KLR), on the jurisdictions of the Court of Appeal and the Supreme Court in disputes relating to gubernatorial elections.
- ◆ *Njenga v Masto Holdings Limited & 4 others* [2024] KESC 60 (KLR), on the jurisdiction of the Supreme Court to entertain an application for stay of execution before the filing of a Petition of Appeal or Reference.
- ◆ *Association of Retirement Benefits Schemes v Attorney General & Others*, Supreme Court Petition No. E017 of 2024, on the constitutionality of section 2 (o) of the Public Procurement and Asset Disposal Act (ongoing).

KEY COURT OF APPEAL ASSIGNMENTS

- ◆ *Independent Electoral and Boundaries Commission & 4 others v Ndii & 312 others* [2021] KECA 363 (KLR), on the constituent power of the people and amendment of the Constitution of Kenya.
- ◆ *Gachagua & 5 others v Maingi & 80 others* [2025] KECA 790 (KLR), on recusal of judges and the power of the Chief Justice (and the Deputy Chief Justice) to assign a bench of an uneven number of judges to hear a constitutional petition.
- ◆ *Chief Executive Officer, the Public Service Superannuation Fund Board of Trustees v CPF Financial Services Limited & 2 others* [2022] KECA 982 (KLR), regarding the courts' power to order the award of a tender to a specific bidder when a procuring entity adopts dilatory tactics to avoid doing so.
- ◆ *Dickson Mwenda Githinji v Gatirau Peter Munya & 2 others* [2014] KECA 884 (KLR), regarding the scope of scrutiny and recount and trial courts' failure to undertake a holistic review of the evidence adduced in electoral disputes.
- ◆ *Mwangaza v County Assembly of Meru & another; Council of Governors (Interested Party)* [2023] KECA 1599 (KLR), on the jurisdiction of courts to injunct inchoate impeachment proceedings.
- ◆ *Eric Gitari v The Attorney General & Others*, COACA/536/2019, on the constitutionality of sections of the Penal Code relating to having sexual intercourse against the order of nature (ongoing).

KEY HIGH COURT AND EQUAL COURTS ASSIGNMENTS

- ◆ *Gachagua & 40 others v Speaker, National Assembly & 15 others; Law Society of Kenya & 7 others (Interested Parties)* [2024] KEHC 13473 (KLR), on the justiciability of disputes relating to the removal from office of the Deputy President of the Republic of Kenya.
- ◆ *CK (A Child) Through Ripples International as Her Guardian and Next Friend) & 11 others v Commissioner of Police/Inspector General of the National Police Service & 2 others; And Kenya National Commission on Human Rights (Amicus Curiae)* [2013] KEHC 3114 (KLR), on the constitutionality of an institutional culture by the police that resulted in systemic failure to conduct prompt, proper and professional investigations into complaints of defilement and other forms of sexual violence.
- ◆ *Francis Gitau Parsimei & 2 others v National Alliance Party & 4 others* [2012] KEHC 2603 (KLR), on exhaustion of alternative remedies before invoking the jurisdiction of the High Court in electoral disputes.
- ◆ *Mwangi & 6 others v Attorney General & 6 others; Kenya University Biodiversity Consortium & 6 others (Interested Parties)* [2024] KEHC 13678 (KLR), on the scope of res judicata and judgments in rem in public law disputes.
- ◆ *Okoiti & 11 others v County Governments Retirement Scheme & 164 others; County Pension Fund Financial Services Limited & 8 others (Interested Parties)* [2022] KEELRC 13584 (KLR), on the functional and institutional integrity of county governments and the constitutionality of the County Governments Retirement Scheme Act, 2019.
- ◆ *Onesmus Muthomi Njuki & 19 others v Director of Public Prosecution* [2021] KEHC 3009 (KLR), on whether anti-corruption criminal proceedings can be commenced before a special magistrate other than the one for the area within which the offence was allegedly committed.
- ◆ *Kenya Tea Growers Association & 97 others v Attorney General & 8 others; Central Organisation of Trade Unions (COTU) & another (Interested Parties)* [2022] KEELRC 4124 (KLR), on social security, pensions and the constitutionality of the National Social Security Fund Act, 2013.

- ◆ *Masto Holdings Limited v Njenga & 4 others* [2019] KEELC 1954 (KLR), regarding the defeasibility of a purchaser's title following the exercise of a chargee's statutory power of sale.
- ◆ *Chamao & 2 others v Ichung'wah & 13 others; Independent Electoral and Boundaries Commission & 2 others (Interested Parties)* [2024] KEHC 15727 (KLR), on the doctrine of ripeness and the jurisdiction of the courts to issue injunctions against inchoate parliamentary processes.
- ◆ *Republic v Public Procurement Administrative Review Board & 2 Others ex-parte Selex Sistemi Integrati* [2008] KEHC 138 (KLR), on judicial review and the values underlying Kenya's public procurement laws.
- ◆ *Patrick Kimathi v The Inspector General of the National Police Service & 5 Others*, Meru High Court Petition No. E007 of 2024, regarding the constitutionality of including the fingerprints and other personal data of minors in the Criminal Records Database (ongoing).

KEY LEADERSHIP AND INTEGRITY ASSIGNMENTS

- ◆ The Proposed Removal from office by way of Impeachment of the Deputy President of the Republic of Kenya, H. E. Rigathi Gachagua (2024).
- ◆ The Proposed Dismissal of the Honourable Franklin Mithika Linturi, the Cabinet Secretary for Agriculture and Livestock Development (2024).
- ◆ The Proposed Removal from office by way of Impeachment of the Honourable Kawira Mwangaza, the Governor of Meru County in the Republic of Kenya, (2022-2023).

KEY INTERNATIONAL ASSIGNMENTS

- ◆ Negotiated Settlement Agreement between the African Development Bank ("AfDB") and Jiangxi Transportation Engineering Group Limited (2025), on the Sanctions Procedures of the African Development Bank Group.
- ◆ Bench Book on Electoral Dispute Resolution (The Judiciary, 2017).
- ◆ Human Rights and Criminal Justice Responses to Terrorism (The United Nations Office on Drugs and Crime, 2016).

- ◆ Business Registration Laws and Sharing of Company Information in the East African Community (The World Bank Group, 2014).
- ◆ *Alcon International Limited v National Social Security Fund Uganda*, EACJ Reference No. 6 of 2010.

KEY CONSULTANCIES

- ◆ The National Dialogue Committee (Parliament of Kenya, 2023).
- ◆ Public Procurement Law Reform (The Commission for the Implementation of the Constitution, 2014).
- ◆ Public Procurement Law Reports (The German International Cooperation (GIZ), 2013).
- ◆ Handbook on Electoral Dispute Resolution (The Law Society of Kenya, 2013).
- ◆ Design of the Government and Implementation of the Constitution of Kenya, 2010 (The Office of the President, 2011).
- ◆ Regulatory Reforms for Business Activity in Kenya (The National Treasury, 2007).

BOOKS AND BOOK CHAPTERS

- ◆ Muthomi Thiankolu, '*Standards of Review and Resolution of Electoral Disputes in Kenya: A Review of the Jurisdiction of the High Court, The Court of Appeal and the Supreme Court*,' in Collins Odote and Linda Musumba (eds), *Balancing the Scales of Electoral Justice: Resolving Disputes from the 2013 Elections in Kenya and the Emerging Jurisprudence* (IDLO 2016).
- ◆ Muthomi Thiankolu & Justice (Rtd.) Violet Mavisi: *Judiciary Bench Book on Electoral Disputes Resolution* (The Judiciary 2017).
- ◆ Muthomi Thiankolu, '*Resolution of Electoral Disputes in Kenya: An Audit of Past Court Decisions*' in Godfrey Musila (Ed), *Handbook on Election Disputes in Kenya: Context, Legal Framework, Institutions and Jurisprudence* (Law Society of Kenya 2013).
- ◆ Attiya Waris and Muthomi Thiankolu, '*International Commercial Arbitration in Kenya*' in Githu Muigai (Ed), *Arbitration Law and Practice in Kenya* (Law Africa 2011).

JOURNAL ARTICLES

- ◆ Muthomi Thiankolu, 'The Role of Administrative Law and Economics in Tempering Discretion and Balancing Conflicting Objectives in Public Procurement Decision Making' (2020) 5 Kabarak Journal of Law and Ethics 173.
- ◆ Muthomi Thiankolu, Migai Akech and Ken Obura, '*The Problem of Discretion and Interplay of Economic and Social Policy Objectives in the Kenyan Public Procurement System: A Review of the Ballot Papers and Laptop Computers Procurement Cases*' (2019) 1 East African Law Journal 17.
- ◆ Muthomi Thiankolu, '*Using Public Procurement as a Tool of Economic and Social Development Policy in Kenya: Lessons from the United States and South Africa*' (2019) 1 (1) Journal on Financing for Development 97.
- ◆ Muthomi Thiankolu, 'Role of the Courts in Ensuring Free and Fair Elections in Kenya: A Tale of Fifty-six Years of Legal Sophistry and Intellectual Dishonesty' (2019) 4 Kabarak Journal of Law and Ethics 53.
- ◆ Muthomi Thiankolu, 'Reconciling Incongruous Policy Objectives and Benchmarking Kenya's Public Procurement Law: A Review of the Selex Case' [2011] 11 (4) Journal of Public Procurement 451.
- ◆ Muthomi Thiankolu, 'Landmarks from El Mann to the Saitoti Ruling; Searching a Philosophy of Constitutional Interpretation in Kenya' [2007] 1 Kenya Law Review 188.
- ◆ Muthomi Thiankolu, 'The Constitutional Review Cases; Emerging Issues in Kenyan Jurisprudence' [2005] 2 East African Law Journal 122.

CONFERENCE PRESENTATIONS

- ◆ Muthomi Thiankolu, 'Overview of the Supreme Court of Kenya 2025 Decisions on Gender Based Violence' (Constitutional Law Practitioners' Forum Webinar, 24 April 2025).
- ◆ Muthomi Thiankolu, 'Balancing Judicial Independence and Accountability' (Judicial Service Commission Retreat, Nairobi, 6 March 2025).

- ◆ Muthomi Thiankolu, 'Constitutional Imperatives and the Delivery of Strategic Government Projects' (Presentation Made at the Induction Retreat of the Office of the Attorney General's Strategic Litigation and Risk Mitigation Review Committee, Naivasha, 17 December 2024).
- ◆ Muthomi Thiankolu, 'Legal Perspectives on the Appointment of High Court Judges and the Chief Registrar of the Judiciary' (Judicial Service Commission Retreat, Nairobi, 29 January 2024).
- ◆ Muthomi Thiankolu, 'The Transformative Impact of Information and Communication Technology (ICT) on Electoral Processes' (Law Society of Kenya, Nairobi, 15 June 2023).
- ◆ Muthomi Thiankolu, 'Aspects of Research in a Legislative Setting: Research Methods' (Parliamentary Service Commission and the Directorate of Parliamentary Research Services Training Workshop, Naivasha, 15- 20 May 2023).
- ◆ Muthomi Thiankolu, 'Transformative Constitutionalism and the Case for An Inquisitorial Approach to Electoral Dispute Resolution in Kenya' (Law Society of Kenya Annual Conference Paper, Kwale, July 2022).
- ◆ Muthomi Thiankolu, 'Drafting Electoral Dispute Resolution (EDR) Pleadings: Mandatory Requirements of Contents, Form and Procedure' (Law Society of Kenya Continuing Professional Development Seminar, Nairobi, 3rd and 10th June 2022).
- ◆ Muthomi Thiankolu, 'Analysis of the Court of Appeal Decision(S) in Aprim Consultants and its Implications for Access to Justice and Public Procurement Practice in Kenya' (Law Society of Kenya Continuing Professional Development Seminar, Nairobi, 27 April 2022).
- ◆ Muthomi Thiankolu, 'The Constitutional and Statutory Mandate of the Judicial Service Commission: Perspectives of a Legal Practitioner' (Judicial Service Commission Preparatory Workshop on Selection Interviews for the Positions of Chief Justice and Corporate Governance, Mombasa, June 2021)

- ◆ Muthomi Thiankolu 'The Good, the Bad and the Dictum, Exorcising the Ghost of *Anarita Karimi v Republic*' (Law Society of Kenya Continuing Professional Development Seminar, Nairobi, September 2020).
- ◆ Muthomi Thiankolu, 'Procurement of Essential Medical Supplies' (Law Society of Kenya Continuing Professional Development Seminar, Nairobi, September 2020).
- ◆ Muthomi Thiankolu, 'What do you Do When the Supreme Court is Wrong?' (Kabarak Law School Avid Readers Forum, Nakuru, August 2020).
- ◆ Muthomi Thiankolu, 'Role of the Courts in Promoting Free and Fair Elections in Kenya: A Tale of Fifty-six Years of Legal Sophistry and Intellectual Dishonesty' (South African Institute for Advanced Constitutional, Public, Human Rights and International Law Symposium on Free and Fair Elections, Johannesburg, April 2019).
- ◆ Muthomi Thiankolu, 'The Standard of Appellate Review in Kenya: A Review of the Jurisdiction of Court of Appeal and the Emerging Jurisprudence' (*Court of Appeal of Judges' Conference, Mombasa, June 2015*).
- ◆ Muthomi Thiankolu, 'The Public Procurement and Assets Disposal Bill, 2014: Analysis of Selected Provisions and their Implications' (Budget and Appropriations Committee of the National Assembly Workshop, Mombasa, August 2015).
- ◆ Muthomi Thiankolu, 'Landmark Moments in Kenya's Electoral Jurisprudence' (Law Society of Kenya Continuing Professional Development Seminar, March 2014).
- ◆ Muthomi Thiankolu, 'Lessons from Kenyan Case Law on Public Procurement-A Critical Discussion of Selected PPARB, High Court & Court of Appeal Decisions' (Public Procurement Administrative Review Board Workshop, Mombasa, August 2014).
- ◆ Muthomi Thiankolu, 'Rationale for Regulating Public Procurement and the Policy Objectives underlying Kenya's Public Procurement Law' (Law Society of Kenya Continuing Professional Development Seminar, Nairobi, September 2013).

- ◆ Muthomi Thiankolu, 'Judicial Review of the Public Procurement Administrative Review Board's Decisions' (Public Procurement Administrative Review Board Workshop, Mombasa, November 2013).
- ◆ Muthomi Thiankolu, 'Developments in Kenyan Electoral Jurisprudence' (National Council for Law Reporting Continuing Professional Development Seminar, Nairobi, January 2011).

STUDENT RESEARCH SUPERVISION PROJECTS

- ◆ Kamau Simon Mwangi, 'The Impact of Bail on the Prosecution of Offences Relating to Corruption and Economic Crimes in Kenya' (LLM Dissertation, University of Nairobi 2022).
- ◆ Gladys Warigia Mwangi, 'The Role of the Courts in Promoting Electoral Democracy in Kenya: A Review of the Threshold for Nullification of Elections' (LLM Dissertation, University of Nairobi 2016).
- ◆ Muriuki Titus Muriungi, 'Towards a Legal Framework on Sovereign Debt Restructuring: A Developing Countries' Perspective' (LLM Dissertation, University of Nairobi 2016).
- ◆ Kellen Gicuku Njue, 'Examining the Responsibility of the Kenyan State for non-State Violation of Human Rights' (LLM Dissertation, University of Nairobi 2015).
- ◆ Anthony Mbunya Kiarahu, 'Participation of Minorities and Marginalised Groups in the Kenyan Economy: Reforming Public Procurement' (LLM Dissertation, University of Nairobi 2013).
- ◆ Protas Gathege Saende, 'Dispute Settlement within the East African Community: The East African Court of Justice and its Jurisdiction' (LLM Dissertation, University of Nairobi 2012).
- ◆ Ondieki Dunstan Ogwoka, 'A Contextual and Rights-Based Approach to Regulation of Voluntary Sexual Activity Between Adolescents in Kenya' (LLB Dissertation, University of Nairobi 2022).
- ◆ Muriuki Titus Muriungi, 'Legal Technicalities and the Determination of Electoral Disputes in Kenya: A Review of the Legal Framework and the Emerging Jurisprudence' (LLB Dissertation, University of Nairobi 2015).

- ◆ Susie Mutahi, 'The Mute Witness: The Case for the Establishment of a National Criminal DNA Database in Kenya' (LLB Dissertation, University of Nairobi 2014).
- ◆ Veronica Wamucii Kihu, 'Criminalising Marital Rape in Kenya: The Laws, the Myths & the Reality' (LLB Dissertation, University of Nairobi 2013).

REFEREES

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DATED at **Nairobi** this.....**12th**.....day of.....**September**.....2025.

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