Sistema sanzionatorio e mercato agroalimentare
Percorsi interni e dimensione transnazionale

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ABSTRACT

A Living Laboratory: Sanctioning Agri-food Frauds and Illicit Behaviours in Kenya, built from the ground up

Kenya's legal framework includes numerous provisions that address conduct associated with agri-food fraud; however, the accumulation of sectoral offences has not resulted in a coherent framework for accountability. This paper examines three criminal prosecutions arising from Kenya's national fertiliser subsidy programme, none of which resulted in sustained criminal accountability. These cases illustrate the limitations of offences such as adulteration, forgery, abuse of office, and, in a prominent 2018 case, attempted murder.

The presentation analyses related constitutional litigation in which the High Court declared unlawful the State's failure to establish the statutory fertiliser regulator and determined that supplying non-conforming fertiliser violated farmers' constitutional consumer rights. This judgment demonstrates the capacity of constitutional litigation to compel regulatory action, while also exposing its limitations in establishing individual criminal responsibility.

The presentation also examines Italy's Law No. 75 of 21 April 2026, exploring whether specific agri-food fraud offences provide lessons for Kenya. It argues that effective accountability requires coherence among substantive criminal law, institutional regulatory capacity, and constitutional enforcement, as legislative specificity alone cannot guarantee effective prosecution.