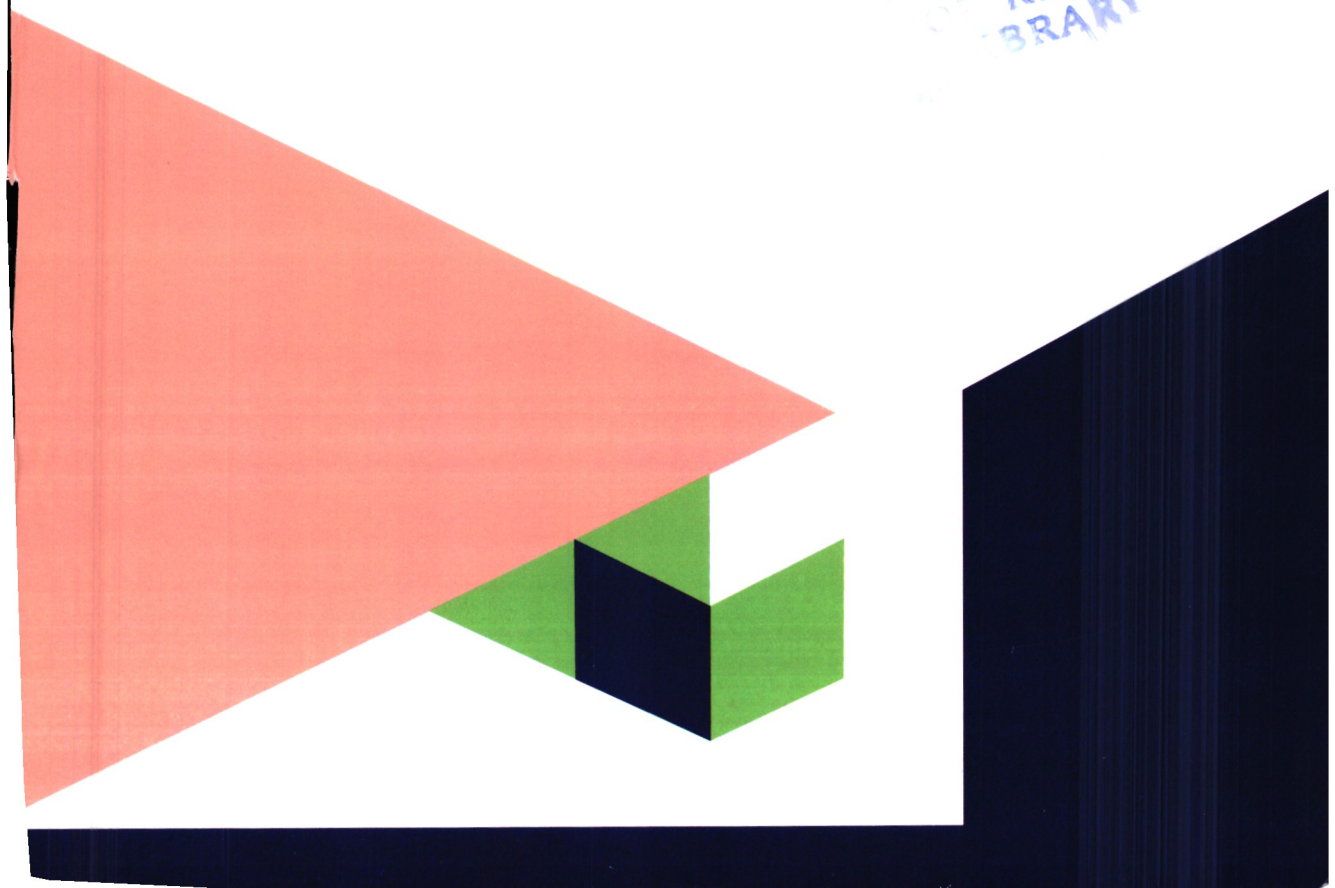




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LETTER OF TRANSMITTAL

Mr. Michael Sialai, EBS
The Clerk,
Kenya National Assembly,
P.O Box 41842-00100,
Parliament Buildings,
Nairobi, Kenya.

RE: ANNUAL REPORT FOR THE FINANCIAL YEAR 2019/2020


The Kenya Law Reform Commission (KLRC) has a mission to facilitate law reform conducive to social, economic and political development through keeping all the law of Kenya under review, ensuring their systematic development and reform in conformity with the Constitution of Kenya.

It is our pleasure to formally present the Annual Report for the financial year 2019/2020. This report captures our mandate, strategic goals, targets, achievements and milestones realized in the reporting period. The report further highlights challenges encountered, lessons learnt and the relevant recommendations.

It is our sincere hope, that the report will inform future policy interventions and be a useful tool in promoting feedback and building commitment in law reform work in Kenya.

We thank you in advance for the continued support.

Hon. Josephine Sinyo, EBS



Ag. Secretary/ CEO



PREFACE BY THE SECRETARY /CHIEF EXECUTIVE OFFICER

The Kenya Law Reform Commission (KLRC) is privileged to publish the Annual Report for the financial year 2019/20. The report captures our mandate, the approach, the goals, targets and achievements realized as well as the financial statements for the reporting period. It also highlights the challenges encountered, recommendations, lessons learnt and the way forward.

We are delighted that the financial year 2019/20 was full of success stories and an upward improvement in service delivery. Summarily, we were able to: develop legislation required to implement the Constitution pursuant to Clause 5(6) (b) of the Sixth Schedule of the Constitution; assist a number of MDAs with the review and harmonization of their respective legislative frameworks with the Constitution; and provide technical assistance to county governments with regard to reform or amendment of their laws/policies/ regulations. We also gave legal advisory opinions whenever we were required to.

Amid the successes, the year was also characterized by daunting challenges including the global pandemic of COVID-19 which somehow stalled our operations. The commissioners' term of office had also come to an end and thus most part of the year was without their crucial strategic leadership and policy input. We equally experienced budget cuts, staff turnover owing to retirement among other challenges which we graciously overcame.

We enjoyed the support of key stakeholders and partners including: all the arms of Government (Judiciary, Legislature, and Executive) and their agencies: County Governments (County Executives and Assemblies) and their agencies, Constitutional Commissions and Independent Offices, Civil Society Organizations, Academia, and the Media among others. Of particular mention is the close working relationship with the Office of the Attorney-General and Department of Justice which gave us support and guidance in the absence of Commissioners whose terms of office had come to an end as earlier highlighted.

The KLRC management is grateful for the continued support of all the staff who contributed to the successes, weathered and innovated through the challenges experienced and emerged stronger than before. We are equally thankful to the outgoing Commissioners including the Chairperson whose policy leadership was pivotal to our success. Ultimately, we bid farewell to the financial year 2019/20 heads held high and looking forward to living our mission of facilitating law reform conducive for the social, economic and political development of Kenya in the incoming one.

Hon. Josephine Sinyo, EBS



Ag. Secretary/ Chief Executive Officer

ACKNOWLEDGEMENTS

We are deeply grateful to the former commissioners, staff, partners and stakeholders who made tremendous efforts towards the realization of our targets for the financial year 2019/2020. We equally salute the Office of Attorney-General and Department of Justice whose leadership and support is warmly acknowledged. In the same vein, the following institutions have been a key pillar towards this celebrated and shared success: Office of the President and the entire Cabinet, Parliament, the Judiciary, the National Treasury as well as all other respective Ministries, Departments and Agencies at both levels of government (National and County) for the shared success. The support of Development Partners and Civil Society Organizations remains invaluable.

The publication of this Annual Report for the financial year 2019/2020 has been made possible by the support of KLRC officers led by the Ag. Secretary/CEO Hon. Josephine Sinyo; Mr. Peter Musyimi, HSC (Head of Legislative Drafting/Ag. Director, Finance and Administration); Ms. Mercy Muthuuri (Ag. Director, Legislative Services); Mr. John Kariuki (Head of Accounts); Mr. Cornelius Musangi (Head of Finance); Mr. Kelvin Mwenda (Head of Planning); Dr. Jacob Otachi (Head of Corporate Affairs and Communications); and all other Heads of Departments and staff who made contributions in the preparation of this Report.

Finally, KLRC is indebted to the people of Kenya for entrusting us with this critical mandate and believing in our ability to deliver.
God bless you.

LIST OF ACRONYMS

AG	Attorney-General
CEO	Chief Executive Officer
CoK, 2010	Constitution of Kenya, 2010
FY	Financial Year
IEC	Information Education and Communication
ICTs	Information Communication Technologies
IGRA	Intergovernmental Relations Act
KLRC	Kenya Law Reform Commission
KSG	Kenya School of Government
LRN	Law Reform Newsletter
MCDA	Ministry, County, Department and Agency
MDA	Ministry, Department and Agency
MTEP III	Medium Term Plan (Third)
NCAJ	National Council for Administration of Justice
OAG&DJ	Office of the Attorney General and Department of Justice
PC	Performance Contract
PSC	Public Service Commission
SAGA	Semi-Autonomous Government Agency
SCAC	State Corporation Advisory Committee

KENYA LAW REFORM COMMISSION

KLRC ANNUAL REPORT



Vision

A vibrant Agency for
Responsive Law Reform

Mission

To facilitate law reform
conducive to social,
economic and political
development



1.0 Introduction

This chapter introduces the Kenya Law Reform Commission (KLRC). It captures the mandate, functions, vision and mission of KLRC. It also highlights KLRC’s core values, principal attributes and the governance framework.

1.1 Brief Background

The Kenya Law Reform Commission (KLRC) was established by the Law Reform Commission Act, Cap. 3 (now repealed) as a primary agency to spearhead law reform and review processes in Kenya. Its mandate as contained in section 3 of the repealed Law Reform Commission Act was *“to keep under review all the laws of Kenya to ensure its systematic development and reform, including in particular the integration, unification and codification of the law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments and generally its simplification and modernization.”*

At inception, the KLRC operated as a Department within the Office of the Attorney-General. However, upon reorganization of Government Ministries and functions vide Presidential Circulars Nos. 1 of 2003 and 2008, the law reform function and the Kenya Law Reform Commission were administratively moved to the Ministry of Justice, National Cohesion and Constitutional Affairs. KLRC has since become a Semi-Autonomous Government Agency (SAGA) effective the 1st of January 2015 and has its own Pension Fund having been declared ‘Public Service’. The current establishment is comprised of about sixty (60) members of staff

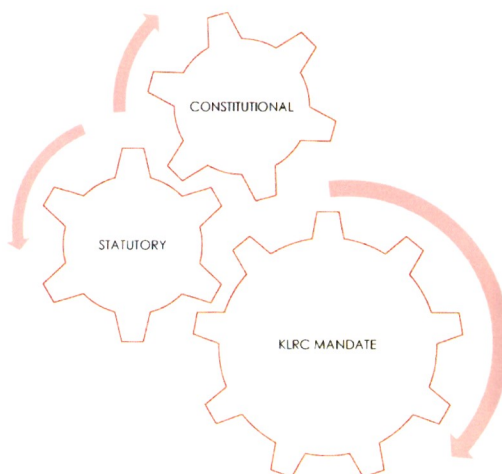
and nine (9) commissioners.

1.2 Mandate of KLRC

The KLRC is a statutory body corporate with perpetual succession, which serves both National and County governments in matters of law reform. KLRC draws its mandate from a number of constitutional, statutory and administrative instruments which govern its establishment, structure, functions and operations. These instruments are the Constitution of Kenya, 2010, Kenya Law Reform Commission Act, 2013, the State Corporations Act (Cap. 446) and the County Governments Act, 2012 among others.

1.2.1 Constitutional Mandate

The promulgation of the Constitution of Kenya 2010 entrenched the legislative development and law reform function to KLRC. Under Clause 5(6) (b) of the Sixth Schedule to the Constitution, KLRC is required to coordinate



with the Commission for the Implementation of the Constitution (now defunct) and the Attorney-General (AG) to prepare for tabling in Parliament legislation required to implement the Constitution. The significance of this is that, beyond the required Fifth Schedule legislation which had an initial five year implementation period, KLRC needs to continuously conduct law reform on all laws existing immediately before and after the effective date of the Constitution. Specifically, the laws should be construed with alterations, qualifications and exceptions necessary to bring each into harmony and conformity with the Constitution (Clause 7 of the Sixth Schedule).

1.2.2 Statutory Mandate

KLRC is established under an Act of Parliament (the Kenya Law Reform Commission Act, No 19 of 2013). The Act provides for the functions, composition, governance, operations and functions of the organization.

1.2.3 Specific Functions of the Kenya Law Reform Commission

The functions of the Commission are set out in Section 6 of the Kenya Law Reform Commission Act (2013), which provides that the Commission shall—

- (a) keep under review all the law and recommend its reform to ensure—
 - (i) that the law conforms to the letter and spirit of the Constitution;
 - (ii) that the law systematically develops in compliance with the values and principles enshrined in the Constitution;
 - (iii) that the law is, among others, consistent, harmonized, just, simple, accessible, modern and cost-effective in application;
 - (iv) the respect for and observance of treaty obligations in relation to international instruments that constitute part of the law of Kenya by virtue of Article 2(5) and (6) of the Constitution;
- (v) keep the public informed of review or proposed reviews of any laws; and
- (vi) keep an updated database of all laws passed and reviewed by Parliament.
- (b) work with the Attorney-General and the Commission for the Implementation of the Constitution (now defunct) in preparing for tabling, in Parliament, the legislation and administrative procedures required to implement the Constitution;
- (c) provide advice, technical assistance and information to the national and county governments with regard to the reform or amendment of a branch of the law;
- (d) upon request or on its own motion, undertake research and comparative studies relating to law reform;
- (e) formulate and implement programmes, plans and actions for the effective reform of laws and administrative procedures at national and county government levels;
- (f) consult and collaborate with State and non-State organs, departments or agencies in the formulation of legislation to give effect to the social, economic and political policies for the time being in force;
- (g) formulate, by means of draft Bills or otherwise, any proposals for reform of national or county government legislation;

- (h) upon request or on its own motion, advise the national or county governments on the review and reform of their legislation;
- (i) undertake public education on matters relating to law reform; and
- (j) perform such other functions as may be prescribed by the Constitution, this Act or any other written law.

1.2.4 Support to county governments

Additionally, section 5 (3) of the County Government Act, 2012, mandates the KLRC to provide technical assistance to county governments in the development or reform of county legislation.

1.3 Vision

"A vibrant agency for responsive law reform"

1.4 Mission

"To facilitate law reform conducive to social, economic and political development through keeping all laws in Kenya under review, ensuring their systematic development and reform in conformity with the Constitution".

1.5 Core Values

To achieve its Vision and Mission, KLRC endeavours to articulate and execute its functions with fidelity to the following core values:

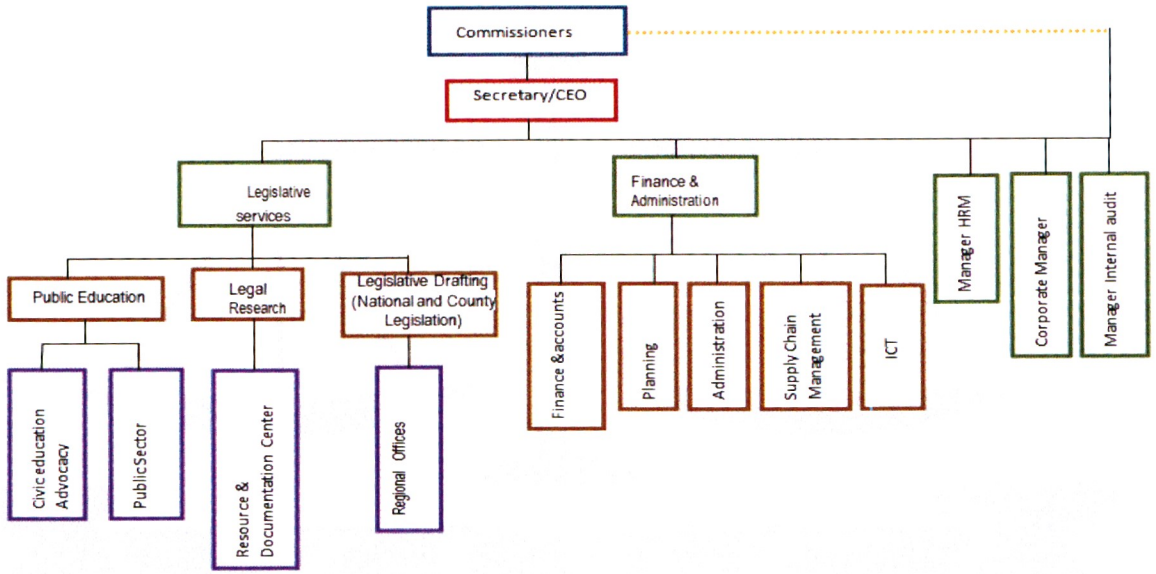
- (i) Integrity;
- (ii) Teamwork;
- (iii) Professionalism;
- (iv) Transparency and Accountability; and
- (v) Courtesy and Equality.

1.6 Inherent Principles and Attributes

KLRC, like other Law Commissions in the Commonwealth jurisdiction, appreciates the fact that a national law reform agency should possess certain distinguishing characteristics that is to say: it should be permanent, authoritative, full-time, independent, generalist, consultative and implementation-minded. The Commission has strived to and continues to hold these ideals as it executes its mandate.

1.7 Structure and Administration of KLRC

At the apex is a policy making organ (Commission) which comprises of Commissioners headed by the Chairperson. The Secretary of the Commission also serves as the Chief Executive Officer and is responsible to the Commission for day-to-day administration. The Commissioners meet at least once every quarter to review projects and programmes of the Commission and provide appropriate direction to the Secretariat. When there is need, Commissioners may meet more frequently. The full organizational structure is captured in the organogram below.



2.0 Introduction

This chapter presents the approach and methods employed by KLRC in the realization of its mandate and vision. It also highlights diverse strategies and best practices used so as to maximize on both its internal and external environments.

2.1 Legislative and Policy Research

KLRC recognized the essence of research in its work and has established a full-fledged Department of Legal Research whose main role is to conduct research on policy, legislative and administrative proposals before technical input. The various types of research that are conducted include: desk reviews, focus group discussions, baseline surveys and legislative audits.

2.2 Targeted Review of Legislation

KLRC took cognizance of the fact that there are several pieces of existing and emerging legislation at both national and county levels that needed review and harmonization to the Constitution. Subsequently, the work could not be done in a single financial year. KLRC therefore prioritized periodic review over a period of five years as contained in its 2018- 2022 Strategic Plan. The targeted legislation in the reporting period were those that were crucial towards the realization of Kenya's *MTEP III* and the Big Four Agenda.

2.3 Stakeholder Participation

KLRC acknowledges that its work involves a multiplicity of players and actors (State and non-State). Similarly, under the Constitution, the overarching theme is that of public participation. KLRC has embraced this spirit in its work and has endeavored to establish various avenues for stakeholder consultation, collaboration and cooperation such as use of public/stakeholder meetings and project committees. KLRC has also been keen on public participation in all its projects and has established engagement and feedback mechanisms.

2.4 Internal Capacity Enhancement

For effective delivery of services, KLRC continued to build its internal capacity. This was achieved by the training of staff in various professional and technical courses such as legislative drafting. Further, staff were sensitized on emerging issues and trends in their areas of expertise by way of refresher courses, seminars and conferences. These efforts continued to put KLRC at a competitive edge and equipped of emerging best practices.

2.5 Public Communication and Outreach

KLRC also focused on improving its public communications and engagement with stakeholders. This was achieved by way of: proactive stakeholder meetings, targeted media engagement such as press brief-

ings, regular updates via social media platforms and the website. KLRC also published and disseminated a number of Information Education and Communication (IEC) materials including: service charters, annual reports, brochures and the Law Reform Newsletter. Further, KLRC participated in various public outreach foras such as: the trade fairs, the Devolution Conference, the County Assembly Legislative Summit, public service weeks, university exhibitions and other symposia. Through these avenues, KLRC shared information, engaged with stakeholders and obtained valuable feedback on its programmes and initiatives.



Outgoing KLRC Chairperson Mr. Mbage Ng'ang'a Receives a delegation from the Nigeria Law Reform Commission

2.6 Strategic Planning and Performance Contracting

KLRC set its goals in the 2018-2022 Strategic Plan (SP), yearly targets and key deliverables under the 2019/2020 Performance Contract (PC) which are aligned to the MTEP III and other government development agenda. The PC enabled KLRC to utilize its resources optimally and strategically towards meeting the set deliverables. The PC was cascaded to departments and individual staff for purposes of account-

ability. Beyond the PC targets, KLRC also developed an annual work plan which was similarly cascaded to departments, units and staff.



A delegate makes an observation during the strategic plan validation workshop in Nairobi

2.7 Periodic Assessments, Evaluation and Reporting

In order to sustain focus on the set goals and targets, KLRC management and staff conducted periodic assessments. This was achieved by regular monitoring supported by activity briefs, monthly reports and quarterly reports which were presented for review at various staff foras. Further, continuous customer satisfaction surveys and evaluation forms were shared at every opportunity to obtain feedback. The information obtained in the assessments/monitoring was key in determining progress and also in reporting to the various agencies under the PC. KLRC further subjected its work to external review and evaluation.

3.0 Introduction

This chapter highlights KLRC's goals, targets and achievements for the financial year 2019/20. The goals are drawn from the 2018-2022 Strategic Plan while the targets are captured in the Performance Contract for the reporting period. The chapter also provides a summary of key achievements and success stories.

3.1 Strategic Goals

KLRC's strategic goals are drawn from the five-year (2018-2022) Strategic Plan (SP). The goals are thematically summarized below:

- (a) Effective Constitutional Implementation;
- (b) Targeted legislation towards the realization of the Development Agenda;
- (c) Strengthened technical assistance to stakeholders (including National and County Governments); and
- (d) Enhanced institutional capacities.

3.2 Effective Constitutional Implementation

Constitutional implementation is an ongoing process. KLRC is required to continually ensure that all law in Kenya is in consonance with the Constitution and that the law is consistent, harmonized, just, simple, accessible, modern and cost-effective in application.

3.2.1 Targets

To facilitate continued and effective implementation of the Constitution,

KLRC aimed to support the development and review of a number of legislation so as to give effect to prevailing social, economic, cultural and political issues in Kenya. The specific pieces of legislation that were targeted included:

- a) Developing Regulations under the Intergovernmental Relations Act;
- b) Developing the Bail and Bond Bill;
- c) Developing Regulations to operationalize the Access to Information Act, 2016; and
- d) Developing the County Public Service Board Bill.

3.2.2 Achievements

KLRC pursuant to its mandate under Clause 5(6)(b) of the Sixth Schedule of the Constitution, continued to develop legislation required to implement the Constitution. KLRC also assisted a number of MDAs with the review and harmonization of their respective legislative frameworks with the Constitution as shown in Appendix 2. Further, KLRC continued receiving status reports from various MDAs on the implementation of the Constitution. In the reporting period, KLRC assisted in the development of the targeted legislation as highlighted below:

a) Drafting Inter Governmental Relations Act (IGRA) Regulations

KLRC participated in consultative meetings with the Inter-Agency Committee and aided in the drafting of regulations. The draft regulations were finalized and presented to the

instructing Ministry awaiting stakeholder validation.

b) Draft Bail and Bond Bill, 2020

KLRC worked closely with the Bail and Bond Implementation Committee and other stakeholders. Revision of the draft Bail and Bond Bill in accordance with instructions from the Bail and Bond Implementation Committee was done in the first and second quarters of the financial year. The Bill was among documents submitted to the Chief Justice and President of the Supreme Court of Kenya.

(c) Access to Information Regulations, 2020

KLRC also supported in the drafting of the Access to Information Regulations, 2020 which have since been submitted to the Commission on Administrative Justice (CAJ) to spearhead further public participation.

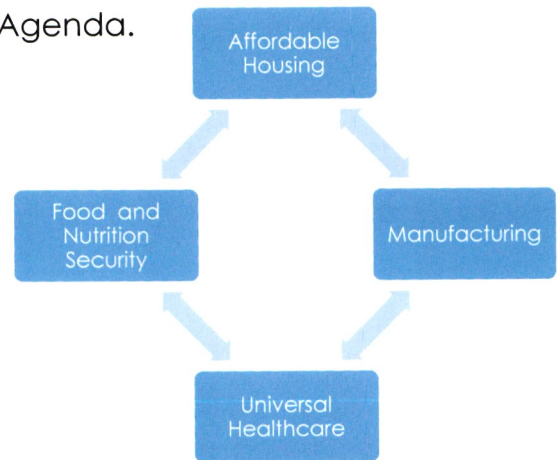
d) County Public Service Board Bill, 2019

KLRC provided support in the development of the County Public Service Board Bill which has been forwarded to the County Public Service Board Forum and the Senate Committee on Labour and Social Welfare.

3.3 Development of Legislation towards the Realization of the Big Four Agenda

In realization of our mission of facilitating law reform conducive to Kenya's social, economic and political development; KLRC contributed and participated in the development of legislation, policy and administrative framework towards realization of Kenya Vision 2030 and the Big Four

Agenda.



3.3.1 Targets

During the financial year 2019/20, KLRC specifically aimed to partner with the relevant MDAs to work on the key legislation below:

- a) Reviewing health related legislation by making proposals for amendment;
- b) Facilitating the development policy on universal healthcare;
- c) Reviewing and making proposals for the amendment to law relating to nutrition;
- d) Finalizing the Slum Upgrading and Prevention Bill, 2019 (upon receipt of stakeholder feedback);
- e) Reviewing and making proposals for amendment to the Employment Act, 2007;
- f) Developing legislation related to conflict of interest; and
- g) Development of the Turkana County Monitoring and Evaluation Bill.

3.3.2 Achievements towards the realization of the Big Four Agenda

KLRC continued to play a major role in developing the legislative framework necessary for the realization of the four pillars in the government's development agenda as follows:

1. Enhanced manufacturing (First Pillar)

KLRC developed the following legislative proposals in support of this pillar:

- (i) Business Laws (Amendment) Bill, 2020;
- (ii) Employment (Amendment) Bill, 2020 ;
- (iii) Insurance Law (Amendment) Bill, 2020;
- (iv) Insolvency (Amendment) Bill, 2020; and
- (v) Land (Electronic Transactions) Regulations, 2020.

2. Food Security and Nutrition (Second Pillar)

Under this pillar, KLRC developed the following legislative proposals:

- (i) Kenya Food and Drug Authority Bill, 2020;
- (ii) Breast Milk Substitute Regulations, 2020;
- (iii) Livestock Bill, 2020;
- (iv) Livestock Regulations; and
- (v) Nyandarua County Agriculture and Livestock Bill, 2020.

3. Universal Health Coverage (Third Pillar)

KLRC developed the following legislative proposals in support of this pillar:

- (i) Draft Social Health Insurance Policy;
- (ii) NHIF (Amendment) Bill, 2020; and
- (iii) Public Health (Prevention, Control and Suppression of Covid-18 Rules, 2020

4. Affordable Housing (Fourth Pillar)

- (i) Slum Upgrading and Prevention Bill, 2020 and
- (ii) National Building Code, 2020.

3.4 Technical Assistance

3.4.1 Targets

KLRC aimed to offer technical assistance to all stakeholders including the National Government Ministries, Departments and Agencies and the county governments. This assistance was in form of development of draft Bills and policies; review of legislation and policies, capacity building and legal research. The following legislative proposals were reviewed or developed:

- a. Supreme Court Act, 2011 ;
- b. Supreme Court Rules, 2019;
- c. Insurance Law (Amendment) Bill, 2020;
- d. Biosafety Appeal Rules, 2019; and
- e. A policy on political parties' primaries.

3.4.2 Achievements

KLRC provided technical assistance to a number of county governments with regard to the reform or amendment of their laws. KLRC also proposed amendments to various laws after receiving reports from the National Council of Law Reporting (NCAJ) on court judgments touching on law reform. In addition, KLRC continued to give advisory opinions to

the Attorney-General, Parliament, MDAs and county governments as shown in Appendix 2. The following additional achievements were realized in respect of technical assistance to National Government MDAs during the reporting period.

a. Draft Supreme Court (Amendment) Bill, 2019

The Draft Supreme Court (Amendment) Bill, 2019 was revised and finalized in accordance with instructions received from the Supreme Court.

b. Supreme Court (Presidential Election Amendment Rules)

KLRC revised the draft Rules in accordance with instructions received and submitted the Supreme Court Rules, 2019 and the Supreme Court (Presidential Election Petition) (Amendment) Rules, 2019 to the Registrar of the Supreme Court.

c. Insurance Law (Amendment) Bill, 2020

KLRC organized Focus Group Discussions with key stakeholders to discuss the preliminary aspects for inclusion into the Bill.

d. Draft Biosafety Appeal Rules

In the reporting period, drafting instructions were received, research was carried out, consultation with stakeholders was carried out and the Rules were drafted.

e. Draft Policy and Bill on Political Parties Primaries

Research and interdepartmental consultations on political parties' primaries were done within the re-

porting period. A Policy was formulated and a Bill drafted to this effect. These were submitted to the Registrar of Political Parties and the relevant Parliamentary Committee.

Milestones

In addition, The Employment (Amendment) Bill, 2019; Conflict of Interest Bill, 2020 and the Turkana County M&E Bill, 2020 were drafted after research and stakeholder input.



Committee on legal, rules and privileges pose for a photo after consultative meeting in Nairobi

3.5 Projects Aligned to SDG's and Sector Performance

For purposes of facilitating the realization of the Sustainable Development Goals (SDGs), KLRC developed the following legislative proposals:

SDG	Relevant legislative proposal
SDG 1: Poverty reduction	- Nyandarua County Social Protection and Assistance Bill, 2020
SDG 2: Promoting Zero Hunger	- Kenya Food and Drug Authority Bill, 2020 - Livestock Bill, 2020 - Livestock Regulations, 2020 - Breast Milk Substitutes Regulations, 2020
SDG 3: Promoting Good Health and well being	- NHIF (Amendment) Bill, 2020 - Public Health (Prevention, Control and Suppression of Covid-19 Rules, 2020 - HIV and AIDS Tribunal (Procedure) Rules
SDG 4: Ensuring Quality Education	- Review of the Kenya Institute of Curriculum Development (KICD) Regulations
SDG 5: Promoting Gender Equality	- National Gender and Equality Commission (Complaints Handling and Procedure) Rules
SDG 6: Provision of Clean Water and Sanitation	- Nyandarua Water and Sanitation Bill, 2020
SDG 7: Provision of clean and affordable energy	- Review of the regulatory framework for Kenya's Nuclear Power Programme
SDG 8: Promoting Decent work and Economic growth	- Employment (Amendment) Bill, 2020 - Labour Institutions (Amendment) Bill, 2020
SDG 9: Promoting industry , innovation and infrastructure	- Intellectual Property Office Bill, 2020 - Insurance (Amendment) Bill, 2020
SDG 10. Ensuring Reduced inequalities	- National Gender and Equality Commission (Equality and Non-Discrimination) Regulations
SDG 11: Promoting Sustainable Cities and Communities	- Nairobi Capital City Bill, 2020 - Slum Upgrading and Prevention Bill, 2020
SDG 12: Promoting Responsible consumption and production	- Biosafety Appeal Rules, 2019

3.6 Public Education on Law Reform in Counties

3.6.1 Targets

KLRC aimed to engage with several county governments in sensitizing them on legislation and other procedures. Specifically, KLRC sought to conduct capacity building on the Guide to the Legislative Process in Kenya and county model laws in the following counties: Uasin Gishu, Elgeyo Marakwet and Nandi. KLRC also aimed to finalize the Protocol on the Publication of County Legislation.

3.6.2 Achievements

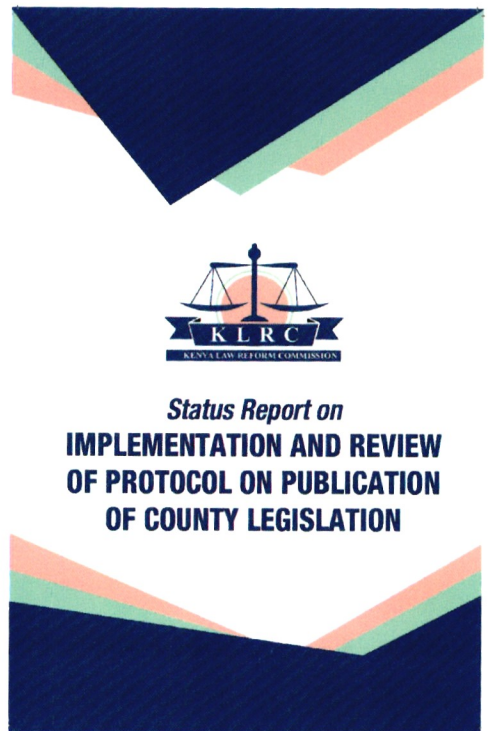
County visits and dissemination of the Guide to the Legislative Process in Kenya were done in the targeted counties. This provided a good opportunity of sharing experiences in policy and law making at the devolved units. In order to facilitate effective and harmonious engagement with county governments, consultations on the status of the protocol were done and a report prepared.



KLRC's Assistant Director, Legislative services hands over a report to Hon. Joshua Kiptoo (the speaker of Nandi County Assembly).



KLRC team at the Uasin Gishu County Assembly during a sensitization forum on the Protocol on Publication of County Legislation



3.7 Research and Development

3.7.1 Targets

In this reporting period, KRLC purposed to undertake research on access to justice in Magistrates courts on civil and criminal cases. Further, KLRC aimed to research on the legal and institutional framework of county partnerships in Kenya.

3.7.2 Achievements

The research design was identified, consultative meetings were held and data collection tools prepared, reviewed and revised for an upgrade. KLRC continued to undertake research on access to justice in Magistrates courts in collaboration with New York University, Abu Dhabi and the Judiciary. Phase I, Phase II were completed and Phase III initiated. The first draft of the report on the legal and institutional framework of county partnerships in Kenya was also completed.

3.8 Ease of Doing Business

3.8.1 Targets

KLRC aimed to partner with the relevant government agencies to create a conducive environment to facilitate ease of doing business and to continuously improve Kenya's ranking in terms of ease of doing business. KLRC also planned to prepare and submit a report on the ease of doing business to the World Bank.

3.8.2 Achievements relating to Ease of Doing Business

During the 2019/2020 financial year, KLRC prepared the Business Laws (Amendment) Bill, 2020 which was enacted by Parliament. This Act is primarily intended to improve the ease of doing business in Kenya by digitizing business transactions, reducing the formalities and documents required to complete transactions and reducing the cost of starting business in Kenya.

KLRC continued to implement the recommendations issued by the World Bank on ease of doing business by proposing reforms on various indicators including starting businesses, dealing with construction permits, registering property, getting credit, paying taxes, trading across borders, enforcing contracts, employing workers, and resolving insolvency.

3.9 Implementation of Presidential Directives

3.9.1 Targets

During the financial year 2019/20, KLRC planned to implement all presidential directives, circulars and Executive orders issued relevant to its mandate and operations.

3.9.2 Achievements

KRLC fully implemented directives on payment of pending bills and submitted a protocols report on payment of pending bills to the National Treasury and OAG. Further, the COVID-19 health measures were also implemented.

3.10 Enhanced Institutional Capacities

3.10.1 Targets

KLRC aimed at building its institutional capacity for effective and efficient service delivery. A number of initiatives were targeted including: competency development, improving work environment and enhancing staff welfare. Further, KLRC aimed to enhance: resolution of public complaints, adoption of service delivery innovations, communication and access to information and effective utilization of funds.

3.10.2 Achievements

In the reporting period, results were realized in the following key areas:

(i) Competency Development and HR Policies

KLRC enhanced its internal capacity to deliver on its mandate by training some of its officers in legislative drafting, legal research and various administrative courses. The officers were equipped with requisite knowledge in their areas of expertise and assignment. This initiative has also deepened peer to peer learning and exchange of knowledge. For effective service delivery, KLRC also reviewed its Organization Structure, the Human Resource Manual and the Career Progression Guidelines which await commissioners' approval. These tools have been domesticated from the Public Service Commission (PSC) with key highlights on Diversity, Training and Bonding, Reward and Sanctions, Discipline and Performance management

(ii) Improved Staff Welfare

KLRC improved its staff welfare through a number of initiatives

among them: enhancing staff safety and security especially during the COVID-19 pandemic. In this regard, KLRC purchased masks and sanitizers for staff and also organized transport for the staff to and from the office to minimize the risk of transmission.

(iii) Resolution of Public Complaints

During the financial year 2019/20, KLRC sought to promptly address and resolve all public complaints referred to it directly or channeled through the Commission on Administrative Justice (CAJ). KLRC achieved this by retraining KLRC's Public Complaints Committee on best practices and complaint handling. The Committee developed an updated service charter which was also translated into Kiswahili. In compliance with the targets and standards, KLRC received a certificate from CAJ at the end of the reporting period.

(iv) Application of service delivery innovations

In the financial year 2019/20, KLRC continued to adopt use of technology in line with the government's National ICT Policy and the Vision 2030. Consequently, most services and operations were automated. To enhance connectivity and technology use, internet within its premises was made available for all staff and other stakeholders who visited the KLRC premises. In the reporting period, KLRC was also able to reengineer its payment processes by implementing internet banking. Further, KLRC initiated the use of open source meeting platforms such as Zoom and Google Meet to ensure continuity of service delivery during the pandemic.

(v) Communication and Access to Information

In the reporting period, KLRC continued to proactively implement KLRC's Communications Strategy and Policy. Some of the initiatives conducted included proactive media engagement through press releases and advisories, publication and dissemination of over 1500 IEC materials including brochures and annual reports. Particularly, KLRC published and disseminated over 500 copies of the Law Reform Newsletter to key stakeholders. In the reporting period, over 20 applications for access to information were processed even as proactive disclosure mechanisms were enhanced.



Former chairperson Mr. Ng'ang'a responding to journalists' questions in Nairobi

(vi) Effective utilization of funds

During the reporting period 2019/20, KLRC effectively utilized its allocation of Kenya Shillings, Two Hundred and Ninety Eight Million, Four Hundred and Forty Thousand (Kshs. 298,440,000) in programs and projects for which they were appropriated and planned. KLRC also ensured that all its financial obligations were met and sustained bills below 1% of the total budget at the end of the financial year. Further KLRC allocated 40% of the funds to the locally produced goods and services and another 30% of the funds to persons with disability, women and youths. This was in line with the Public Finance Management Act, related regulations and circulars from the National Treasury.



Former KLRC chairman and staff pose for a photo during a public exhibition in Meru County



4.1 Introduction

This chapter presents a synopsis of challenges that KLRC faced in the reporting period. General and specific recommendations have been made for improved service delivery.

4.1.1 Operational Challenges

Among the operational challenges experienced at KLRC included: some delay in the replacement of full-time commissioners and the chairperson, inadequate staff owing to retirement or exits and budget cuts that affected key programmatic work.

Recommendations:

- a) KLRC management to liaise with the office of the Attorney-General and the Public Service Commission for the fast-tracking in the appointment of KLRC chairperson and commissioners;
- b) KLRC management to proactively plan to mentor staff and replace staff who are either retired or who have exited from KLRC's employment;
- c) KLRC to develop mechanisms and strategies for effective staff attraction, motivation as well as retention; and
- d) KLRC to proactively engage with Parliament, the National Treasury and other development partners for additional funding in the underfunded programmatic areas.

4.1.2 Inadequate notice for urgent and emerging work

While KLRC continued to deliver on its scheduled work; there were often requests or instructions that were presented on short notice and owing

to their urgency; they were given priority necessitating some delays and time conflicts.

Recommendations:

- a) MDAs at both levels of government to proactively engage KLRC for mutually convenient timelines prior to the issuance work; and
- b) KLRC to consultatively develop and share its annual work-plans and project calendars with the relevant MCDAs.

4.1.3 Duplication of Law Reform initiatives

Law reform involves a multiplicity of players and processes whose interaction is time-consuming, tedious, laborious and costly. Sometimes there were different agencies doing similar work for instance public participation on legislation. This occasioned fatigue on the part of the stakeholders and resulted in inadequate clarity and participation.

Recommendations:

- a) KLRC to liaise with the Office of the Attorney-General and Department of Justice and other stakeholders for the establishment of a multi-stakeholder standing committee comprising of relevant players in law reform work such as the Parliament, Judiciary, Executive at both levels of Government (National and County) so as to achieve synergy on law reform work;
- b) The Office of the Attorney-General and Department of Justice and KLRC to proactively engage MCDAs

and disseminate guidelines for anticipated and planned law reform activities; and

c) KLRC to proactively sensitize the stakeholders on its mandate so as to forestall duplication of processes.

4.1.4 High turnover of personnel amongst stakeholders

Whereas KLRC boosted its efforts to build capacity among stakeholders for effective law reform work, staff turnover in the institutions occasioned a drawback on the gains already made such as the need to retrain newly appointed officers of MCDAs at both levels of government.

Recommendations:

a) KLRC to engage with Parliament on allocation of additional resources to facilitate annual training and refresher courses for staff at the MDAs and county governments;

b) MDAs at both levels of government to be encouraged to allocate resources for improving the technical capacity of their officers especially those who have not undergone training; and

c) KLRC to engage identified development partners to support KLRC and other agencies to build the capacity of relevant law reform players.

4.1.5 Inadequate appreciation of KLRC's role amongst stakeholders

KLRC was established by the KLRC Act, 2013 and the stakeholders are yet to fully understand its mandate. While it serves as the primary agency for law reform in Kenya; it does not

always influence the final product of its work. For instance, a Bill developed by KLRC will have to undergo public participation and the normal parliamentary approval process.

As such, the outcome may not be what was initially intended or preferred by KLRC.

Recommendations:

a) KLRC to facilitate effective stakeholder engagement for an in-depth appreciation of its role in the law reform chain; and

b) KLRC and other law reform stakeholders to jointly and proactively share information on their individual roles and updates on reform projects.

4.1.6 Outbreak of COVID-19

The outbreak of COVID-19 in Kenya in March 2020 had an effect on the programmatic work of KLRC. Owing to the Ministry of Health Guidelines and other measures to contain the pandemic, KLRC staff had to scale down on face-to-face engagements while embracing social distancing rules during interactions with stakeholders. KLRC also adopted information technology and this led to some delays in service delivery.

Recommendations

a) Where applicable, KLRC to fully embrace technology in the delivery of its services; and

b) KLRC to sensitize staff and stakeholders on the alternative virtual mechanisms for service delivery.

4.1.7 Inadequate presence in the counties

KLRC serves several stakeholders including both the National and County Governments who are spread across the country. While this is the case, KLRC has offices in only Nairobi City County and is yet to devolve to other areas and counties for effective service delivery.

Recommendations:

- a) KLRC to proactively undertake proactive initiatives so as to meet the demand for its services at the counties; and
- b) KLRC to develop and implement modalities of devolving some of its services and offices to regions and counties.

4.1.8 Inadequate Financial Resources

KLRC has a broad mandate and many stakeholders including National and County Governments who require its direct/indirect technical support. However, its budget allocation has been dwindling in the recent past making it challenging to meet all the stakeholders' expectations and the full implementation of its core programmes.

Recommendation:

- a) The relevant stakeholders such as Parliament and National Treasury to consider allocation of additional resources to KLRC owing to its unique and broad mandate.

5.1 Introduction

This chapter presents key lessons learnt by KLRC in the financial year 2019/2020 and the way forward.

5.2 The essence of public participation

Public participation is one of the critical national value and principal of governance enshrined in article 10 of the Constitution. KLRC has learnt over time that public participation can lead to meaningful, informed and public owned law reform.

5.3 The need for adequate preparation for emergencies

KLRC noted that work can stall in the presence of pandemics and other emergencies. It is therefore important for agencies to adequately prepare for emergencies by instituting advance contingency and mitigating measures so as not to affect service delivery.

5.4 The need to embrace information technology in service delivery

KLRC also noted that ICT can leverage an institution's geographical coverage, presence and even the delivery of real time services. MDAs need therefore to fully embrace ICTs in service delivery where applicable.

5.5 Adaptability to change

As change is inevitable, KLRC further noted that MDAs need to ensure that their staff have the requisite know-how to adapt to new ways of working where required. Besides the technical skills, for example ICT, it is critical for staff to have the mental agility and preparedness to be able

to adapt to working in a different environment from what they are used to.

5.5 Conclusion

This report captured KLRC's targets, the approach and achievements in the financial year 2019/2020. It has also highlighted the challenges encountered and the recommendations to address the challenges. With notable milestones and success stories, KLRC is pleased to be at your service in facilitating law reform conducive to social, economic and political development of Kenya.

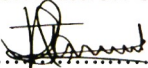
Appendix 1: Financial Statements

a) STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30th June 2020

	Note	2019-2020	2018-2019
		Kshs.	Kshs.
Government Grants –	6	298,440,000	305,460,200
Revenue from Exchange Transactions			
Other Income	7	42,000	-
Total Revenue		<u>298,482,000</u>	<u>305,460,200</u>
Expenses			
Employee Costs (Secretariat)	8	150,547,247	193,135,924
Remuneration of Commissioners	9	2,018,728	15,553,292
Contractual Employees	10	2,487,326	2,038,679
General Expenses	11	85,590,995	80,816,741
Repair and Maintenance	12	3,709,304	4,694,234
Depreciation Expenses	13	4,833,895	5,822,649
Amortization Expenses	14	1,078,800	-
Total Expenditure		<u>250,266,295</u>	<u>302,061,519</u>
Surplus/deficit		<u>48,215,704</u>	<u>3,398,681</u>

Approval of the Financial Statements

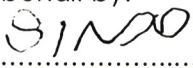
The Kenya Law Reform Commission's Financial Statements were approved by the Commission on **31st August 2020** and signed on its behalf by:


.....

CPA. John Kariuki
EBS

ICPAK No.

HEAD OF ACCOUNTING UNIT


.....

Hon. Josephine Sinyo,

Ag. SECRETARY/CEO

b) STATEMENT OF FINANCIAL POSITION

As at 30th June 2020

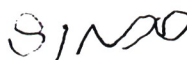
	Note	2019-2020 Kshs.	2018-2019 Kshs.
ASSETS			
Non-Current Assets			
Property, Plant & Equipment	13	17,125,171	20,252,266
Intangible Asset	14	2,772,200	3,596,000
Total Non-Current Assets		19,897,371	23,848,266
Current Assets			
Cash and Cash Equivalents	15	50,072,979	409,453
Inventory	16	5,079,079	3,086,716
Receivables from Exchange Transactions.	18	8,551,412	8,634,062
Total Current Assets		63,703,470	12,130,231
Total Assets		83,600,841	35,978,497
LIABILITIES			
Current Liabilities			
Trade & Other Payables from Exchange Transactions	17	-	593,360
Total Liabilities		-	593,360
Net Assets			
Accumulated Surplus		35,385,137	31,986,456
Surplus for the year		48,215,704	3,398,681
Total Net Assets & Liabilities		83,600,841	35,978,497

Approval of the Financial Statements

The Kenya Law Reform Commission's Financial Statements were approved by the Commission on **31st August 2020** and signed on its behalf by:



CPA. John Kariuki
ICPAK No.21633
HEAD OF ACCOUNTS



Hon. Josephine Sinyo, EBS
Ag. SECRETARY/CEO

c) STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 30th June 2020

STATEMENT OF CHANGES IN NET ASSETS		
FOR THE YEAR ENDED 30th June 2020		
	Accumulated Surplus	TOTAL
Balance as at 1st July 2014	-	-
surplus for the year	16,436,037	16,436,037
As at 30th June 2015	16,436,037	16,436,037
As at 1st July 2015	16,436,037	16,436,037
surplus for the year	7,577,781	7,577,781
Prior adjustment: Restatement of Opening balances	-	-
	20,000,000	20,000,000
As at 30th June 2016	4,013,818	4,013,818
As at 1st July 2016	4,013,818	4,013,818
Surplus for the Year	5,631,232	5,631,232
As at 30th June 2017	9,645,050	9,645,050
As at 1st July 2017	9,645,050	9,645,050
Surplus for the year	22,341,406	22,341,406
As at June 30, 2018	31,986,456	31,986,456
As at 1st July 2018	31,986,456	31,986,456
Surplus for the year	3,398,681	3,398,681
As at June 30, 2019	35,385,137	35,385,137
As at 1st July 2019	35,385,137	35,385,137
Surplus for the Year	48,215,704	48,215,704
As at June 30, 2020	83,600,841	83,600,841

d) STATEMENT OF CASHFLOWS FOR THE YEAR ENDED 30th June 2020

	Note	2019- 2020	2018- 2019
Cash flow From Operating Surplus for the year before tax		48,215,704	3,398,681
Adjusted for: Depreciation	13	4,833,895	5,822,649
Adjusted for: Amortization	14	1,078,800	-
Increase/Decrease in inventory	16	(1,992,363)	(1,540,014)
Increase/Decrease in receivable	18	82,650	(1,039,922)
Increase/Decrease in Payables	17	(593,360)	593,360
Net cash flows from operating activities		51,625,326	7,234,754
Cash flow from investment activities			
Purchase of property, plant and equipment	13	(1,706,800)	(8,982,689)
Purchase Of Intangible Assets	14	(205,000)	(593,360)
Net cash flow from investment activities		(1,961,800)	(9,576,049)
Cash flow from Investing Activities		49,663,526	(2,341,295)
Cash and Cash equivalent as at the beginning of the year		409,453	2,750,748
Cash and Cash equivalent as at the end of the year		50,072,979	409,453

Appendix 2: Draft legislation and policies that KLRC worked on in the FY 2019-2020

	A. BILLS DEVELOPED OR REVIEWED	STATUS
1.	Kenya Food and Drug Authority Bill, 2020	Completed
2.	NHIF (Amendment) Bill, 2020	Completed
3.	Slum Upgrading and Prevention Bill, 2020	Completed
4.	Conflict of Interest Bill, 2020	Completed
5.	Bail and Bond Bill, 2020	Completed
6.	Huduma Bill, 2020	Completed
7.	Intellectual Property Office Bill, 2020	Completed
8.	Business Laws (Amendment) Bill, 2020	Completed
9.	Legal Sector Laws (Amendment) Bill, 2020	Completed
10.	Political Parties Primaries Bill, 2020	Completed
11.	Referendum Bill, 2020	Completed
12.	Statute Law Miscellaneous Bill, 2020	Completed
13.	Review of the Capital Markets Financial Law	Completed
14.	County Public Service Board Bill, 2019	Completed
15.	Supreme Court (Amendment) Bill, 2019	Completed
16.	Employment (Amendment) Bill, 2019	Completed
17.	Internal Auditors Bill, 2019	Completed
18.	Labour Institutions (Amendment) Bill, 2020	Completed
19.	Sacco Societies (Amendment) Bill, 2020	Completed
20.	Lifestyle Audit Bill, 2019	Completed
21.	Anti-Doping (Amendment) Bill, 2020	Ongoing
22.	National Film Bill, 2020	Ongoing
23.	Livestock Bill, 2020	Ongoing
24.	Insurance Law (Amendment) Bill, 2020	Ongoing
25.	Privatisation (Amendment) Bill, 2020	Ongoing
26.	Review of the Power of Mercy Advisory Committee Act	Ongoing
27.	Review of the Persons Deprived of Liberty Act	Ongoing
28.	Review of the Power of Mercy Advisory Committee Act	Ongoing
29.	Review of Nuclear Energy Act	Ongoing
	B. SUBSIDIARY LEGISLATION DEVELOPED OR REVIEWED	STATUS

30.	Intergovernmental Relations Regulations, 2020	Completed
31.	Data Protection (Civil Registration) Regulations, 2020	Completed
32.	Registration of Persons (National Integrated Identity Management Systems) Regulations, 2020	Completed
33.	Breast Milk Substitute Regulations, 2020	Completed
34.	Public Finance Management (COVID-19 Emergency Response Fund) Regulations, 2020	Completed
35.	Public Health (Prevention, Control and Suppression of Covid-19) Rules, 2020	Completed
36.	County Governments Regulations, 2020	Completed
37.	Access to Information Regulations, 2020	Completed
38.	Huduma Namba Regulations, 2020	Completed
39.	Data Protection (Civil Registration) Regulations, 2020	Completed
40.	Education Appeals Tribunal Rules, 2020	Completed
41.	National Gender and Equality Commission (Complaints Handling and Procedure) Rules, 2020	Completed
42.	HIV and AIDS Tribunal (Procedure) Rules, 2020	Completed
43.	Land Registration (Electronic Transactions) Regulations, 2020	Completed
44.	Livestock Regulations, 2020	Ongoing
45.	Anti-Doping Rules, 2020	Ongoing
46.	Supreme Court Rules, 2019	Completed
47.	Supreme Court (Presidential Election Petition) (Amendment) Rules, 2019	Completed
48.	Biosafety Appeal Rules, 2019	Completed
49.	Insolvency (Amendment) Bill, 2019	Completed
50.	Capital Markets (Commodities Exchange) Regulations 2019	Completed
51.	Legal Education Appeals Tribunal (Procedure) Rules, 2019	Completed
52.	Persons with Disabilities (Amendment) Regulations, 2019	Completed
53.	Communications and Multimedia Appeals Tribunal Rules, 2019	Completed
54.	National Youth Service Regulations, 2019	Completed
	C. COUNTY BILLS DEVELOPED OR REVIEWED	STATUS
55.	Turkana County Monitoring and Evaluation Bill, 2020	Completed
56.	Nyandarua Trade Bill, 2020	Completed
57.	Nyandarua County Revenue Administration Bill, 2020	Completed
58.	Nyandarua County Social Protection and Assistance Bill,	Completed

	2020	
59.	Nyandarua Water and Sanitation Services Bill, 2020	Completed
60.	Nyandarua County Agriculture and Livestock Revolving Fund Bill, 2019	Completed
61.	Busia County Public Participation Bill, 2020	Completed
62.	Isiolo County Disaster Risk Management Bill, 2020	Ongoing
63.	Kajiado Land Use and Planning Bill, 2020	Ongoing
64.	Lamu County Public Participation Bill, 2020	Ongoing
65.	Nairobi County Trade and Markets Bill, 2020	Ongoing
66.	Review of the Nairobi County Alcoholic Drink Control Act	Ongoing
67.	Nairobi City County Betting Lotteries and Gaming Bill, 2019	Completed
68.	Nairobi County Revenue Administration Bill, 2019	Completed
	D. COUNTY SUBSIDIARY LEGISLATION DEVELOPED OR REVIEWED	STATUS
69.	Nairobi City County Betting, Lotteries and Gaming (Licensing) Regulations, 2019	Completed
	E. LEGAL AUDITS	STATUS
70.	Legal and Compliance Audit of the Kenya School of Government	Completed
	F. POLICIES REVIEWED (NATIONAL)	STATUS
71.	National Building Code, 2020	Completed
72.	National Correctional Services Policy, 2020	Ongoing
73.	National Film Policy, 2020	Ongoing
74.	National Devolution Policy, 2020	Ongoing
75.	Political Parties Primaries Policy, 2019	Completed
76.	Social Health Insurance Policy, 2019	Completed
	G. GUIDELINES DEVELOPED OR REVIEWED	STATUS
77.	County Legislation Protocol	Completed
78.	Implementation Framework on the Audit of the National and County Legislation	Completed

H. POLICIES REVIEWED (COUNTY)		STATUS
79.	County Solid Waste Management Model Policy	Ongoing
80.	Isiolo County Disaster Management Policy	Ongoing
81.	Samburu County Anti-Beading Policy	Ongoing
82.	Samburu County Gender Policy	Ongoing
83.	Lamu County Public Participation Policy	Ongoing
84.	Nairobi City County Trade Policy	Ongoing
I. RESEARCH		STATUS
85.	Research on the Legal and Institutional Framework of County Partnerships in Kenya	Completed
86.	Review of the Protocol on Publication of County Legislation	Completed
87.	Development of the World Bank Ease of Doing Business Report	Completed
88.	Research on Access to Justice in Magistrates' Courts	Ongoing
89.	Research on the necessary policy, institutional and legal framework necessary for the adoption of a penalty and fee units system in Kenya	Ongoing
90.	Research on innovative financing for Kenyan cities	Ongoing

*'Completed' refers to draft legislation or policy finalized by KLRC and submitted either to the Attorney-General, an instructing MDA or a county government.

Appendix 3: Administration of the Commission

Commissioners

The former Commissioners (whose terms already expired at the beginning of the reporting FY) were:

1. Mbage Ng'ang`a – Chairperson (full-time)
2. Doreen Muthaura – Vice-Chairperson (full-time)
3. Njoki Kahiga, OGW – Commissioner (full-time)
4. Mary Wairagu – Commissioner (*ex officio*)
5. Apollo Mboya – Commissioner (part-time)
6. Ruth Kirwa – Commissioner (part-time)
7. Linda Murila – Commissioner (*ex-officio*)
8. Joash Dache, MBS – Secretary/CEO

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