



## Respect for the Rule of Law

### See: Story

**M**alimali, the headquarters of Mjini County, grew fast due to availability of devolved funds and other financial allocations for urban development by the national government. Many moved from rural areas to seek employment in the town, which soon became overpopulated. Casual and lowly paid labourers occupied the informal settlements in the town's outskirts. People illegally allocated themselves a road reserve and areas set aside for other community projects. They named the zone Kijiji Chetu and built schools, churches, mosques and hospitals.

After some years, the national government revealed plans to expand the road from Kijiji Chetu to Malimali. Mzee Msafi, a shrewd businessman well known for his flashy lifestyle and connections to key local politicians moved quickly and corruptly acquired ownership documents for the Kijiji Chetu land and plotted to evict the dwellers, hoping for compensation once the road expansion project kicked off.

Kijiji Chetu residents established Mzee Msafi's grabbing scheme and sought the court's intervention. Their case was dismissed as they didn't have any land ownership documents. They were dissatisfied with the ruling, staged demonstrations and brought down the fence erected around the disputed land. Mzee Msafi used the police to evict the residents. Two locals and one police officer died in the commotion.

A resident who trained on land laws convened a meeting of leaders and village elders to deliberate on the next step. They also invited the officials from the relevant offices and Mzee Msafi. It was established that the land Mzee Msafi claimed to be his was partly communal and a road reserve set aside before any of them moved in.

After establishing the truth, the slum dwellers resolved to vacate the land within six months to pave way for community development projects, including the road expansion. They agreed not to pursue any compensation. The Kijiji Chetu leadership was mandated to initiate legal action against Mzee Msafi and his collaborators for illegally acquiring titles with the intention to defraud not just the local community but also the national government.

### Judge: Situation analysis

Laws are important for a society and the conduct of citizens. They allow for easy adoption of societal changes, protect fundamental rights and wad off conflicts between social groups and communities.

Our Constitution, in the preamble, recognises divine law by expressly acknowledging the supremacy of the Almighty God of all creation. Accordingly, the divine law calls on all of us to do what is morally good as commanded by God, our guide.

Despite this guidance in the Constitution, the rule of law is elusive in our society. Why is it so? The institutional reforms and separation of power contemplated in the Constitution have never been fully implemented. As a country, Kenya has high levels of impunity, with numerous people not being held to account for their actions. Part of the problem is the political class' total disregard to transparency, personal responsibility and integrity.

The Church's teaching emphasises the importance of the rule of law in safeguarding the ideal value of human dignity. But the rule of law, in itself, may not always be enough to adequately protect human dignity. Law is a social instrument to foster fundamental values in society and culture. If legal norms depart from fundamental values, the law cannot adequately safeguard human dignity. The Church's moral teaching on the rule of law is that the law must be consistent with human dignity.

### **Readings**

Isaiah 43:16-21

Philippians 3:8-14

John 8:1-11

### **Spiritual reflection**

St Paul's letter to the Philippians relates to the law and salvation. Double application of the law is an assault of the dignity of the human person. The woman was discriminated against and Jesus challenges all.

### **Act: Reflection questions**

1. What is your understanding of the rule of law?
2. What is your understanding of divine law?
3. What are the consequences of disrespecting the rule of law?
4. As a member of the SCC, what is my responsibility in maintaining and respecting the rule of law?

### **Examination of conscience**

1. Have I acquired anything illegally?
2. Am I a strong believer in the Constitution and rule of law?
3. What is my role in case I witness the breaking or disrespect of the rule of law?
4. Have I ever participated in a corrupt practice and if so what can I now do about it?