

Annual Report

2011/12



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Kenya National Commission on Human Rights

ANNUAL REPORT 2011/2012

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**KENYA NATIONAL COMMISSION ON
HUMAN RIGHTS (KNCHR)**

TABLE OF CONTENTS

Table of Contents	i
Foward From the Chairperson	iv
Secretary's Message	vi
Executive Summary	vii
1.0: INTRODUCTION – THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS.....	1
1.1.0 Overview of the Kenya National Commission on Human Rights.....	1
1.2.0 Mandate and Functions of the KNCHR.....	2
1.3.0 Strategic Direction for the Financial Year 2011/2012	3
2.0: KEY RESULT AREA 1- REDUCTION OF SYSTEMIC HUMAN RIGHTS VIOLATIONS.....	4
2.1.0 Processing Public Complaints on Human Rights Violations.....	4
2.2.0 Investigations on Human Rights Violations.....	6
2.3.0 Enhancing Respect and Adherence to Human Rights among Non-State Actors - Business and Human Rights.....	12
2.4.0 Transitional Justice.....	13
2.5.0 Engagements on the International Criminal Court (ICC) Proceedings.....	15
2.6.0 Challenges on Reduction of Systemic Human Rights Violations.....	15
3.0 KEY RESULT AREA 2 - MAINSTREAMING HUMAN RIGHTS IN THE IMPLEMENTATION OF THE CONSTITUTION	17
3.1.0 Infusion of Human Rights in Policy and Legislation.....	17
3.2.0 Research and Dissemination of the State of Human Rights Report.....	18
3.3.0 Preparation of Occasional Reports.....	19
3.4.0 Coordination of National Human Rights Policy and Action Plan.....	19
3.5.0 Reduction of Human Rights Violations by State Agencies through Institutional Reforms.....	19
3.6.0 Challenges on Mainstreaming Human Rights in Implementation of the Constitution.....	24
4.0: KEY RESULT AREA 3 - INCREASED KNOWLEDGE AND PRACTICES OF HUMAN RIGHTS PRINCIPLES AND STANDARDS IN PUBLIC AND PRIVATE SPHERES	26
4.1.0 Development and Dissemination of IEC Materials.....	26
Media and Publicity.....	27
4.3.0 Peace Building and National Integration	27
4.4.0 Infusion of the Human Rights Based Approach (HRBA) in the Public Sector	27
4.5.0 Advocacy on Increased Ratification and Domestication of International and Regional Treaties and Standards.....	29
4.6.0 Enhanced Respect of Human Rights Standards by Traditional Justice Systems.....	30
4.7.0 Increased Public Awareness on ECOSOC Rights	31
4.8.0 Protection and Promotion of the Rights of Special Groups	31
4.9.0 Cross Cutting Issues of Vulnerability	37
4.10.0 Challenges and Recommendations on Infusion of Human Rights Practices and Principles in Public and Private Spheres.....	39
5.0 KEY RESULT AREA 4 - ORGANIZATIONAL GROWTH AND DEVELOPMENT	41
5.1.0 Institutional Strengthening on Information and Communication and Technology (ICT)	41
5.2.0 Institutional Strengthening on Monitoring and Evaluation System	42
5.3.0 Human Resource and Administration	43
5.4.0 Public Affairs and Communication	43
5.5.0 Challenges and Recommendations on Organizational Growth and Development	43
6.0 LESSONS, CHALLENGES, RECOMMENDATIONS AND CONCLUSIONS.....	45
6.1.0 Lessons Learnt.....	45
6.2.0 Overall Challenges.....	45
6.3.0 Overall Recommendations	46
6.4.0 Opportunities	47
6.5.0 Conclusions.....	47
7.0 FINANCIAL REPORT	49

LIST OF TABLES

Table 1	Synopsis of Public Complaints Received in the year 2011-2012	5
Table 2	Closed Files during the period 1st July 2011 – 29th June 2012	10
Table 3	TJRC Public Hearings in which KNCHR Facilitated Victim Groups Participation	14
Table 4	Daily Average Prisoners Population, Accommodation Capacity and Congestion Percentage	22
Table 5	Percentage Share of Remands and Convicted Prisoners from Daily Average Prisoners Population	22

LIST OF ACRONYMS

CAJ	Commission on Administrative Justice
CBO	Community Based Organization
CIPK	Council of Imams and Preachers of Kenya
CIC	Commission on Implementation of the Constitution
CJPC	Catholic Peace and Justice Centre
CRPD	Convention on Rights of People with Disability
CSO	Civil Society Organization
CSOs	Civil Society Organizations
DCIC	Disability Caucus for the Implementation of the Constitution
DPP	Director of Public Prosecutions
FIDA	Federation of Kenya Women Lawyers
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GoK	Government of Kenya
HRBA	Human Rights Based Approach
HRC	Human Rights Council
ICC	International Criminal Court
ICJ	International Commission of Jurists, Kenya Chapter
IEBC	Independent Electoral and Boundaries Commission
IHRB	Institute for Human Rights and Business
IMLU	Independent Medico- Legal Unit
IPCRM	Integrated Public Complaints Referral Mechanism
IPOA	Independent Police Oversight Authority
KHRC	Kenya Human Rights Commission
KMJA	Kenya Magistrates and Judges Association
KNCHR	Kenya National Commission for Human Rights
KNHREC	Kenya National Human Rights and Equality Commission
KPS	Kenya Prison Service
KUDHEIHA	Kenya Union of Domestic, Hotels, Educational Institutions and Allied Workers
LAPPSET	Lamu-Port-South Sudan Ethiopia Transport (LAPSSET)
LSK	Law Society of Kenya
LSK	The Law Society of Kenya
MOJNCCA	Ministry of Justice, National Cohesion, and Constitutional Affairs
MTP	Medium Term Plan
MUHURI	Muslim Human Rights
NCAJ	National Council on the Administration of Justice
NGEC	National, Gender and Equality Commission
NHIF	National Hospital Insurance Fund
NHRI	National Human Rights Institution
NPS	National Police Service
NPSC	National Police Service Commission
NSSF	National Social Security Fund
OHCHR	Office of the High Commissioner for Human Rights
PWGID	Protection Working Group on Internal Displacement
RRM	Rapid Response Mission
SMRTP	The Standard Minimum Rules on Treatment of Prisoners
TJRC	Truth, Justice and Reconciliation Commission
UHRC	Uganda Human Rights Commission
WGPR	Working Group on Police Reforms

FOREWORD BY THE CHAIRPERSON



The period under review marks close to 2 years since Kenyans unequivocally opened a new chapter in the country's democratic history by adopting a constitution upon which a nation based on the values of good governance, human rights, equality, freedom, democracy, social justice and the rule of law, would be built and nurtured.

With the pomp, glamour and celebration that marked the promulgation of the Constitution a distant echo, Kenyans have now come face to face with the stark reality that adoption of the Constitution was not the end, but rather, that the long arduous task of implementing the constitution has just begun and there is a lot more that needs to be done. The processes of legislative, institutional and other reforms, together with accountability particularly for historical injustices and the 2007/8 Post Election Violence have taken centre-stage during the period under review.

In this regard, a number of institutions that are crucial to the realization of human rights have been created. To begin with, the Kenya National Human Rights and Equality Commission established under Article 59 of the Constitution has been reconstituted into 3 successor Commissions as provided for under Article 59(4). The Commission on Administrative Justice (CAJ) was created with the core mandate of enforcing the right to fair administrative action; the National Gender and Equality Commission (NGEC) with the non discrimination and gender equity mandate, and the Kenya National Commission on Human Rights (KNCHR) vested with the overall human rights mandate.

Other relevant institutions that have been created include the Independent Police Oversight Authority (IPOA), the National Police Service Commission (NPSC), and the Ethics and Anti-Corruption Commission EACC. It is anticipated that these Commissions will function to protect the sovereignty of Kenyans as articulated in article 249 of the Constitution of Kenya.

Key legislation has been passed to implement the constitution. Some of the most significant laws already assented to include: The Land Acts; Leadership and Integrity Act, National Police Service Act and the County Government Act. Parliament has not yet finalized enactment of all required legislation for implementation of the constitution as set out in the Constitution, and several bills are still pending assent. The Commission observes that there is need for Parliament to consider the quality of legislation being passed and not merely focus on churning out laws.

An efficient and independent judicial system is essential in any democratic society. For the first time in Kenya, the Judiciary has blazed the trail in reforming itself and has so far undertaken a number of measures aimed at restoring public trust and confidence in the institution. Some of the key reforms include vetting of judicial officers, recruitment of additional judicial officers in a transparent manner based on merit.

Reforms within the Police service have majorly stalled and need to be jump started as a matter of urgency. The enactment of new legislation: National Police Service Act; Independent Police Oversight Act and National Police Service Commission Act has established the foundation for such reforms. Some of the major changes anticipated are the vetting of police officers and restructuring of the various police formations under a single command. We observe that it is imperative to ensure that the highest standards are met in the vetting and selection of the new heads of police-the Inspector General of Police (IGP) and Deputy Inspector Generals of Police (DIGP).

The period under review has had numerous challenges as well. One major concern is the rise in cases of insecurity taking the forms of suspected terrorist acts, mass civilian unrest or ethnic related violence. These incidents have caused tension and uncertainty among Kenyans bearing in mind that the General elections are just around the corner. It presents a worrying trend in which violence and criminality peak during election years, thereby compromising national security, human rights and Kenya's competitiveness as a regional economic hub. In this regard, the Commission strongly urges the government to take up well coordinated and well thought out measures to guarantee the security of its citizens.

As this year comes to a close, we wish to thank all those who have made the work of the Commission possible—firstly to the people of Kenya, without whose mandate and confidence our work would be negated; to the Government of Kenya, for availing the resources necessary for the seamless functioning of the Commission; to our development partners for their support, and to our other partners in civil society, for being our conscience and providing support as and when called upon.

Lastly, the Commission reaffirms its commitment to ensure the implementation of the new constitution and most importantly, to ensure protection and promotion of human rights in Kenya.



Anne Munyiva Kyalo-Ngugi
Acting Chairperson

SECRETARY'S MESSAGE



KNCHR is on its final leg of its 2nd strategic plan, one that has effectively guided the secretariat's work through the four year period thus far. The strides taken to enhance the promotion and protection of human rights under the strategy are lessons the Commission borrows to sharpen its focus as it continues to implement its mandate. This 9th Annual report documents progressive efforts by the Commission, having been setup as a constitutional body in August 2011. In operationalizing Article 59 of the Constitution, Parliament restructured the Kenya National Human Rights and Equality Commission and established 3 commissions namely the Commission on Administrative Justice, the National Gender and Equality Commission and the Kenya National Commission of Human Rights Act. Under Section 8 of its constitutive Act the Commission is required to work with the National Gender and Equality Commission and the Commission on Administrative Justice to ensure efficiency, effectiveness and complementarity in their activities and to establish mechanisms for referrals and collaboration

The Commission was actively involved in various interventions to influence reforms in critical institutions in the country and we are pleased to note efforts being put in place by the Government to inculcate the respect of human rights in public service delivery. It is hoped that this trend will continue and that gradually there shall be eradication of all forms of injustice and commitment to good governance and respect for the rule of law. The commission in its programming during the year made efforts to exploit the opportunities presented by the new constitution. Finding new ways of engaging with these opportunities was sometimes challenging but also exciting. Most outstanding of such opportunities is the constitutional recognition of economic, social and cultural rights. It is evident now that implementation of the Constitution will require extra vigilance on the part of all stakeholders as the past year has evidenced the coalescing of strong opposition against the spirit and letter of the Constitution.

During the period, the commission had two keynote engagements. Firstly, there was the reviewing of bills to support ongoing legislative enactments in the implementation of the constitution. The review of bills is done as part of the commission's advisory mandate, to ensure that bills have relevant human rights principles before they are tabled in parliament. A total of 23 bills were reviewed during the year from which same number of advisories was issued. The commission is thus happy with the various legislative advancements that went into addressing key human rights concerns in the country such as land, insecurity, political parties' regulations, among others. The commission is confident that these endeavors will realize progress towards taming rampant impunity in the country.

Secondly, the commission remained committed to enhancing public knowledge by conducting various public education forums on the new constitution so as to re-orient the country towards greater respect of the rule of law. The commission wishes to appreciate the multiple partners both at the national and local level that supported this noble course during the year. Much more needs to be done to ensure that knowledge about the constitution is disseminated to the most marginalized parts of this country and that its principles are understood by all. The commission observes that there are pending and emotive human rights concerns which need further concerted work. Historical injustices suffered in various parts of the country, defiant violation of constitutional provisions by some state officers and insecurity are examples of such problematic areas. These concerns still impede human rights work in the country. The commission counts on the support of both state and non state actors to ensure that those charged with the responsibility of implementing the constitution do not back pedal on it.

A notable challenge was the exit of four commissioners whose tenure expired during the period. Though the Commission managed to find some balance, the slow pace of appointments continues to present KNCHR with operational challenges. The Commission shall do all that is within its power to mitigate this and is in consultations with the Ministry of Justice, Constitutional Affairs and National Cohesion to ensure that the work of the Commission is not impeded. Finally, we thank Commissioner Anne for her steadfast commitment. Special mention must be made of Mohammed Hallo immediate former Commission Secretary and Dr. Bernard Mogesa who acted as Commission Secretary, until my appointment as CEO. The KNCHR management can never be without its staff, young, passionate human rights officers, who tirelessly devote their work to ensure 'Wanjiku' enjoys her rights to the full. Special gratitude from the Secretariat also goes to both the government and the various development partners who supported the commission during this period. Without their financial and technical support, the fight for better protection of human rights would not have been a reality.


Patricia Nyaundi
Commission Secretary / Chief Executive Officer

EXECUTIVE SUMMARY

The Kenya National Commission on Human Rights (the Commission or KNCHR) is an independent National Human Rights Institution (NHRI) established in August 2011. The Commission is entrenched in the Constitution of Kenya (2010), and is established pursuant to Article 59(4) which states: "Parliament shall enact legislation to give full effect to this Part and any such legislation may restructure the Commission into two or more separate Commissions", Parliament in August 2011 enacted three separate legislations establishing the Kenya National Commission on Human Rights and the other two commissions.

The Commission's interventions are divided into two broad mandates; (i) the protection mandate in which the commission acts as a watchdog over the government on matters of human rights, and (ii) The promotion mandate which entails the commission taking a leadership role in the country by advising the country and creating human rights awareness for enhanced protection of fundamental rights and freedoms.

Guided by the Strategic Plan 2009 – 2013, the commission's interventions were strategized to address four key result areas;

1. Reduced Systemic Human Rights Violations
2. Increased Application of Human rights Principles and Standards in implementation of the constitution
3. Increased practice and knowledge of human rights principles and standards in public and private spheres
4. Organizational Growth and Development

Key Result Area 1 – Reduction of Systemic Human Rights Violations

The First key result area focuses on mounting a broad range of interventions aimed at fighting corruption, structural factors that perpetuate impunity, as well as investigating reported violations as received by the commission.

A). Key Achievements

1. Strengthened Integrated Public Complaints Referral Mechanism (IPCRM): The IPCRM is a joint initiative of the Ethics and Anti Corruption Commission (EACC), Kenya National Commission on Human Rights (KNCHR), National Cohesion and Integration Commission (NCIC), National Anti Corruption Campaign Steering Committee (NACCSC), Commission on Administrative Justice (CAJ) and Transparency International (TI). The initiative's main purpose is to strengthen partnerships between the state oversight institutions in handling, management and disposal of complaints. KNCHR acts as the Secretariat of this initiative which is supported by GIZ. A Memorandum of Understanding and other protocols have been adopted by respective policy makers in the institutions involved. The IPCRM was launched in June 2012 which was in addition to Referral Partners network which has often been used for cases that are beyond the admissibility criteria of KNCHR. This is an important achievement because it already offers greater efficiency in addressing reported violations in a more concerted manner.

2. Resolution of Reported Public Complaints within the Commission: A total of 1896 complaints on human rights violations were reported to KNCHR by the public. From those reported, 418 were admitted and subjected to preliminary investigation, while 1,285 were provided with free legal advice (legal aid) on alternative redress mechanisms. One hundred and forty two cases (142) were pending determination as at close of the year since they were waiting further clarification and submission of supporting documents by petitioners. Economic and Socio Cultural Rights violations continued to be the largest category of complaints received during the reporting period, accounting for 1,064 (56%) compared to Civil and Political Rights at 489 (26%) and Group Rights at 323 (17%). The other 1% was unclear violations.

3. Preliminary Investigations: At the end of the reporting period The Commission opened 96 new files on investigations and closed 33 during the same period.

4. Enhanced Participation of Victim Groups of Historical Injustices in TJRC Hearings: Concerned by the crisis of public confidence and potential boycott by some victim groups, KNCHR embarked on thorough public sensitization in all the 8 provinces and preparation of victim groups to participate in the process. Through KNCHR's assistance, about 100 memoranda were presented to TJRC from various victim groups. KNCHR together with the transitional justice network also worked on reparations framework that would enable TJRC to offer holistic and appropriate reparations for victims of historical injustices.

See Annexure on Detailed Categorization of Complaints.

5. Business and Human Rights:

- 80 peer educators were trained on Business and Human Rights, in partnership with Institute for Human Rights and Business (IHRB)
- The Commission and the Institute for Human Rights and Business, in cooperation with the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the Uganda Human Rights Commission (UHRC) trained National Human Rights Institutions (NHRIs) from East Africa, Malawi, Ghana and South Sudan to support the empowerment of NHRIs to deliver on their mandate on business and human rights. The workshop provided an opportunity for the NHRIs to reflect on lessons learnt, share experiences and identify areas of potential future work in this area.

Key Result Area 2- Increased infusion of human rights in Implementation of the constitution

Under the Second Key Result Area, the commission undertakes review of policy and legislation upon which it makes recommendations aimed at enhancing the infusion of human rights in legal and policy frameworks of the country. This process entails critical examination of bills, development of advisories to make the bills human rights compliant, sharing the advisories with stakeholders for their input and lobbying the government for adoption of the advisories.

A) Key Achievements

1. Review of Legislation and Policies

- During the 2011- 2012 period, 23 bills were reviewed of which 23 advisories were prepared and submitted to relevant policy makers/focal points on the various pieces of legislation. A sample audit of 12 advisories conducted found that of 147 proposals made, 50 proposals (34.01%) were accepted and incorporated in ensuing legislation.
- KNCHR also produced a publication, "Access to Electricity in Kenya: Enabling the Realization of Human Rights is a follow-up to the 3rd state human rights report A Human Rights Assessment of Kenya Vision 2030" which evaluated the government's performance under vision 2030. The report reviews the level of performance regarding the provision of electricity and the measures the government has undertaken to address the shortcomings to improve services.
- The draft National Human Rights Policy (NHRP) and draft National Action Plan on Human Rights (NAPHR), developed through a consultative process spearheaded by KNCHR and the Ministry of Justice, National Cohesion, and Constitutional Affairs (MOJNCCA) was also finalized and has been approved by the Kenyan cabinet.

2. Institutional Reforms

- The Commission together with its partners under the USALAMA Forum actively engaged in advocacy for the enactment of various legislations targeting Police reform. The following Acts were enacted by parliament, the Independent Police Oversight Act, the National Police Service Act and the Police Service Commission Act. The Acts incorporate numerous recommendations that came from the KNCHR.
- KNCHR and its partners developed Police Vetting Framework to ensure that people serving in the police service will be vetted. This follows the successful pioneering work on the Judges and Magistrates Vetting Tool which was also developed by the KNCHR and which saw 4 judges from the Court of Appeal and the High Court being eliminated from judicial service on account of integrity.
- Continued advocacy with the Kenya Magistrates and Judges Association (KMJA) and participation in the taskforce on judicial reforms has influenced critical Human Rights dimensions in the administration of justice. This has been realized through the establishment of the National Council on the Administration of Justice (NCAJ) that was launched in August 2011 by the chief justice. The National Council will formulate policies relating to the administration of justice, implement, monitor, evaluate and review strategies for administration of justice and facilitate the establishment of court users committees at county level.
- Court Users Committees and Traditional Justice Mechanisms, which the KNCHR has worked on establishing and strengthening, got formal recognition and adoption in the judiciary transformation framework. This development will ensure enhanced access to justice by Kenyans.

Key Result Area 3 - Increased Knowledge and Practice of Human Rights; and Human Rights Standards and Principles in Public and Private Spheres

This area deals with promotion of human rights awareness in varied forms from verbal, print and to electronic for the purpose of changing individuals behavior and institutions to be more conscious and respectful of human rights.

A) Key Achievements

1. Protection of Indigenous Persons: In partnership with International Working Group for Indigenous Affairs (IWGIA), the Commission undertook an advocacy for the promotion and recognition of the rights of indigenous persons. The Commission launched a documentary on the indigenous peoples featuring the Ogiek and Endorois communities and demonstrates the dilemma facing Indigenous Peoples and the efforts made by the ACHPR in addressing their rights. During its launch, the Minister for Justice, National Cohesion and Constitutional affairs initiated the process to draft a legislation on minorities and indigenous peoples.

2. Protection of Rights of Internally Displaced Persons: Throughout the year, the Commission and PWGID worked with members of the Ad hoc Parliamentary Select Committee on the Resettlement of Internally Displaced Persons to develop a comprehensive legislation on internal displacement which is in line with regional and international human rights standards regarding IDPs. On 2nd August 2012, Parliament unanimously adopted the report. The Committee also published the Internally Displaced Persons Bill 2012. Eight key features proposed by the Commission/PWGID were retained in the published version of the bill. This is a major milestone in the IDPs resettlement process. The commission in partnership with the Protection Working Group on IDPs engaged the UN Special Rapporteur on Rights of IDPs and had sessions with him regarding the situation of IDPs in the country and government resettlement efforts. The Special Rapporteur presented these findings at the 19th Session of the Human Rights Council on Human Rights.

3. Rights of Persons with Mental Illness: During the period under review, the Commission conducted an investigation into the status of mental health in the country. The investigation was prompted by a CNN documentary aired early in the year with allegations that mental health status in Kenya was poor. The investigations and consultations with various stakeholders culminated in the production of a report titled "Human Rights Audit of the Mental Health Status in Kenya".

4. Enhanced capacity of duty bearers: During the period, KNCHR developed a Human Rights Based Approach manual for training public officers. The manual is structured in two parts and has 9 modules. The first part highlights the fundamentals of this approach while the second part guides how these principles could be applied in different thematic contexts. The draft manual is complete and ready for piloting, peer review and stakeholder validation. These subsequent steps will be done in the new programme year. Following its previous research publication 'The third state of human rights report' which highlighted the lack of human rights principles in national tracking indicators in the 1st MTP of Vision 2030, KNCHR enhanced the M&E Directorate of the Ministry of Planning for Vision 2030 to ensure that the indicators used in the 2nd MTP incorporate human rights perspectives. The commission is hopeful that this will create an avenue for a more comprehensive infusion of human rights principles in implementation of the national development framework.

5. Monitoring Implementation of Universal Peer Review (UPR) Recommendations

An alternative report on Kenya's efforts towards the implementation of the International Covenant on Civil and Political Rights (ICCPR) was submitted to the Human Rights Committee. This report served to highlight the key concerns in implementing the covenant at the domestic level, particularly with the advent of the new constitution. The Commission worked with a coalition of civil society organizations to agree on advocacy strategies to ensure relevant recommendations would be made to the state during the review in July.

Through our advocacy and interaction with the various UN treaty body Committees, most of the issues raised in our alternative reports were addressed to the State under review, underscoring the importance of good advocacy strategies and working with other stakeholders to identify priority areas.

6. Cross Cutting Issues on Vulnerability:

KNCHR in collaboration with the Disability Caucus for the Implementation of the Constitution (DCIC) prepared a joint memorandum which was presented to the IEBC on inclusion of persons with disabilities in elections, both as voters and as candidates in furtherance of the rights of People with Disabilities.

Key Result Area 4 – Organizational Growth and Development

The fourth key result area under the strategic plan takes care of expansion of the organization in execution of its mandate, resourcing the commission with necessary inputs, building necessary organizational management systems, as well as enhancing capacity of the commission staff for efficient service delivery.

A) Key Achievements

1. Information and Communication Technology:

- There were improvements in reliability of power backup supply for critical ICT equipments.
- Two database systems were developed which enhanced documentation of the public complaints management as well as monitoring of IDP data around the country.

2. Monitoring and Evaluation System:

- Capacity of staff was improved through 4 trainings which translated to better programme management on planning, implementation, and reporting.
- There was improved tracking of intermediate level changes among target groups for half of the implementing units (Programme departments). Improved organizational learning based on evidence based reflections on strategies and organizational practices.

3. Human Resource and Administration:

- KNCHR recruited 23 staff into various departments.
- Two New service delivery units were created; Internal Audit and Regional Outreach
- Staff members were taken through various trainings so as to improve their skills/capacity for service delivery such as on Finance for Non Finance managers, various human rights trainings and team building techniques.

4. Public Affairs and Communication:

During the year being reviewed, the commission also made several efforts to sharpen its engagement with various publics. The revamping of the KNCHR website was the hallmark of revolutions in the commission's management of its public affairs. The public now have a website that is daily updated with on-goings in the country on human rights as well as updates on the work of the commission.

Details on the above achievements as well as challenges experienced are discussed further in the body of the report. The commission will continue to pursue excellence in its programming even as it boldly confronts the numerous challenges and changing dynamics in Kenya's political, legal, social, and economic landscape.

1.0: INTRODUCTION – THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

1.1.0 Overview of the Kenya National Commission on Human Rights

The Kenya National Commission on Human Rights (the Commission or KNCHR) is an independent National Human Rights Institution (NHRI) established in August 2011. The Commission is entrenched in the Constitution of Kenya (2010), and is established pursuant to Article 59(4) which states: "Parliament shall enact legislation to give full effect to this Part and any such legislation may restructure the Commission into two or more separate Commissions", Parliament in August 2011 enacted three separate legislations establishing the Kenya National Commission on Human Rights; the National Gender and Equality Commission (NGEC); and the Commission on Administrative Justice (CAJ). The KNCHR is subsequently established under the Kenya National Commission on Human Rights Act, No. 14 of 2011, and succeeds the statutory Kenya National Commission on Human Rights, which was established in July 2003 through an Act of Parliament (the KNCHR Act, 2002).

The core mandate of the Commission is to promote respect for and to develop a culture of human rights in Kenya. There are 135 similar bodies established around the world, with 40 NHRIs in Africa. The Commission has its head office in Nairobi with two regional offices in Wajir for Northern Kenya region and in Kitale for the North Rift region.

At the end of the financial year, the commission had five commissioners. As per the provisions of Part 6 of the sixth schedule of the Constitution on Transitional and Consequential provisions; "Commissioners of the KNCHR appointed under the KNCHR Act (2011) shall become members of KNHREC for their unexpired term but each shall retain the terms of service as at the effective date," hence commissioners whose contract expired were not replaced. The KNCHR Act, 2011, Section 11, provides for the procedure of appointment of Chairperson and members, who serve for a single term of six years (Commissioners and Chairperson previously served on five-year terms renewable once). Commissioners enjoy security of tenure, a guarantee that facilitates independence of the Commission. Below is the list of Commissioners who served during the reporting period.

LIST OF COMMISSIONERS AND SECRETARY IN THE REPORTING YEAR

COMMISSIONER	POSITION	APPOINTMENT DATE	STATUS
Ms Florence Simbiri-Jaoko	Chairperson	January 2007	Left after tenure ended on January 2012
Mr. Hassan Omar Hassan	Commissioner	January 2007	Left after end of tenure in January 2012
Ms. Winfred Osimbo Lichuma	Commissioner	January 2007	Left after tenure ended in January 2012
Ms. Wambui Kimathi	Commissioner	Re appointed in January 2007	Left after tenure ended in January 2012
Ms. Fatuma Ibrahim Ali	Commissioner	Re appointed in November 2007	Left in September, 2012
Mr. Lawrence Mute	Commissioner	Re appointed in November 2007	Tenure ends in November 2012
Ms. Fatuma Adan Dullo	Commissioner	November 2007	Tenure ends in November 2012
Dr. Samuel Tororei	Ag chairperson	November 2007	Tenure ends in November 2012
Anne Kyalo Munyiva-Ngugi	Commissioner	January 2009	Tenure ends in January 2014
Mohammed Konso Hallo	Secretary	May 2009	Left in Sept, 2012

KNCHR is a Commission within the meaning of Chapter 15 of the Constitution and has the status and powers of a Commission under that Chapter. Chapter 15, Article 249(2) on Commissions and Independent Offices provides that:

The Commissions and holders of independent offices:-

- b) Are subject only to this Constitution and the law; and

- b) Are independent and not subject to direction or control by any person or authority

The Commission gets its funding from both the Government of Kenya and development partners. However, it sets its own priorities in accordance with the strategic plan and mandate under its constitutive Act. Additionally, the Commission determines how to use the resources allocated, which are utilized as per the annual work plans and budget estimates.

1.2.0 Mandate and Functions of the KNCHR

The Commission implements two broad mandates: first, it acts as a watchdog over the Government in matters of human rights (protection mandate). Secondly, it plays a Leadership role in advising and moving the country towards becoming a human rights state (promotion mandate). The functions of the KNCHR are set out in Article 59(2) of the Constitution and have are operationalized through Section 8 of the KNCHR Act, 2011. These are to:

- a) Promote respect for human rights and develop a culture of human rights in the Republic;
- b) Promote the protection and observance of human rights in public and private institutions;
- c) Monitor, investigate and report on the observance of human rights in all spheres of life in the republic;
- d) Receive and investigate complaints about alleged abuses of human rights, except those relating to the principle of equality and freedom from discrimination under the Gender and Equality Commission, and take steps to secure appropriate redress where human rights have been violated;
- e) On its own initiative or on the basis of complaints, investigate or research a matter in respect of human rights, and make recommendations to improve the functioning of State organs;
- f) Act as the principal organ of the state in ensuring compliance with obligations under international and regional treaties and conventions relating to human rights except those that relate to the rights of special interest groups protected under the law relating to equality and non-discrimination;
- g) Formulate, implement and oversee programmes intended to raise public awareness of the rights and obligations of a citizen under the Constitution;
- h) Work with the National Gender and Equality Commission and the Commission on Administrative Justice to ensure efficiency, effectiveness and complementarity in their activities and to establish mechanisms for referral and collaboration;
- i) Perform such other functions as the Commission may consider necessary for the promotion and protection of human rights; and
- j) Perform such other functions as may be prescribed by the Constitution and any other written law.

1.3.0 STRATEGIC DIRECTION FOR THE FINANCIAL YEAR 2011/2012

The commission's strategic direction is given by both the now repealed KNCHR Act 2002 and the 2009-2013 strategic plan. These strategic priorities are guided by the commission's vision and mission, as follows:

VISION

A nationally and globally respected national institution providing leadership in human rights

MISSION

To enhance protection and promotion of human rights in Kenya through a strategic programming and partnerships

GOAL

To increase respect for and enjoyment of fundamental human rights

VALUES

The Commission believes in and upholds the following core values:

- Independence
- Integrity
- Inclusiveness
- Tolerance
- Accessibility

In the Strategic Plan, the priorities and work of the Commission are focused around four Key Result Areas (KRAs), namely:

- 1) Reduced systemic human rights violations;
- 2) Increased application of human rights principles and standards in the Implementation of the constitution.
- 3) Increased practice and knowledge of human rights principles and standards in public and private spheres; and
- 4) Organizational growth and development.

2.0: KEY RESULT AREA 1- REDUCTION OF SYSTEMIC HUMAN RIGHTS VIOLATIONS

In its capacity as the government watchdog on human rights, KNCHR has since its establishment sustained a war against corruption and against individual and institutional vices that contribute to prevalence of impunity in the country. The country has reeled under scandals of grand corruption, misuse of public offices, lack of accountability. These have been contributed to duty bearers and claim holders alike. KNCHR recognizes that human rights development in the country require strategic interventions that would boldly identify these vices which hinder progress towards good governance and the rule of law and seek to tackle them through objective investigations and appropriate redress measures. This chapter discusses the work of the commission and its achievements with regard to the fight against systemic human rights violations during the year under review.

2.1.0 Processing Public Complaints on Human Rights Violations

The Commission is mandated under the Constitution and the KNCHR Act, 2011 to receive and investigate complaints of human rights abuses and to provide appropriate redress where human rights are found to have been violated. This mandate is realized through the Strategic Plan, Key Result Area (KRA) 1 which targets Reduced Systemic Human Rights Violations.

This mandate is operationalized by the Complaints and Investigations, and the Redress departments of the Commission. The two regional offices of Northern Kenya and North Rift regions are also mandated to receive, process and investigate complaints of human rights violations. Below is an overview of work undertaken in terms of complaints and redress mandate of the KNCHR in the 2011-2012 programme year.

2.1.1 Overview of Complaints Received

During the year under review, the Commission received 1,873 public complaints on alleged human rights violations. This was a decrease from the 3,142 complaints received in the previous year, which translates to a 40% decrease. From the reported table below, 1,461 complaints were lodged by petitioners at the Head Office (Nairobi), down from 2,439 complaints lodged in the previous year. 268 complaints were lodged in the North Rift Office (Kitale) compared to the 347 lodged in the previous year while the North Eastern Regional Office in Wajir recorded 144 during the period as compared to the 356 lodged in 2010-2011.

As it can be noted from the two year trend analysis for all the three offices, there was a decrease in the number of complaints received. This could be attributed to the formation of other institutions formed under the new Constitution especially the Article 59 Commissions (Commission on Administrative Justice and the Gender and Equality Commission). It is notable that members of the public are increasingly becoming aware of the new institutions and their mandates in handling the various human rights complaints. Table 1.1 below gives a synopsis of the petitions processed during the year and offices where they were lodged.

See Article 59(2) (d),(e),(f) of the Constitution of Kenya, 2010. See also Section 8(c),(d),(e) of the KNCHR Act, 2011.

TABLE 1 - SYNOPSIS OF PUBLIC COMPLAINTS RECEIVED IN THE YEAR 2011-2012

Office	Number Received	Percentage of Total
Nairobi Office	1, 461	77
North Rift Regional Office	268	15
North Eastern Regional Office	144	8
Total	1, 873	100%

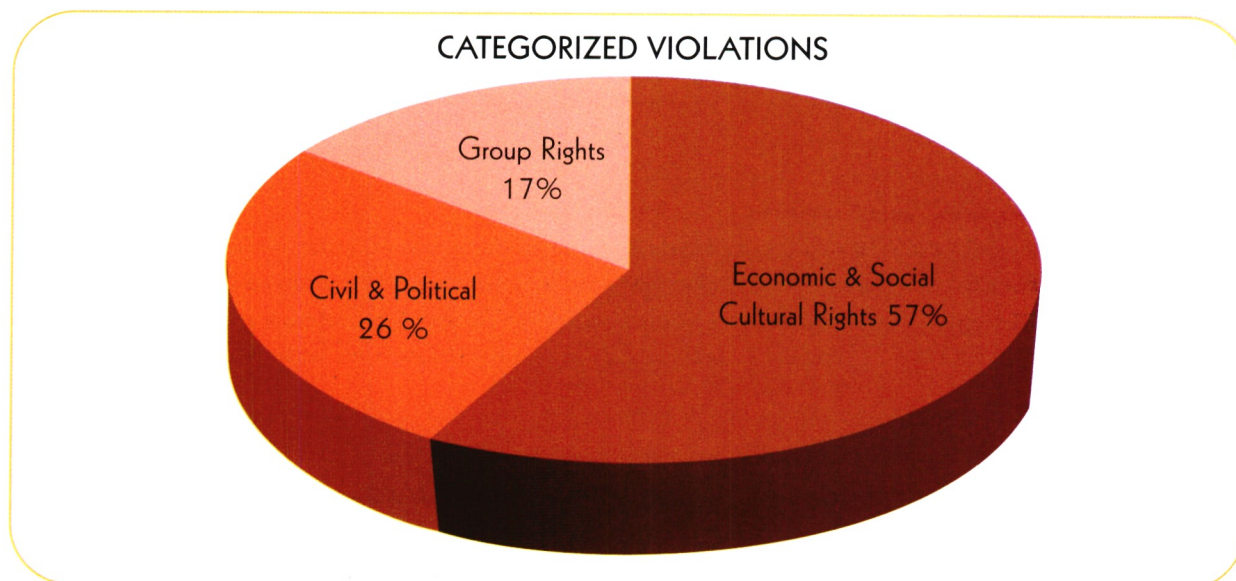
Gender analysis of the 1,873 complaints indicated that Male petitioners were the majority overall. At the Head Office women accounted for 390 (26.7%) while men comprised 1,071 (73.3%). The North Rift regional Office had 291 petitions, out of which 132(45.4%) were lodged by female petitioners whereas 159(54.6%) were lodged by male petitioners. In the North Eastern Regional Office, male petitioners were 60 (58.3%) while the women were 84(41.7%).

2.1.2 Analysis of Complaints by Categories of Human Rights Violations

Economic and Socio Cultural Rights violations continued to be the largest category of complaints received during the reporting period, accounting for 1,061 (56.6%) compared to Civil and Political Rights at 489 (26.1%) and Group Rights at 323 (17.2%). Chart 1.1 below shows this disaggregation of data based on type of violations. The other 23 cases were unclear violations.

See Annexure on Detailed Categorization of Complaints.

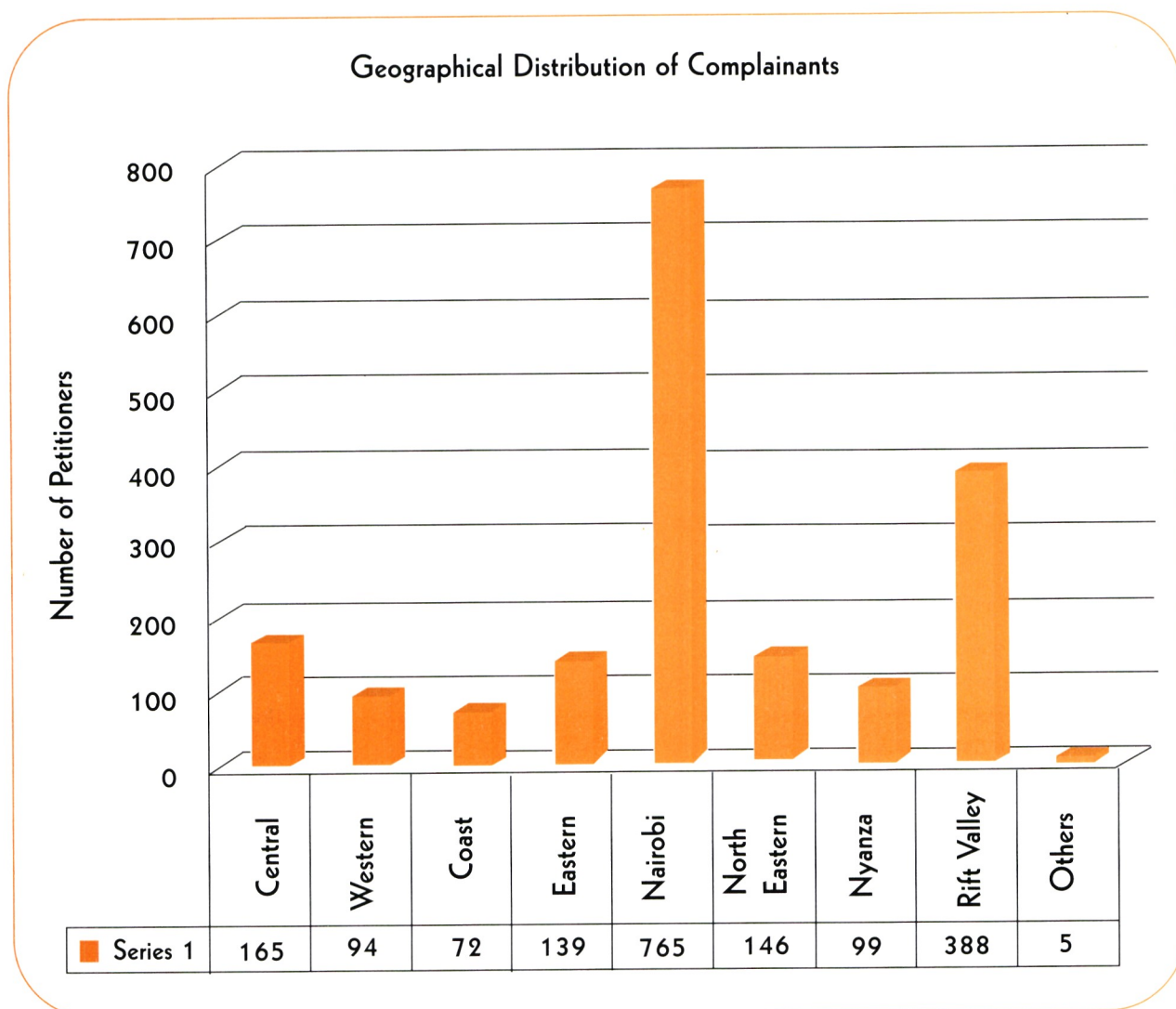
CHART 1.1 - DISTRIBUTION OF CASES BY CATEGORY OF RIGHTS



The bulk of the Economic, Social and Cultural rights complaints in the North Rift were related to Land Rights, followed by those relating to domestic issues and labor rights. Majority of the complaints from the North Eastern Regional Office were labour related followed by complaints against the police and children rights respectively. At the Nairobi office, majority of complaints were labour related petitions.

In terms of geographical distribution, the highest numbers of complaints received were from Nairobi followed by Rift Valley and Eastern provinces respectively. This distribution can mainly be attributed to the geographical proximity of these regions to the Nairobi office. Chart 1.2 below gives the comparative analysis of the cases received by regions;

CHART 1.2: DISTRIBUTION OF HUMAN RIGHTS COMPLAINTS RECEIVED BY PROVINCES



2.1.3 Actions Taken on the Received Public Complaints

From the total 1,873 reported violations, 418 were admitted and subjected to preliminary investigation, while 1,285 were provided with free legal advice (legal aid) on alternative redress mechanisms. One hundred and forty two cases (142) were pending determination as at close of the year since they were awaiting further clarification and submission of supporting documents by petitioners. Twenty seven cases (27) were resolved through counseling and 24 others referred to the relevant Government Institutions, Civil Society Organizations (CSO) for further assistance and advice.

2.2.0 Investigations on Human Rights Violations

Section 8(d) of the KNCHR Act (2010), grants powers to KNCHR to receive and investigate complaints about alleged abuses of human rights. It is based on this provision that the commission admits for more detailed investigations any alleged violations which meet the threshold of its admissibility criteria and which upon termination could lead to decisive redress measures against perpetrators. This section discusses the nature of investigations that the commission undertook in the year under review and the results that were obtained;

2.2.1 Preliminary Investigations

During the financial year 1st July 2011 - 29 June 2012 the Kenya National commission on Human Rights dispatched a total of 245 letters to alleged violators, seeking response of on the matters reported. From the petitions received, the Commission opened a total of 96 files and closed 33 bringing the total of active files under investigation to 70. The files were closed after the matters were investigated and adequate responses received or for lack of follow up/no submission of supporting documents from the petitioners.

Sampled Investigations

A) Investigations on Violation of Right to Life

i. The Commission received a complaint from a petitioner in Western Province alleging the fatal shooting of her husband by police and CID officers in Busia. The petitioner stated that her husband was picked up from their home in Eldoret on 6th June 2011 by the said officers and his body found in Busia Mortuary the following day. She further reported extortion of Ksh. 20,000 by two men purporting to be police officers on the pretext that they could help her to obtain the release of her husband. This complaint led to a wider investigation of summary executions of 5 persons all arrested in the same operation ordered by the then PCIO (Western Province). The team established that the five were all summarily executed in Butula, on suspicion that they had been involved in crime in the region.

The Commission conducted two investigation missions with respect to the cases, between 12th and 17th July 2011 and a follow-up mission between 23rd and 27th August 2011. The available evidence reveals a clear case of summary executions by the police. The Commission has further established that Inquest file number 9 of 2011 has since been opened but the same has not yet been forwarded to the office of the Attorney General.

ii. **The Commission received a complaint on the fatal shooting of a father and his 14 year old son in Kawangware, Nairobi.** The case was widely reported in the media owing to the reaction by the residents of the area who held demonstrations in the area. Together with other human rights organizations, CIP organized for a postmortem to be conducted by IMLU and also facilitated and accompanied the family members to record their statements with the PCIO Nairobi area. The accused officers have since been charged with murder. Consequently, Criminal Case Number 91 of 2011 is before the High Court Nairobi and the hearing of the matter began from 5th – 8th March 2012. The KNCHR together with IJM has been closely monitoring the case and supporting the key witnesses. The Commission has further, through its Redress Department, filed a Constitutional Petition number 127 of 2012 over the matter to seek redress for the family of the two deceased as well as raise the systemic issue of extra-judicial executions in Kenya.

B) Investigations on Violations of Right of Arrested Persons:

i. On 23rd August 2011, the Commission received reports from IMLU of unrests at Thika Maximum Prison and allegations that an inmate had died as a consequence. The Commission conducted rapid response investigations by visiting the said prison on 24th August 2011 and conducted a follow-up mission on 5th September 2011. The Commission team established that on 19th of July 2011, about 200 prisoners had been transferred from Kamiti Maximum Prison to Thika Prison. On 22nd August 2011, the said inmates rioted and went on hunger strike for three days. During the period, none of the inmates were taken to the hospitals or the Courts, due to the volatile nature of the situation.

The Commission left the premises after being assured that the prison administration, the local police and the Thika Court were handling the situation. After about a fortnight from the Kamiti incident, the Commission received further reports that the said inmates had subsequently been transferred back to Kamiti Prison but had been tortured during the transfer. The Commission sought to verify these allegations by paying a visit to Kamiti prison on 5th September 2011. The team, which was accompanied by a doctor from IMLU, established that the inmates were actually tortured/ assaulted by the Thika Prison officers. CIP recommended that the findings be submitted to the Ministry of Home Affairs and the Prison authorities.

ii. The members of the Ogiek Community approached the commission's Regional Office seeking intervention over delayed prosecution of the youth who were arrested by the Military during the "Operation okoa maisha" in Mt. Elgon against the Sabaot Land Defense Forces (SLDF).

The commission followed up with the office of the Directorate of Public Prosecutions in Bungoma and found out that some of the reasons resulting to delay of delivery of justice included; the transfer of the resident judge handling the cases and failure of key prosecution witnesses to enter appear. Due to the above reasons the DPP decided to close the files of five youth and they were discharged.

B) Investigations on Violations of Freedom and Security of the Person

On 15/9/2011, the Commission received a complaint from a petitioner alleging insecurity and constant harassment from members of a vigilante group in Kisii known as the Sungu Sungu. This prompted the Commission to conduct investigations on these systemic violations by the Sungu Sungu vigilante group, who allegedly operate under the guise of community policing program in the region. The said investigations were jointly conducted with the Kenya Human Rights Commission and the National Cohesion and Integration Commission between 9th -14th October 2011. The said investigations revealed the existence of gross and systemic violations of human rights in the region that are perpetrated by the vigilante group. These violations included murders, disappearances, torture, extortion and harassment. The team was concerned that these violations continued to be perpetrated with the knowledge of state authorities, who failed and/or neglected to take action.

The findings on the violations were documented and the same shared with the Commissioner of Police who in turn nominated one of his officers to work closely with the team on the matter. The team's work is on-going.

C) Investigations on Violations of Freedom from Torture

North rift office conducted a visit to Eldoret GK prison to investigate allegations of torture of 6 inmates by the warders at the facility. The investigation team documented a report on findings and recommended disciplinary action to be taken against the officers concerned. The Reforms and accountability programme took up the matter and scheduled training for human rights desk officers. The North Rift office has also scheduled a human rights training for warders and wardresses at the facility on Sept 2012.

D) Investigations on Violations of Labour Rights

Nairobi office referred a complaint of 17 employees of SBI (road Construction Company) to the North Rift Regional office. The employees had been summarily dismissed by the company for participating in a protest alleging discrimination based on tribal affiliation. On 3/10/2011, the regional office visited the SBI offices and held a meeting with 13 of the sacked employees who had different reasons for termination. The management agreed to relook into the matter in on individual basis in liaison with their Nairobi office.

2.2.2 Rapid Response Missions (RRM)

Rapid Response Missions are quick fact finding missions that the commission engages in whenever acts of gross violations are reported either by individuals, organizations or through the media. The purpose of the RRM is often to stop further escalation of the reported violation while other more systematic interventions are put in place. The following were the rapid response missions that the KNCHR engaged in during the period;

A. Rapid Responses on Right to Life:

I. The Commission on its own motion conducted an RRM on 23rd April 2012 in respect of police shooting of five persons (2 fatal) in Dandora estate Nairobi. The RRM revealed that the shooting occurred as a group of area residents obstructed the police in the course of arresting a known crime suspect. The residents attempted to lynch the suspect causing the two police officers to shoot in the air. The victims were accidentally shot from the balcony of Elnino five storey's building near the scene.

The RRM established the circumstances leading to the shooting from eye witnesses and pacified the infuriated residents, thereby defusing the tension in the area and urged the Buruburu OCPD to expedite the investigations to establish the actual circumstances surrounding the shootings and determine if any person or persons were culpable and take the appropriate action. The Commission also facilitated one of the victim's families to conduct an independent post mortem. The Commission has since closed the matter with the victims' families being advised to pursue further remedy in Court.

I. The North Rift Office with the support from the Head Office conducted an investigation into the Pokot –Tugen conflict from 17th to 19th May 2012 with an objective to find out the causes of the conflict and seek for solutions for the same. The team held meetings with the security sector players and the public for restoration of peace and security in the area. The conflict was attributed to cattle rustling and boundary disputes. An estimated 6,000 people had been displaced in Baringo North; in Bartabwa Division 548 households had been displaced and 3,345 people were camping at Bartabwa Divisional head quarters. Other camps were found in Chepkessin and Koisirat. 13 primary schools had been closed down, and 15 people from both communities had been killed during the clashes. The commission contacted the Ministry of Special Programmes and the Kenya Red Cross to ensure that the displaced persons do not run out of food ratio and non food items such as tents, utensils and drugs.



Rapid response in Dandora over the innocent killing of a member of the public by police

B. Freedom and Security of the person:

The Commission conducted an RRM in Kuresoi area, Molo from 12th to 14th May 2012 pursuant to a complaint on violation of rights to life and property. The complainants (resettled IDPs) accused the Government (Police and Provincial Administration) of failing to act against armed gangs who repeatedly attacked the petitioners and stole their property. The petitioners also reported that they were being threatened with evictions from their Bochege farm which threats they linked with the forthcoming general elections.

Investigations revealed that the relevant Government agencies had failed to provide security to the petitioners; the police officers had been withdrawn from the post, and other Government security structures were dysfunctional, exposing the residents vulnerable to attacks. As a direct result of KNCHR's intervention, the DO and OCS posted three Police Officers to Bochege farm and the OCS commenced investigations into the attack of one of the petitioners. This file has since closed with the Police's commencement of criminal investigations.

The table 1 below next page shows the list of cases that were successfully investigated during the year under review.

TABLE 2: CLOSED FILES DURING THE PERIOD 1ST JULY 2011 - 29 JUNE 2012

FILE REFERENCE	NATURE OF COMPLAINT	DATE OF CLOSURE	REASON FOR CLOSURE
1. KNCHR/2011/008	Freedom of opinion	Closed 04/8/2011	Matter pending in court
2. KNCHR/2011/034	Right to fair administrative action	Closed 08/8/2011	Referred to CID Headquarters
3. KNCHR/2011/038	Fair administrative action	Closed 15/8/2011	Petitioner not willing to pursue matter
4. KNCHR/2011/013	Labour rights	Closed 16/8/2011	To pursue matter in court
5. KNCHR/2011/014	Labour rights	Closed 16/8/2011	To pursue matter in court
6. KNCHR/2009/003	Torture	Closed 17/8/2011	Want of follow up
7. KNCHR/2011/033	Labour rights	Closed 09/9/2011	Petitioner withdrew the case
8. KNCHR/2011/055	Labour rights	Closed 05/9/2011	Referred to Kituo cha Sheria
9. KNCHR/2011/015	Right ton personal liberty	Closed 14/9/2011	Petitioner was advised
10. KNCHR/2011/059	Land rights-ownership	Closed 02/9/2011	Matter pending in court
11. KNCHR/2011/012	Labour rights	Closed 14/9/2011	Lack of mandate as preliminary investigations revealed that courts are better placed to deal
12. KNCHR/2009/025	Right to life	Closed 12/9/2011	Lack of supporting documents and want of follow up
13. KNCHR/2011/023	Corruption/embezzlement	Closed 20/9/2011	Lack of mandate
14. KNCHR/2011/047	Right to social security	Closed 25/9/2011	Adequate Explanation given by NSSF into the matter
15. KNCHR/2011/049	Labour rights	Closed 25/9/2011	Adequate Explanation given by TSC into the matter
16. KNCHR/2011/062	Land rights-evictions	Closed 28/9/2011	Matter referred to Kituo cha sheria for lack of mandate
17. KNCHR/2011/058	Labour rights	Closed 29/9/2011	Petitioner was reinstated
18. KNCHR/2009/033	Labour rights-discrimination	Closed 04/5/2011	Inquiries revealed that the termination was procedural
19. KNCHR/2011/046	Complaint against a lawyer	Closed 05/10/2011	Adequate response received from ACC
20. KNCHR/2011/030	Labour rights-unfair dismissal	Closed 18/11/2011	Advised to pursue matter in court
21. KNCHR/2011/073	General complaint	Closed 02/11/2011	Adequate explanation given by the Ministry of Defense
22. KNCHR/2011/079	Child rights	Closed 05/10/2011	Evaluation conducted and matter forwarded to a psychiatrist
23. KNCHR/2011/070	Fair administrative action	Closed 6/2/2012	Petitioner referred to NSSF after inquiries were made into the matter
24. KNCHR/2011/057	Engage in collective bargaining	Closed 20/2/2012	Want of follow up
25. KNCHR/2011/040	Right to fair administrative action	Closed 16/2/2012	Referred to Director of pensions
26. KNCHR/2012/003	Intellectual property rights-copyright	Closed 18/4/2012	Petitioner advised, matter is better dealt with in court of law
27. KNCHR/2011/021	Right to fair administrative action	Closed 18/4/2012	Proper explanation given by TSC, Petitioner advised
28. KNCHR/2012/029	Threat to life	Closed 17/5/2012	Matter pending before court of Law
29. KNCHR/2012/030	Threat to life	Closed 17/5/2012	Matter pending before court of Law
30. KNCHR/2012/020	Labor Rights	Closed 13/6/2012	Sufficient reasons given by Director of probation & after care services
31. KNCHR/2012/016	Right to life	Closed 19/6/2012	Matter forwarded to redress as the same is in court

2.2.3 Integrated Public Complaints Referral Mechanism

The IPCRM is a joint initiative of the Ethics and Anti Corruption Commission (EACC), Kenya National Commission on Human Rights (KNCHR), National Cohesion and Integration Commission (NCIC), National Anti Corruption Campaign Steering Committee (NACCSC), Commission on Administrative Justice (CAJ) and Transparency International (TI). The main purpose of the initiative is to strengthen partnerships between the state oversight institutions in the handling, management and disposal of complaints. The KNCHR acts as the Secretariat of this initiative which is supported by the GIZ. The Memorandum of Understanding and other protocols have been adopted by the respective policy makers in the institutions involved.



Launch of the Integrated Public Complaints Referral Mechanism in Kisumu

2.2.4 Coordination of Other Public Complaints Handling Networks

The Commission continues to act as the Secretariat and convenor of the quarterly meetings with the Complaints Referral Complaints Referral Partners. The main objective of the Complaints Referral partners' forums is to bring together complaints handling institutions from Government and Civil Society Organizations with a view to streamlining the referral of complaints among the said institutions. The Referral Partners database and standard referral sheet was adopted and is currently in use by the partners.

The Commission also continues to be concerned about the Extra-Judicial Killings/Summary Executions that has been taking place in the country and acts as the convenor to the Extra judicial killings network. Consultative meetings have been held to fast track progress of various initiatives aimed at curbing extra-judicial killings and summary executions Data System has been developed for such cases which will be shared in the network and will be useful in avoiding duplication of interventions by the network members. The same has since been developed with the assistance of ICT department. Follow up meetings will be held in the next quarter. The network will use information from the system to seek the intervention from the National Police Service and the IPOA.



KNCHR conducts Legal Aid with Referral Partners in Maralal (Samburu County)

2.3.0 Enhancing Respect and Adherence to Human Rights among Non-State Actors - Business and Human Rights

The KNCHR reckons that there is a close trade-off between business operations and the protection and promotion of human rights. Operations of business entities can both be a contribution to the protection of human rights as well as a contribution to human rights violations. It is therefore important that the protection of human rights not just be confined to government agencies but also to non state agencies, such as business entities to ensure that they too have a grasp of human rights principles and inculcate the same to uphold the rule of law and justice in their dealings. During the year under review, KNCHR made advancements in inculcating the respect of human rights in business entities. Eighty (80) peer educators from Unilever Tea Kenya Limited (UTK) were trained between 29 – 31 August 2011 by the Commission in partnership with Institute for Human Rights and Business (IHRB) on human rights and business responsibilities.

KNCHR also held a convention for CSOs on the issue of business and human rights was held on 23 November 2011. It brought together 14 participants from various organizations working on areas such as land, water, labour, livelihoods, food sovereignty, consumer rights and the environment. The convening familiarized participants with key development in business and human rights (Constitution of Kenya 2010, UN Guiding Principles implementing the Protect, Respect, Remedy framework). The forum identified major issues in Kenya relating to business and human rights and proposed ways of strengthening Civil Society Organizations (CSOs) and the Kenya National Commission on Human Rights (KNCHR's) work on business and human rights. A Working Group on Business and Human Rights was also formed which would meet quarterly for better respect of rights in business environs.

In partnership with the Institute for Human Rights and Business, the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the Uganda Human Rights Commission, (UHRC), the KNCHR organized a 2 day capacity building forum on Business and Human Rights. The forum was held on Jan 25th and 26th and was attended by regional NHRI's from East Africa, Malawi, Ghana and South Sudan. This forum improved the capacity of NHRI's to deliver on their business and human rights mandate. The workshop provided an opportunity for the NHRI's to reflect on lessons learnt, share experiences and identify areas of potential future work in this area.

The commission also organized a convening on the LAPPSET project- The Commission convened a forum with CSOs to discuss the Lamu-Port-South Sudan Ethiopia Transport (LAPSSSET) project, oil exploration in Turkana and the extractive industry in Kitui and from 19 – 20 June 2012 in Naivasha. It brought together 22 participants from various CSOs working on human rights concerns from the economic projects and consultants from Uganda and Ghana. At this meeting, the participants learnt from experiences on oil exploration in different jurisdictions of Uganda and Ghana, interrogated the Mining Bill from a human rights perspective and developed a plan of action to assist build synergy among CSOs on activities that they will implement to promote and protect human rights in mining and extractive industries.

During the period under review, the Commission conducted an audit of the compliance of listed companies with CMA guidelines and human rights standards. The overall goal of the audit was to assess compliance (or non compliance) to CMA's Corporate Governance Guidelines by public listed companies with a view to determining the adequacy of the Guidelines in enabling companies assume their responsibility for respecting human rights. The audit highlighted the following issues

The level of compliance to the Guidelines by publicly listed companies was generally high at 86%.

The high compliance level did not however translate to a corresponding prevalence in the enhancement of human rights activities within the organizations and therefore adherence to these guidelines appears to have no significant effect on human rights.

Furthermore, adherence to the guidelines was negatively correlated to human rights initiatives and this suggests that the Guidelines are for the most part inadequate from a human rights perspective.

While many organizations had undertaken some form of CSR initiative, the same could not be said of human rights initiatives. The few HR initiatives observed were derivatives of CSR programmes rather than pure human rights endeavors.

The audit will inform the Commission's conceptualization of interventions on business and human rights.

.4.0 Transitional Justice

The KNCHR has been a key player in the transitional justice mechanism. As the leading human rights watchdog in the country, KNCHR has continued to seek redress for past injustices especially those committed by people who occupied state positions in the past when impunity was still prevalent in the country. The national reconciliation process following the post election violence of 2008 led to the establishment of the Truth, Justice and Reconciliation Commission (TJRC), charged with the mandate of investigating past human rights violations and other historical injustices in Kenya between 12th Dec 2007 and 28th Feb 2008. KNCHR has been instrumental in supporting the work of TJRC, alongside other stakeholders in ensuring public hearing processes and overall strategies of TJRC are carried out in consideration of human rights principles, with the ultimate goal unveiling important truths on the past violations as well as recommending appropriate redress measures. To this end, KNCHR invested in several interventions as discussed here below.

.4.1 Training of Victim Groups for Effective Participation in TJRC Process

In its commitment to support transitional justice process, KNCHR conducted public forums in 8 provinces around the country so as to sensitize target groups on the importance of their participation in the TJRC public hearings. KNCHR mobilized and coordinated various victim groups and assisted them for effective participation in the process. Victim preparation involved sensitizing the victims on the importance of their truthful testimonies in pursuit of necessary justice, training them to better understand the TJRC hearing rules, providing mock hearing sessions, and assisting in logical preparation of memoranda. For example the IDPs were assisted to understand the benefit of TJRC process to their plight and to organize themselves to present memoranda as a group and not individually to TJRC. The preparation led to success hearings by TJRC in 19 locations throughout the country as shown in table 1.3 below. Through KNCHR's assistance, about 100 memoranda were presented to TJRC from various victim groups.

TABLE 3: TJRC PUBLIC HEARINGS IN WHICH KNCHR FACILITATED VICTIM GROUP PARTICIPATION

DATE	LOCATION	NO OF PARTICIPANTS
4th July 2011	Busia	48
11th to 12th July 2011	Bungoma	47
19th July 2011	Kisii	59
23rd July 2011	Kuria	52
10th September 2011	Naivasha	55
9th September 2011	Narok	57
2nd September 2011	Kitale	56
13th September 2011	Eldoret	47
6th September 2011	Baringo	45
12th September 2011	Kericho	70
22nd October 2011	Nakuru	65
3rd November 2011	Nyeri	72
4th November 2011	Murang'a	64
5th November 2011	Rumuruti	50
7th November 2011	Kajiado	48
8th November 2011	Kitui	55
9th November 2011	Machakos	50
11th November 2011	Embu	50
12th November 2011	Meru	52

2.4.2 Monitoring of TJRC Public Hearings

KNCHR was also keen in ensuring that the hearing process was conducted according to the proper Hearing Procedure Guidelines and that the process respected human rights principles, such as those relating to gender, disability, and rights of children. Hearing Procedure Guidelines are based on the principles of independence, transparency and impartiality. The monitoring was used to map out key issues of access to justice, treatment of special/minority groups, witness protection and security, increase the overall participation of communities/stakeholders in the public hearings, monitor their participation, address immediate concerns that local organizations, media groups and victims may have in regard to the public hearings and to give feedback to the TJRC.

Prior to the engagement by KNCHR, most women victims of sexual abuse were not willing to present their cases to TJRC or in public. KNCHR catalyzed effective participation of the women and ensured that gender dimension of the atrocities that was previously missing in the first set of hearings was given attention. Testimonies from women victims informed in various regions pointed out systemic patterns of inequalities and discrimination against women. The laws and cultural practices that perpetuate gender inequality and discrimination were pointed out by the victims. The gender perspective increased the understanding of women's experiences of conflict, violence and repression and discrimination which had been ignored by society.

One other valued result of KNCHR's participation was the simultaneous translation of the proceedings in various languages including sign languages ensured that victims were able to participate in the proceedings more effectively. Further, KNCHR advocated for appropriate protection of vulnerable witnesses through the "in-camera hearings" that were held at the various hearings in the different regions and in Nairobi. Finally, Fair Trial principles were observed for adversely mentioned witnesses who were given an opportunity to be heard.

2.4.3 Development of the Reparations Framework

KNCHR with its partner organizations working on transitional justice identified a gap in relation to effecting reparations for victims of historical injustices. KNCHR together with the transitional justice network worked on a framework that would support TJRC to be able to offer holistic and appropriate reparations for victims of historical injustices. Several preparatory meetings were held and experts on Transitional Justice were engaged to support the process. This culminated in the development of a framework on reparations which was validated by stakeholders and submitted to the TJRC for adoption.

2.5.0 Engagements on the International Criminal Court (ICC) Proceedings

The Human Rights Council UPR report of 2011 recommended the need for outreach forums on the International Criminal Court (ICC) process in the country. Following the confirmation of charges hearings at The Hague on the four individuals who are alleged to bear the greatest responsibility of the Kenya's Post Election Violence of 2007/2008, KNCHR in conjunction with the ICC Coalition embarked on extensive public outreach for public sensitization on the process. The outreach programmes aimed at providing the right information to the public as well as gauging the political temperatures in hotspot areas.

The ICC coalition's engagement was informed by the polarization of the country on the ICC process, particularly after the confirmation of charges hearings. Potential hotspot areas where the sensitization was carried were the regions where the heat of the 2007/8 Post Election Violence was most experienced which included; Nakuru, Eldoret Naivasha, Kibera, Mathare, Meru, Kisii, Kericho, Muranga, Kisumu and Kakamega. Evidence showed that majority of Kenyans have not appreciated the fact that criminal responsibility is individual and not communal, hence the need for the culpable individuals to take individual liability for their actions. It is expected that the outcomes of the trials might have far reaching effects on the political and social landscape of Kenya. During the year under review, the charges were confirmed against four Kenyans that were accused of crimes against humanity at The Hague based court. This therefore meant that the process of delivering "political justice" was well on its way. The question that remains to be answered is whether this process will realize justice for victims as well as the government cooperation with the court when the cases eventually begin.

However as to whether similar judicial process will be meted against mid-level and low level perpetrators remains in doubt. A task force established by the Director of Public Prosecutions to look into the possibility of commencing prosecutions in 5,000 such cases indicated that the cases are likely not to meet the threshold of criminal evidentiary burden of proof due to lack of evidences. No legislation has been introduced in parliament to establish a local mechanism to try these cases as had been proposed by the Waki Commission and in line with The Hague Based Court Principle of Complementarity. On the other hand, there appears to be no political goodwill to support the ICC process as was witnessed by the concerted efforts to vitiate the jurisdiction of the ICC by establishing a local framework including by expanding the mandate of the East African Court of Justice to consider criminal cases.

2.6.0 Challenges on Reduction of Systemic Human Rights Violations

The fight against impunity and systemic human rights violations has indeed can never be done without challenges from various fronts as it seeks to enforce human rights discipline and challenge status quo on pervasive acts of impunity. Here below are some of the challenges that were experienced during the year and KNCHR's recommendations on way forward.

2.6.1 Challenges

- i. The commission continues to get numerous cases that often require the responsible government departments/officers to respond so as that the investigations can be more efficient. In many cases delays are still experienced in getting the necessary departments to respond. This delays conclusion of the cases.
- ii. In some cases petitioners who report on human rights abuses also take long to submit the required documentation when asked to do so.
- iii. Political interference and internal wrangles that faced TJRC delayed the completion of the report. To date the report has not been submitted and it is not known when the report will be released. This continues to put the post TJRC process in quagmire as details of the hearings is not yet well documented for follow up.
- iv. KNCHR prepared large numbers of victims who were then unable to attend TJRC hearings due to lack of transport to travel to the venue, given the assumption that it was TJRC responsibility to facilitate the victims transport to public hearing venues for participation. For example in Kajjado 50 victims were prepared and only 4 were able to attend and present their memoranda.
- v. Kenya is at the moment preparing for general elections and some alleged perpetrators are on the fore front for political offices. Their success in getting to the aspired public offices might compromise the continuity of the reconciliation process and reparations

2.6.2 Sub Recommendations

- i. All actors charged with the mandate to fight systemic impunity and other forms of structural violations of rights should work in a more concerted manner and should take the opportunity of the stronger legal provisions of the new constitution to hold institutions and individuals accountable. KNCHR will continue to work with the other sister commissions (NGEC and CAJ) and the DPP to ensure that institutions respond on queries arising from public complaints against such institutions or personalities.
- ii. The KNCHR will also engage the sister constitutional commissions to conduct more public sensitization on complaints handling processes. The newly created Integrated Complaints Handling Mechanism will particularly be used to create awareness that petitioners need to contribute to the success of their petitions through timely submission of requisite documents.
- iii. The TJRC needs to take seriously lessons learnt from its challenges with time with respect to its mandate and focus on analysis, reporting, and sharing findings with stakeholder organizations/institutions which will depend on their report for further action.
- iv. Development partners working with KNCHR should consider expanding their budgetary allocation to KNCHR so as to include full facilitation of victims and not assume that core government apparatus will provide this sufficiently. This will be an important point particularly in the post TJRC stages.
- v. Institutions and organizations mandated with implementing the Ethics and Integrity Chapter of the constitution need to give appropriate guidance to the country so that the ongoing political processes do not allow perpetrators of historical injustices and other gross violations to occupy public offices, as this would compromise the work towards reparations and overall national reconciliation.

2.7.0 Concluding Remarks

Impunity and politically instigated violation of human rights remains a major concern to the KNCHR, to citizens of Kenya and even to the international community. Though the KNCHR hails the various intermediate results being achieved in some sectors and institutions in response to the new constitution, the slow progress and lack of consistency in political goodwill undermines effective inter-sectoral linkages which would lead to a better coordinated war against networks of impunity and systemic violation of rights.

The KNCHR in its past two strategic plans has planned and executed a broad range of strategies aimed at reducing impunity for better prosperity and realization of the rule of law in the country. Several milestones have been achieved, particularly formation and strengthening of civil society forums against impunity, and numerous legislative reforms that have arisen from the KNCHR's advisories on laws and policies. The fight against impunity will continue to be a key focus even as KNCHR gets into its new strategic plan period, with strategies being strengthened according to the lessons that have been learnt from the shifting dynamics in Kenya's socio-economic and political arenas.

The KNCHR appreciates the support that it has received from various development partners which have worked with the commission on programmes against impunity (British High Commission, Norwegian High Commission, Embassy of the Royal Republic of the Netherlands, EU among others). The commission counts on their continued support even as it continues to tackle the multifaceted and sometimes mutating manifestations of impunity in the country. The KNCHR is also following closely the ongoing reforms being put in place by the office of the Director of Prosecutions (DPP) and hopes that this important institution will outgrow its weaknesses of the previous political and constitutional regimes to mature to greater independence, accountability, and timely service delivery to Kenyans. Seeking justice for various forms of historical injustices, improving investigations against mega corruption cases and networks, and efficiency of prosecutions are some areas the DPP could focus on to support the KNCHR's work against impunity and systemic violation of human rights in the country.

3.0 KEY RESULT AREA 2-MAINSTREAMING HUMAN RIGHTS IN THE IMPLEMENTATION OF THE CONSTITUTION

In its current strategic plan (2009 – 2013) that was formulated just after the post election violence, one of the key result areas taken up by the commission was to ensure that human rights principles are mainstreamed in implementation of the then Agenda 4 of the National Accord. When Kenya passed a new constitution through a national referendum in August 2010 that was considered more progressive in terms of laying down sound legal frameworks on governance and human rights, KNCHR similarly re-oriented its gears focus to ensure that the process of implementing the new constitution is done in a manner that upholds international human rights principles and standards. This chapter reports on some of the engagements of KNCHR with respect to this objective.

3.1.0 Infusion of Human Rights in Policy and Legislation

KNCHR undertakes review of policy and legislation upon which it makes recommendations aimed at enhancing the infusion of human rights in legal and policy frameworks of the country. This process entails critical examination of bills, development of advisories to make the bills human rights compliant, sharing the advisories with stakeholders for their input and lobbying the government for adoption of the advisories.

During the 2011- 2012 year, 25 bills were reviewed out of which a similar number of advisories were prepared and submitted to relevant policy makers/focal points on the various pieces of legislation. A sample audit of 12 advisories conducted found that of 147 proposals made, 50 proposals (34.01%) were accepted and incorporated in ensuing legislation. A list of bills reviewed is provided hereunder and it is noteworthy that most of them underwent several revisions and reviews both internally and at external stakeholder fora at which the commission participated. These included;

1. The Kenya National Commission on Human Rights Bill , 2011
2. The Commission on Gender and Equality Bill, 2011
3. The Commission on Administrative Justice, 2011
4. Citizenship and Immigration Bill 2011
5. Power of Mercy Bill 2011
6. Political Parties Act 2011
7. Independent Electoral and Boundaries Act 2011
8. Persons with Disabilities (Amendment) Bill 2011
9. National Coroners Service Bill
10. The Companies Bill
11. The Refugee Bill, 2011
12. Births and Deaths Registration, 2011
13. Identification and Registration of Citizens, 2011
14. The three Family Bills- Marriage Bill 2011; Matrimonial Property Bill 2011 and the Family Protection Bill 2011
15. Freedom of Information (FOI) 2008
16. Data Protection Bill (DP)2009
17. The Constitution of Kenya Amendment Bill, 2011
18. Consumer Protection Bill, 2011
19. Refugees Bill, 2011
20. The leadership and Integrity Bill, 2012
21. Revised Freedom of Information (FOI) 2012
22. Revised Data Protection Bill (DP)2012
23. National Intelligence Service Bill, 2012
24. The Revised leadership and Integrity Bill, 2012
25. Revised National Coroners Service Bill 2012:

In addition to the above, the commission also prepared internal guidelines on review of legislation and policy with a view to enhancing its outputs. It also developed draft Rules and Regulations under its constituting (KNCHR) Act which will go a long way in streamlining the commission's services to its external publics.

3.2.0 Research and Dissemination of the State of Human Rights Report

During the reporting year, the KNCHR did not prepare a state of human rights report for year 2011-12. Instead it produced an Exit Report entitled, "It's Hard to be Good: The Work, Wins and Challenges of KNCHR". The publication provided an assessment of the record of KNCHR from its establishment in July 2003 as a statutory institution to its reconstitution as a constitutional body in August 2011. The report also documents the tensions, dilemmas, paradoxes and dichotomies at the heart of the Commission's successes and failings in the course of its eight years of existence and in its work to ensure the protection and promotion of human rights in the country.

KNCHR also produced a second publication, "Access to Electricity in Kenya: Enabling the Realization of Human Rights" is a follow-up to the 3rd state human rights report which evaluated the government's performance under vision 2030. The Electricity report illustrates the centrality of electricity in enhancing the realization of human rights and thereby makes a case for its universalization in terms of access. The report also captures recent progress in the implementation of electrification, as well as the setbacks affecting implementation and further seeks to assess the targets, expected outcomes and indicators of electrification by considering such factors as the affordability and reliability of electricity. Reviews of the level of performance by the government as to the provision of electricity are provided, and the measures that the government has undertaken to address the shortcomings to improve services also discussed.



Justice Minister Eugene Wamalwa officially launches KNCHR exit report, Titled "IT IS HARD TO BE GOOD".

3.3.0 Preparation of Occasional Reports

Occasional reports are special research based reports produced on identified human rights issues with the aim of generating policy and administrative proposals for reform purposes. During the year under review, an Occasional Report on Operationalising Kenya's New Bill of Rights: Policy, Legal and Administrative Priorities and Considerations was published and disseminated. It focused on the application and operationalisation of the whole Bill of Rights under the Constitution of Kenya 2010 and seeks to provide policy makers and implementers with practical ideas on how to utilize the Bill of Rights while undertaking their executive and legislative functions.

Based on the premise that real and meaningful change can only happen when the letter and spirit of the Constitution is effected, the report calls for enactment of enabling legislation consonant with the new supreme law and also advocates for the State to put in place policies and programmes that actualize the Constitution. The occasional report also calls upon private actors comprising business, civil society and individuals to understand their obligations under the new legal context and live up to them.

3.4.0 Coordination of National Human Rights Policy and Action Plan

The draft National Human Rights Policy (NHRP) and draft National Action Plan on Human Rights (NAPHR), developed through a consultative process spearheaded by KNCHR and the Ministry of Justice, National Cohesion, and Constitutional Affairs (MOJNCCA) have since been finalized and submitted to the Kenyan cabinet for approval before publication and dissemination.

The draft NHRP and draft NAPHR address key human rights challenges facing Kenya in her commitment to promote and protect all human rights in conformity with the Constitution of Kenya as well as international human rights standards. The two documents also complement other national policies concerned with the promotion of good governance, democracy, gender equality, peace, sustainable economic growth, and development. Further, they will serve to ensure that Kenya complies with her international and regional obligations under the various international instruments and are reflective of the values of the Kenyan people as embodied in the Constitution which guarantees the protection and promotion of fundamental rights and freedoms for all citizens.

3.5.0 Reduction of Human Rights Violations by State Agencies through Institutional Reforms

In pursuit of its promotion and protection mandates, the KNCHR is actively involved in various institutional reforms campaigns. Since independence, Kenya has had an infamous background of institutional weaknesses, rampant with lack of transparency, accountability and pro-citizen service delivery. The new constitutional dispensation warrants that government institutions get to reform towards reduction of such institutional practices that bred violations of human rights in the previous political regimes. KNCHR has been a bold advocate for such institutional reforms both in the previous and the current constitutional dispensations. Some of the specific reform issues that the commission has engaged in are discussed here below;

3.5.1 Security Sector Reforms

(A) Adoption of Human Rights standards in legislation

The passage of the Constitution heralded a new era in so far as policing, security and reforms is concerned. The Commission together with its partners under the USALAMA Forum actively engaged in various police legislation which included the Independent Police Oversight (IPOA) Bill, the National Police Service (NPS) Bill and the National Police Service Commission (NPSC) Bill. These Bills had extensive stakeholder consultations from the proposals stage to parliament where these proposals were passed into laws. The final enactments on these issues bore numerous recommendations that came from the KNCHR.

(B) Contributions to Operationalization of the Independent Police Oversight Authority (IPOA)

The Commission was represented in the selection panel for Commissioners for the Independent policing oversight authority and the Police Service Commission by two Commissioners. This engagement resulted in appointment of individuals with a track record in the protection of Human rights in the Independent police Oversight Authority.

(C) Development of Police Vetting Framework

Vetting of police officers is one of the prominent themes of discussion in the ongoing police reforms. The National Police Service Act (2011) lays down the legal provision for vetting of police officers, though does not provide the detailed framework and operational tools for the exercise. It's against this background that the KNCHR in partnership with a group of civil society organizations engineered the Working Group on Police Reforms (WGPR) platform so as to address this gap. The WGPR held various meetings and developed three tools that will be used in this very important exercise; (i) the Guidelines on Vetting of Police Officers; (ii) the Vetting Tool; and (iii) a tool for collecting information from members of the public. These three documents were presented for validation at various meetings – with the media, the public and other stakeholders and widely accepted.

Due to the ongoing electoral campaigns that are already at fever pitch, it is anticipated that the actual vetting could start just after the 2013 elections. The WGPR will in the next year be engaging in strategic advocacy with parliamentarians and key actors in the security sector to ensure the tools' adoption by the National Police Service Commission and subsequently be used for the vetting exercise when it eventually commences.

(D) Strengthened Community Policing Mechanisms

During the year under review, KNCHR also noted from its public complaints database that there were increasing public outcry against misuse of authority by community policing outfits. In some cases such as the Sungu Sungu in Kisii, the individuals who masqueraded as community police dealt with their victims in a manner that led to gross violation of human rights. Right to fair trial was not adhered, there was extortion of the public of their money, and rarely was the cases submitted to the right judicial process. In some cases, the victims lost their lives in the hands of community vigilante groups in the name of community policing.

These concerns prompted the KNCHR and its other partners to commence discussions with the National Police Service's Community policing Directorate on the possibility of undertaking capacity building forums. These discussions were quite fruitful and as a result, the KNCHR, its partners, and the Police organized successfully forums on community policing in Kisii, Kisumu and Kirinyaga. KNCHR will embark on more similar forums and relevant trainings in the already identified regions for better effectiveness of the community policing mechanism and for greater respect of the rule of law.

3.5.2 Judicial Reforms

Judicial Reforms is another aspect of state agency reforms that the KNCHR has engaged in so as to ensure that criminal justice mechanisms are conducted in a manner that will avail justice to all. KNCHR salutes the Judiciary for the immense efforts being put in place to reform the judiciary to one that avails justice and one that the citizens have confidence in, rather than that which favors the strong. The KNCHR is proud to be associated with several positive developments in the judiciary such as;

The office of the Chief Justice and the ICT department have created an online based system for monitoring and tracking overdue judgments and rulings with a view of taking a remedial action. It is envisaged that the public will be able to access case information by short text messages (SMS) from the convenience of their cellular phones.

(B) Strengthened Court Users Committees (CUCs)

The Commission spearheaded the establishment of court users committees in various part of the country as an avenue for criminal justice actors to enhance their collaboration. KNCHR supported two new Court Users committees that were fairly new in Machakos and Kuria. KNCHR further built the capacity of the CUCs in terms of effective management of criminal justice processes. Notably during the year, the commission encouraged the establishment of sub committees in CuCs to address specific thematic issues such as committee; committees on child protection, sexual offences, offender rehabilitation and reintegration.

In monitoring the extent to which sub committees were effective in enhancing the protection of rights for the vulnerable members of the society, the Commission noted that there was an enhanced public/private partnership between key criminal justice agencies. The partnership resulted in the construction of a child protection unit at Nyahuru police station. As a consequence (i) a separate registry for cases of sexual violence was established at the police station and in the courts; (ii) there was a marked increase in reporting of cases of sexual violence involving children, (iii) there was a marked reduction in the number of botched sexual violence cases due to a veto on reconciliation at the police station and in court.

Continued advocacy with the Kenya Magistrates and Judges Association (KMJA) and participation in the taskforce on judicial reforms has influenced critical Human Rights dimensions in the administration of justice. This was realized through the establishment of the National Council on the Administration of Justice (NCAJ) that was launched in August 2011 by the chief justice. The NCAJ will formulate policies relating to the administration of justice, and implement, monitor, evaluate and review strategies for the same.

C) Advocacy on Judges and Magistrates Vetting Tool

As part of its efforts to infuse human rights in the ongoing judiciary reforms, KNCHR developed the Judges and Magistrates vetting tools and subsequently lobbied for its adoption. KNCHR held three forums regarding the vetting tool with stakeholders who included the professional societies, civil society and KMJA which led to the adoption of the tool. During the year under review, four High Court judges and the Court of Appeal had been dropped from the judiciary service on grounds of being unsuitable to continue offering judicial services. The vetting tool enabled the vetting board to apply Human Rights principles in the vetting as opposed to the radical surgery of 2003 that was arbitrary and did not consider Human rights of the affected judicial officers.

3.5.3 Electoral Reforms

As part of its work in enhancing political accountability in the country, KNCHR monitors electoral processes to uphold the rule of law and ensure they are conducted within the highest possible standards of transparency and accountability. In the past elections, KNCHR's monitoring, documentation of malpractices and issuance of advisories contributed to remarkable reforms in the manner in which political campaigns and electoral processes are conducted and regulated.

On 24th March 2012, KNCHR monitored and observed the IEBC mock election in Kajjado, which was aimed at gauging the preparedness of IEBC to conduct the 2013 general election. KNCHR was also interested in assessing improvements that IEBC had made on the necessary administrative and logistical weaknesses which were blamed for the post election violence in the last general elections. Human rights concerns such as effective participation of marginalized and special interest groups also inform KNCHR's monitoring intervention.

In the monitored mock election, KNCHR observed a high level of preparedness since ballot boxes were delivered to the various polling centers on time, polling officials arrived at their polling stations early and two security officers were posted to each polling station. KNCHR also noted the presence of local and international observers in all polling stations visited. KNCHR thus concluded that IEBC had factored most logistical and administrative issues to enable the success of the mock elections. Challenges were however noted regarding facilitation of the elderly, minorities and persons with disabilities during the exercise. KNCHR noted the inability of such persons to participate in the mock elections effectively as critical factors such as ballot materials that were accessible to blind persons were not taken into account. KNCHR presented its findings to IEBC which consequently embarked on consultative meetings with disabled persons organizations (DPO) to ensure their participation in the elections.

3.5.4 Prison Reforms and other Places of Detention

The legal and regulatory framework on how persons deprived of their right to liberty should be treated is anchored in the international regional Human Rights instruments and national legislation. The UN minimum standard rules provides for the handling of prisoners and management of places of detention. At the National level article 49 of the Constitution provides the protection of persons deprived of their personal liberty. The prisons Act Cap 90, the Borstal Act cap 92 and the prisons standing orders also guarantee in specific terms the rights of detained persons and provide for the management, treatment and care of inmates in detention places.

KNCHR monitors places of detention and gives advisories and recommendations to the prisons department and ministry of Home affairs. Monitoring places of detention has been effective in establishing constructive dialogue of cooperation with prison authorities, the ministry of home affairs and prison officers. The Commission has worked around penal reforms to ensure that the rights of persons held in detention are respected and upheld by duty bearers. KNCHR in the past has contributed to various institutional reforms in the country through pressing for greater transparency and accountability.

During the period under review, the Commission inspected 16 prison facilities which included, Maralal, Nanyuki, Rumuruti, Hindi, Hola, Kodiaga, Embu, Mombasa, Kisumu, Bungoma, Busia and Kisii, Kericho Women Prison, Malindi Women Prison, Kisumu Women Prison and Kakamega Women Prisons. The monitoring was also extended to 17 borstal institutions and remand homes including, Nakuru Remand Home, Girls Probation Hostels, , Kericho Vocational Rehabilitation Centre, Eldoret Children Remand Home, Nairobi C Remand Home, Getathuru Rehabilitation School, Dagoreti Rehabilitation School, Youth Corrective and Training Centre, Likoni Children Remand Home, Likoni Rehabilitation School, Malindi Children Remand Home, , Shimo La Tewa Borstal Institution, Kisumu Children's Home, Manga Children's Home, Shikusa Borstal Institution and the Kakamega Rehabilitation School.

These visits noted an improvement in understanding of the standard minimum rules by prison officers which then translated to reduction in physical torture of prisoners, improved dietary provisions, and some improvement in care for the vulnerable groups such as the old, the disabled and people living with HIV and Aids. KNCHR particularly appreciates progress that has been made in improving physical infrastructure in most prisons mainly as a result of improved political commitment to the penal reforms process. Prison financing through the national budget has improved since 2010 through budgetary allocations for the improvement and expansion of prisons physical infrastructure



Former Ag. Commission Chairman Dr .Samuel Tororei sensitize police officers on human rights.

The inspection visits however found out that prevalent challenges in most prisons included; congestion in prisons, inadequate budgetary allocation to the prison department, and inadequacy of uniforms for those in custody. Table 2 below shows the extent of congestion as was reported by the Kenya Prisons Service during the period while table 3 compares the proportions of the convicted versus the remanded persons as reported by the same source.

TABLE 4: DAILY AVERAGE PRISONERS POPULATION, ACCOMMODATION CAPACITY AND CONGESTION PERCENTAGE

YEAR	DAILY AVERAGE POPULATION	ACCOMMODATION CAPACITY	PERCENTAGE CONGESTION
2009	36111.43	18222	98.17
2010	38229.12	18222	109.79
2011	44607.37	22075	102.07
2012	44607.37	26737	66.84

Source: Kenya Prisons Service research and statics data 200 – 2012.

TABLE 5: PERCENTAGE SHARE OF REMANDS AND CONVICTED PRISONERS FROM DAILY AVERAGE PRISONERS

Year	Number Convicted	Number of Non Convicted	Total as at 31ST Dec 2011	Convicted as % of Total	Non-Convicted (Remandees) as % of Total	Daily Average Population
2009	28808	19214	48022	59.98	40.02	36111.43
2010	31060	18500	49560	62.67	37.33	38229.12
2011	32001	18882	50883	62.89	37.11	44607.37
JUNE 2012	33042	19534	52636	62.77	37.22	44607.37

From the tables above KNCHR observes that the population of pretrial prisoners (i.e. non-convicted) is over the internationally accepted standard of 32%. Overuse of pre trial detention contributed to congestion in prisons. This congestion is attributed to the failure of the criminal justice system to use effective and efficient remand management strategies. The management of convicted prisoners is progressively becoming a new problem. Between 2009 and June 2012, the share percentage of convicted prisoners had increased from 59.98% to 62.77%. The Commission will continue advocating for a sentencing policy, early release mechanism such as parole, establishment of halfway houses, electronic monitoring and reduction of sentence on good behavior and bail and bond policy.

Selected Success Story on KNCHR's Interventions on Prison Reforms

The Commission's work in promoting respect for human rights in prisons has been one of the most progressive. The commission has engaged in prison reform work through inspections on level of compliance with human rights standards, sensitization of inmates regarding their rights through billboard messages, and training of prison officers on human rights based approach.

Despite the goodwill of Kenya Prison Service to effect the required changes, KNCHR thought it would be best to let the KPS have an internal mechanism of monitoring human rights issues in the prisons and liaising with KNCHR for appropriate redress. The main objective of this would be to let KPS take ownership of human rights reforms in prisons.

KNCHR engaged the KPS on the matter during the year. One important achievement was the political goodwill won from the Commissioner of Prisons and the Permanent Secretary Ministry of Home affairs for KNCHR to lead in building the capacity of Human Rights officers in prisons. Several preparatory meetings were held between the Commissioner of prisons and KNCHR which culminated in developing the terms of reference for the prisons human Rights officers. The terms of reference were validated in a meeting between Kenya Prison Service and KNCHR.

A survey to identify the capacity gaps in prisons was undertaken to identify the capacity gaps of the Human Rights officers in understanding fundamental Human Rights principles relating to persons in detention, their level of understanding the standard minimum rules and the prisons standing orders.

KNCHR is designated to conduct training for the selected welfare officers and duty officers who will take up the role of human rights officers to effectively manage the human rights desks in prisons. A first phase of training was done in Eldoret for officers from Western, Nyanza and Rift Valley provinces, where 105 officers were trained. This was a major milestone towards sustainability of human rights efforts in places of detention. KNCHR will continue its engagements with the KPS and the Ministry of Home Affairs to ensure that the project achieves the desired impacts.

3.6.0 Challenges on Mainstreaming Human Rights in Implementation of the Constitution

Despite the milestones achieved certain challenges were encountered which limited the extent of possible achievement. These are as discussed below;

3.6.1 Challenges

- i. With the ongoing rush to implement the various provisions of the constitution, there have been capacity constraints in relation to review of bills.
- ii. Despite the remarkable judicial reforms that are going on, justice remains widely inaccessible to majority of Kenyans particularly those in marginalized areas.
- iii. The infrastructure of most courts in the country remains inaccessible to persons with disabilities.
- iv. Allocation of funds by the government to key institutions is not sufficient enough to finance the required reforms. This implies that KNCHR's advocacy efforts can only end at outputs, e.g. changing perceptions of duty bearers or making contributions to policy and legislation without the same outputs proceeding to visible institutional outcomes and impacts that would change lives of Kenyans. KNCHR takes particular note of funding to Kenya Prison Service (KPS), an institution that has demonstrated change in perceptions and willingness to make prisons human rights compliant, yet continues to receive inadequate funding from government.

6.2 Recommendations

The commission will follow closely the pace of Constitution implementation, and consider the possibility of deploying more staff to support the review of legislation. Development partners with relevant technical know-how could also support the commission on this.

KNCHR hails the plans to introduce mobile courts and urges the judiciary to consider the marginalized parts of the country as a priority in the programme.

The judiciary should also work to ensure that the infrastructure of the courts is made disability friendly.

Reforms that will operationalize the constitution and enforce accountability and rule of law in institutions will require radical review of budgets and acceptance of new institutional strategies. The Kenya Prison Service, National Police Service, among other law enforcement agencies need keen attention in terms of remuneration for the officers, provision of equipment, and terms and conditions of service.

7.0 Concluding Remarks

It's hard to be good! Efforts to enforce lasting accountability and transparency in state institutions through legislation can be an arduous task with numerous challenges and threats. However KNCHR celebrates all the important national gains in the new constitution. The commission acknowledges ongoing efforts from various quarters to ensure that implementation of the constitution remains steadfast.

The commission is encouraged by the fact that it remains a leader in review of existing legislation and influencing change through advisories that are based on human rights. As already reported, 50 out of the given 147 recommendations during the year under review, have already found their way into legislation and policymaking processes. KNCHR is hopeful that even more recommendations will be taken up in the ongoing changes. Realization of change within political contexts such as these is known to be unpredictable and a slow process.

KNCHR also wishes to acknowledge the contributions of various CSOs and development partners who have been supportive in various themes around infusing human rights into implementation of the constitution, particularly on institutional reforms. The support of various CSOs at both the national and regional levels is appreciated including but not limited to; Usalama Forum, Uwiano Forum, CJPC, Transparency International, CJ, FIDA- Kenya, IMLU, KHRC, KMJA, LSK, and many others. KNCHR also appreciates collaborations and cooperation from various state actors which have shown commitment to reforms process in the country. Particular appreciation is taken of CIC's work.

KNCHR further urges faster adoption of the revised national human rights policy by the cabinet and parliament for a more robust human rights environment, taking note of various attempts by the legislature to unconstitutionally alter the constitution. KNCHR urges all Kenyans to be vigilant and to ensure that the constitution implementation is not derailed by self seeking politicians. Keeping vigilance on this process is a duty of all Kenyans.

4.0: KEY RESULT AREA 3- INCREASED KNOWLEDGE AND PRACTICES OF HUMAN RIGHTS PRINCIPLES AND STANDARDS IN PUBLIC AND PRIVATE SPHERES

The broad mandate of infusing human rights into the public and private spheres and increasing public awareness is defined in the Kenya National Commission on Human Rights Act (2011). Section 8(1) entails formulating, implementing and overseeing programs intended to raise public awareness of the rights and obligations of a citizen under the Constitution. To operationalize this section, the Commission conducts various workshops and capacity building forums aimed at increasing knowledge, skills and promoting positive attitude in advancing human rights culture in the country. This chapter expounds on the broad array of interventions that were implemented by KNCHR during the period under review.

4.1.0 Development and Dissemination of IEC Materials

The right to know, seek and receive information on human rights depends upon a comprehensive human rights education and training. These are essential for the promotion of universal respect for and observance of all human rights and fundamental freedoms. Every year, the Commission develops information, education and communication for various target groups on different thematic human rights issues. The purpose of these materials is to promote public knowledge on human rights, for state actors, non state actors and for citizens.

During the year several brands of IEC materials were developed on diverse thematic areas. These included; t-shirts with anti-torture slogans; newspaper supplement informing the public of the new provision in the Constitution against torture in the private sphere; key holders with anti torture slogans, among others. These materials were disseminated to state actors, non state actors and members of the public in Kakamega, Kitale Eldoret and Bungoma police stations and prison institutions.



KNCHR officer Koome Miriti issuing IEC materials at the Mombasa ASK show

Selected Success Story: Promoting Human Rights Education in Nandi County, North Rift

KNCHR's North Rift office conducted a human rights clinic drive in Kobujoi, Sasur and Koilot of Nandi County from 14th -19th November 2011. The clinics attracted an estimated 900 public members. The main objective of the clinics was to increase awareness and knowledge on human rights to the residents of Nandi County. The clinics sensitized the public on the Commission's mandate, admission criteria and the procedure followed when filling a complaint. During the clinics, the public presented 11 complaints which KNCHR programme officers addressed through free legal aid and case referrals.

The clinic also addressed the issues of negative cultural practices such as forced marriages and female genital mutilation. Consequently, KNCHR officers received requests to sensitize on issues of disability, youth and women rights. KNCHR also formed new partnerships with the Provincial Administration, youth and women organizations (Testai women group), a local CBO that deals with environmental protection, and the Terik Council of Elders.

Media and Publicity

As a human rights watchdog, KNCHR stays keen on human rights issues particularly as featured across various public media. The commission's engagement with the media is broadly in two ways; first, to influence media reporting on issues related to human rights, with the aim of ensuring that human rights violations are accurately reported. KNCHR conducts regular media monitoring through newspapers review, social media, and other ICT supported platforms so as to keep abreast with human rights reporting and highlight areas that call for corrective measures. A major achievement during the year was an engagement with the Media Council of Kenya concerning misreporting of minors which go against the rights of children. The media council responded well and inculcated these concerns in subsequent capacity training for media personnel that was organized by the Council. Secondly, the commission also uses public media to propagate public information regarding the work of the commission. In 2011/2012, KNCHR held various press conferences on various groups such as IDPs and police reform issues which were topical during the year. The Commission also engaged media houses in two rapid response missions in Moyale and Baringo where inter clan animosities threatened human rights adherence by citizens and law enforcers.

The media were also engaged to enlist public participation in a number of issues which touched on human rights development. First was a follow up public debate on sexual and reproductive health report which was produced by the commission and which was criticized in some quarters for recommending recognition of reproductive health rights for some unpopular social groups. KNCHR produced a 17 minute documentary summarizing the report and circulated to various parties for awareness of the inquiry and recommendations. The second engagement was using the media to enlighten the public as well as hear their perspectives on the KHREC Bill, where the KNCHR advocated for enactment of one human rights body instead of three with different mandates which would be more expensive to taxpayers as well as creating unnecessary complexities and red tapes when mandates are separate.

4.3.0 Peace Building and National Integration

In the reporting year, KNCHR continued to engage in matters of conflict resolution in order to ensure human rights protection and promotion. KNCHR views its participation in this area as fundamental to securing a just state that upholds the rule of law. One critical engagement that was sustained in the reporting year was the National Steering Committee on Peace Building and Conflict Management (NSC) where KNCHR is a member. This multi-sectoral body is charged with the mandate of coordinating the government's peace building efforts in the country. One of the merits of the NSC is the development of a policy on peace building and conflict management. KNCHR participated in various strategy meetings wherein the draft policy was reviewed and was able to influence the human rights dimensions of the policy. KNCHR also undertook a capacity building workshop and forum targeting members of District Peace Committees, business persons and professionals working in Nakuru. This activity was jointly undertaken by KNCHR, Saferworld and Peacenet both which engage on peace building and conflict management in the country to foster greater public cooperation on National Peace, Cohesion, and Integration. In the reporting year, KNCHR was also co-opted as a member of the National Steering Committee that is developing the country's National Action Plan on the United Nation's Resolution 1325 of 2000 and in that regard, the commission attended a validation meeting and strategy meetings. The development of the action plan is coordinated by the National Gender and Equality Commission.

4.4.0 Infusion of the Human Rights Based Approach (HRBA) in the Public Sector

The Human Rights Based Approach is seen as a transformative framework that has great potential for catalyzing positive change within state institutions and actors as they deliver services to the public. With HRBA's focus on the principles of accountability, non-discrimination and equality, participation and empowerment, the approach spells out the mutual inter- relationship between state actors' duties and non-state actors' responsibilities. During the year under review, KNCHR promoted the HRBA through the strategies that are detailed below;

4.4.1 Training Manual on Human Rights Based Approach for Public Officers

The Office of the High Commission for Human Rights (OHCHR) organized and undertook training on HRBA in three phases for UN agencies, government officers, civil society and the Commission. This approach was aimed at creating a pool of HRBA practitioners in those areas. This was further augmented by the fact that the HRBA principles are now entrenched in the Constitution. A working group was constituted, led by KNCHR to implement strategies that would lead to infusion of the HRBA within the public sector.

One of the strategies adopted was the development of a manual for public officers on HRBA. The manual is structured in two parts and has nine modules. The first part highlights the fundamentals of this approach while the second part guides on how these principles could be applied in different thematic contexts. A draft manual is complete and ready for piloting, peer review and stakeholder validation. These subsequent steps will be done in the new programme year.

4.4.2 Infusion of HRBA Principles in Monitoring of Vision 2030

Vision 2030 is the national development blue print that guides development strategies across 3 key pillars; Political, Social and Economic. Formulation and monitoring of the vision 2030 in its various Medium Term Plans is done by the Ministry of Planning, National Development and Vision 2030, through specific development indicators, as spelt out in the National Handbook of Indicators.

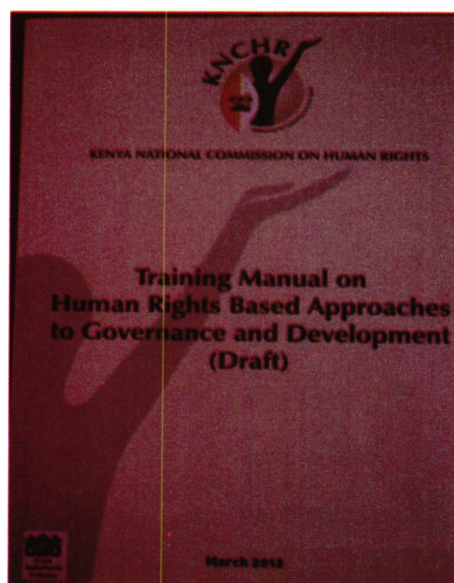
KNCHR in its research publication 'The third state of human rights report' looked at the progress in implementation of Vision 2030, particularly assessing compliance to human rights principles. The report raised concern that some national development indicators used in the 1st MTP for Vision 2030 were not human rights sensitive. One of the recommendations was that development of the 2nd MTP needs to be guided by HRBA, a skill which the experts involved were inadequately equipped in.

In this regard, the Commission undertook a capacity building workshop for the Monitoring & Evaluation Directorate of the relevant Ministry staff on HRBA. The training reviewed the relevant contextual and policy issues involved and enhanced the capacity of the officers to develop the new set of indicators that are sensitive to human rights principles. The commission is hopeful that this will create an avenue for a more comprehensive infusion of human rights principles in implementation of the national development framework.

4.4.3 Enhanced Capacity for Transparency and Accountability amongst Duty Bearers

Pursuant to article 8(b) of its constitutive Act, (KNCHR Act 2011), KNCHR has the mandate to promote the protection and observance of human rights in public and private spheres. The commission targets various public duty bearer institutions for the purpose of enhancing their capacity to uphold human rights principles and standards, particularly law enforcement agencies. One of these institutions has been the Kenya Prison Service where the commission trains officers for better understanding and application of The Standard Minimum Rules on Treatment of Prisoners (SMRTP). The guideline is intended to ensure that prison facilities adhere to acceptable international standards regarding human treatment of prisoners, clothing, food and nutrition, interest of vulnerable groups, among other concerns. The application of the SMRTP is promoted alongside the national guideline, the Handbook on Prisons Management. During the year, trainings were mainly conducted in Eastern, Western and Nyanza regions where a total of 500 prison officers were trained for better respect of human rights standards.

Training Manual on HRBA
produced by KNCHR



4.5.0 Advocacy on Increased Ratification and Domestication of International and Regional Treaties and Standards

Section 8(f) of the KNCHR Act (2011) empowers KNCHR to act as the principal organ of the State in ensuring compliance with obligations under international and regional treaties and conventions relating to human rights except those that relate to the rights of special interest groups protected under the law relating to equality and non-discrimination. Since its establishment, the commission has been a recognized catalyst in advising the government and also monitoring compliance of the government with respect to international and regional treaties. The commission's strategies on enhancing increased ratification and domestication of treaties include;

- i. Monitoring implementation of UPR recommendations
- ii. Engagement with Treaty Bodies/ Special Mechanisms
- iii. Advisories to the Government

4.5.1 Monitoring Implementation of Universal Peer Review (UPR) Recommendations

KNCHR continued to facilitate and work closely with the UPR-stakeholders to monitor the implementation of UPR recommendations. UPR is a mechanism under which the Human Rights Council (HRC) examines the situation of human rights in each UN member state after every four years, by reviewing the fulfillment of human rights obligations and commitments made by all member states. Objectives of the UPR mechanism include;

- i. The improvement of human rights situation in each country
- ii. The fulfillment of the state's human rights obligations and commitments and assessments of positive development and challenges faced by the state
- iii. The enhancement of the state's capacity and of technical assistance, in consultations with, and with the consent of the state concerned
- iv. The sharing of best practices among states and other stakeholders, and
- v. Support for cooperation in the promotion and protection of human rights

KNCHR made two publications from the UPR process during the year namely "Accounting for Human Rights Protection under the UPR; The Difference Kenya's Stakeholders made' and "The Annual Progress Report". These reports were disseminated both locally and internationally on-line. An audit of the reporting period found that less than 25% of the UPR recommendations have been implemented and mostly within the context of constitutional implementation; this rate was attributed to lack of conscious effort by the government to implement UPR recommendations. The reports served as a pointer to the state in identifying areas where immediate action was required.

In addition, a template linking other treaty monitoring mechanisms to the UPR process was finalized which had three-fold objectives; eliminating duplicity of work and therefore time constraints regarding international reporting, keeping track of and link issues, recommendations and conclusions of the various international treaty mechanisms while also building the capacity of the civil society to engage with these bodies.

A meeting with the Coalition's steering team to discuss strategies for moving the UPR process forward revealed that several organizations were continuing with the UPR work and the commission encouraged them to continue with their engagement. KNCHR and stakeholders also agreed to select a theme each year on which advocacy would be conducted and the government advised as appropriate. For the year under review, the theme selected was "Abolition of the death penalty" and advocacy around this included conducting prison visits to death row inmates, a meeting with the power of mercy committee and advocacy through other treaty body mechanisms such as the Human Rights Committee. KNCHR plans to hold public forums on abolition of the death penalty in various counties and press for its abolition.

Generally, the commission continued to share at the global level Kenya's experience, through participation in an e-discussion on the UPR process hosted by UNDP-New York. Similar experience sharing was done at a two-day session in Namibia organized by the Human Rights Unit of the Commonwealth Secretariat. The objectives of the Namibia forum included encouraging and supporting commonwealth stakeholders (NHRIs and NGOs) to remain engaged with the UPR process and, to build the capacity/ support of commonwealth states to implement /act on the accepted UPR recommendations.

4.5.2 Engagement with Treaty Bodies/ Special Mechanisms

The Commission prepared an alternative report during Kenya's review by the Committee on the Convention on the Elimination of all Forms of Racial Discrimination in August 2011. KNCHR held an initial informal meeting with the committee members at which issues of concern to be raised at the meeting with the State were discussed. Thereafter, with the consent of the State party, formal submissions to the committee were made in plenary.

Additionally, the commission conducted a workshop in preparation of the 2nd country report under the Convention against Torture (CAT) during which it urged the government to develop a draft zero country report on the implementation of CAT. The content of the second country report was agreed upon by stakeholders. The year had several activities relating to CAT. The commission also facilitated a meeting of African experts on torture that aimed at building capacity through sharing experiences of advocacy, litigation and other strategies to combat torture. It also participated in the review of the State's report on the implementation of the CAT and prepared a newspaper supplement that ran on June 26-UN International Day in Support of Victims of Torture.

Further, an alternative report on Kenya's efforts towards the implementation of the International Covenant on Civil and Political Rights (ICCPR) was submitted to the Human Rights Committee. This report served to highlight the key concerns in implementing the covenant at the domestic level, particularly with the advent of the new constitution. The Commission worked with a coalition of civil society organizations to agree on advocacy strategies to ensure relevant recommendations would be made to the state during the review in July.

The Commission also took part in a meeting on the Rights of the child Optional Protocol hosted by CRADLE. The meeting aimed at drawing up strategies on how to advocate and lobby for the ratification of the Optional Protocol by the state even as the enactment of the Ratifications Bill is pending and prepared a report on the state of human rights in Kenya for the African Commission.

4.5.3 Advisories to the Government

An advisory on the Ratification of Treaties Bill was prepared and duly submitted. The Commission participated in a technical forum organized by CIC to review the Bill subsequent to which a comprehensive bill was drafted. This bill did not however find its way to parliament as a Private Member of Parliament had already introduced another Ratification of Treaties Bill in Parliament. The Private members Bill however lapsed after the second reading and so far the matter is still before the house for consideration.

4.6.0 Enhanced Respect of Human Rights Standards by Traditional Justice Systems

Informed by the fact that formal justice systems are not accessible to many, they are costly, time consuming and intimidating, the Commission has since its early days sought to enhance dialogue between traditional elders, civil society, community organizations and state actors to strengthen the protection and promotion of human rights particularly for vulnerable groups such as widows and orphans. This is done through community workshops and it is aimed at sensitizing the community, state actors and civil society on the role of cultural institutions in resolving human rights issues. Various issues affecting the community and especially the vulnerable were identified and a way forward agreed upon.

During the period under review, one such community workshop was held in Tharaka district in the larger Meru Region. A meeting was held with the Njuri Ncheke Council of Elders, the Provincial Administration and the Lands Officials in the Meru region in order to address the issues of land adjudication in the district. The meeting identified the problems affecting land adjudication in the district/region and convened the main players to discuss the issue.

From 10th – 15th June 2012, the Commission monitored and documented the “court sessions” of the Njuuri Ncheke Council of Elders in Meru. 9 cases were successfully determined by the elders using cultural knowledge and customs while the Commission monitored the process to ensure that it was in line with human rights standards. The litigants were able to embrace the rulings and the elders emphasized the need for cohesion within the community. There were many more cases in court which were brought before the elders demonstrating the level of trust the people in the area had in the traditional justice systems as a result of the transformation of the local judicial systems to uphold justice and human rights.

The Commission has consistently advocated for the recognition of informal justice systems that meet human rights standards in order to enhance access to justice for many Kenyans. The Commission was therefore glad on the formal recognition of these systems as was pronounced by the Chief Justice of the Republic of Kenya during the year when he stated that:

“Our justice system will give due regard to traditional mechanisms of dispute resolution, as far as the constitution allows”.

Remarks made on 31st May 2012 during the launch of the Judiciary Transformation Framework 2012-2016

4.7.0 Increased Public Awareness on ECOSOC Rights

Following the recognition of Economic, Social and Cultural rights in the 2010 constitution, the Commission has been involved in efforts to enhance awareness of this development among duty bearers, claim holders and the general public.

A capacity building workshop was held on the 28th and 29th of November 2011 aimed at enhancing the understanding of duty bearers on the right to water and sanitation. This enabled them to effectively play their role in the realization of this right. The workshop drew participation from Ministry of Water and Irrigation, Water Sector Institutions at the National level, Water Service providers within Nairobi and its environs, Development partners and Civil Society Organizations. During the workshop, the participants:

- Established a common understanding on human rights conceptual framework in relation to the right to water and sanitation
- Shared contextual experiences, lessons learned and good practices on promoting the right to water and sanitation
- Reviewed capacity building materials on the right to water and sanitation that the Commission had earlier developed.

4.8.0 Protection and Promotion of the Rights of Special Groups

One of the mandates of the commission since its establishment is the protection and promotion of special interest groups. Such groups include but not limited to; Persons living with disabilities, minorities and indigenous persons, persons living with HIV/Aids, among others. The engagement of KNCHR is as a result of weaknesses that exist in legal and policy frameworks which work against the protection of rights of such groups. The commission mounted several interventions to ensure that the rights of these groups are protected, as reported in this section.

4.8.1 Rights of Indigenous People

During the period under review, the Commission continued to enhance awareness on the rights of Indigenous peoples among state, non state actors, and the general public. In partnership with International Work Group for Indigenous Affairs (IWGIA) the Commission launched a documentary on the indigenous peoples. The documentary which features the Ogiek and Endorois communities demonstrates both the dilemma facing Indigenous People and the efforts made by the ACHPR in addressing their rights. It aims to heighten the level of advocacy on the rights of the Indigenous people in Kenya, demonstrate the difficulties faced by indigenous people and to influence policy makers to come up with positive policies on indigenous people in Kenya and to urge the government to speed up the implementation of the ruling by the African Court regarding the Endorois Community.

During the launch of the documentary, the Minister for Justice, National Cohesion and Constitutional affairs undertook the initiative to draft legislation on minorities and indigenous peoples. The documentary can be viewed at the following link:

<http://www.knchr.org/IndigenouspeopleinKenya.aspx>

The Commission also mediated in a conflict involving the Yiaku and Iingwesi communities- Laikipia County. The two Maasai clans have had major disputes over a strip of land that had been brought to the attention of the Commission. In response, a workshop was organized bringing together various indigenous communities in the county so as to explore and bring to their attention relevant provisions of the constitution and how they can mainstream their rights in the constitution. Through the workshop, the 2 communities were able to express their frustrations against each other and the Commission was able to act as the mediator bringing them to an amicable consensus. The sensitization on the constitutional provisions was well received, with the community resolving to focus on the gains in the constitution in order to realize the benefits.

4.8.2 Rights of the Internally Displaced Persons (IDPs)

Kenya experienced contested elections in Dec 2007, which precipitated post election violence and internal displacement of thousands of people. Resettlement of the victims subsequently became a key consideration in the formulation of the National Accord. The government's efforts to resettle the victims have since been gradually slow, subjecting the victims to serious human rights violation. The commission has since contributed immensely to the resettlement process through numerous interventions such as;

1. Formulation of the National IDP Policy
2. Lobbying for adoption and creating awareness on the National IDP Policy.
3. Capacity building forums on internal displacement
4. Monitoring, Documenting, and advising stakeholders on the human rights of IDPs
5. Advisories and status reports to the Ministry of State for Special Programmes

The section that follows discusses in-depth the extent of achievements with regard to the above strategies which were employed by KNCHR.

(i) Development of IDP Policy and Law for Kenya

KNCHR successfully lobbied and advocated both at the national and international level for the development of an IDP policy and law which is in line with international standards. At the international level, the commission in partnership with UNHCR hosted a meeting between the UN Special Rapporteur on Human Rights of IDPs, Prof Chaloka Beyani who was on an official country mission to assess situation of IDPs. Members of the Protection Working Group on Internal Displacements (PWGID) apprised the Special Rapporteur about their intervention with regard to IDPs. The PWGID members also raised the concern around the IDP resettlement process and the slow pace of adoption and implementation of the national policy framework on IDPs.

Following this mission, the Special Rapporteur presented his findings at the 19th Session of the Human Rights Council on Human Rights of IDPs. The Special Rapporteur commended the Government for its commitment to address the IDP situation through the return and resettlement programmes, and ongoing legal and policy reform initiatives. He urged the Government and other stakeholders to review and improve existing data collection and registration system for IDPs, address the urgent humanitarian needs of IDPs still in camps, those outside camps and forest evictees. He called on the government to adopt a durable solutions framework that facilitates resettlement, return or a local integration process that is safe, voluntary and informed. He also called upon all States to improve protection and humanitarian assistance to IDPs living outside traditional camps and IDP settlements.

The Kenyan Government and the Commission were invited to make statements in response to the report. The Commission acknowledged that significant progress had been made towards resettling IDP families and adoption of legal and policy frameworks on internal displacement. It however observed that the process has been painstakingly slow and called on the government to issue realistic time bound commitments. The Commission appealed for support to the Special Rapporteur in his engagement with the Government and other actors to ensure that the report is adopted and implemented. Jointly with PWGID members, the Commission undertook to identify and prioritize specific recommendations for lobbying and advocacy.

In its statement during the session, the government committed to:

The Special Rapporteur presentations and final remarks can be found at : <http://www.unmultimedia.org/tv/webcast/2012/03/final-remarks-special-rapporteur-on-idps-23rd-meeting-19th-session-human-rights-council.html>

KNCHR statement can be found at : <http://www.unmultimedia.org/tv/webcast/2012/03/nhri-kenya-id-on-arbitrary-detention-and-idps-21st-meeting-19th-session.html>

- Continue working with KNCHR, the PWGID and other actors to find comprehensive solutions to all categories of IDPs.
- Adopt a legal and policy framework on IDPs in line with regional and international standards.
- Strengthen institutions and mechanisms that promote respect for diversity and rights of other ethnic groups.
- Implementing laws on diversity, national cohesion and integration.
- To address root causes of internal displacement and protect IDPs against discrimination, if need be through affirmative action.

At the national level, the Commission continued to engage the national assembly in various efforts aimed at adoption of national policy on IDPS as well as the enactment of legislation on IDPs.

Throughout the year, the Commission and the PWGID worked with members of the Ad hoc Parliamentary Select Committee on the Resettlement of IDPs and to develop a comprehensive legislation on internal displacement that is in line with regional and international human rights standards. Three meetings were held between the PWGID and the Parliamentary Select Committee. The first discussed durable solutions for IDPs in Kenya, took note of the state of resettlement and recommended that a legal framework on the protection and assistance of IDPs be developed.

A second workshop was held in September 2011 to review the progress of the proposed IDP policy which had been submitted to Cabinet, to present the draft IDP Bill to the PSC and PWGID and to facilitate the PSC in reviewing its progress and identifying gaps that may exist. In December 2011, the Commission, PWGID and the committee held a final meeting to review a draft bill that the group had worked on with the support of the office of the UN Special Rapporteur on IDPs. "for their support and valuable input in understanding of the IDPS situation in the country and in developing the national policy for the prevention of internal displacements, protection and assistance of IDPs in Kenya and the draft IDPs Bill."

The select Committee subsequently presented its report on the IDP situation in the country to the national assembly. While tabling the report, the committee chairman, Hon. Ekwee Ethuro thanked the Commission and the Protection Working Group on Internal Displacement:

"for their support and valuable input in understanding of the IDPS situation in the country and in developing the national policy for the prevention of internal displacements, protection and assistance of IDPs in Kenya and the draft IDPs Bill."

The government response can be found at : <http://www.unmultimedia.org/tv/webcast/2012/03/kenya-concerned-country-id-on-arbitrary-detention-and-idps-21st-meeting-19th-session.html>

On 2nd August 2012, Parliament unanimously adopted the report. The Committee also published the Internally Displaced Persons Bill 2012. The key features proposed by the KNCHR/PWGID that were retained in the published version of the bill are:

- Comprehensive definition of IDP that is in line with applicable regional and international standards
- A rights – based response framework to the problem of internal displacement
- Focus on the needs of vulnerable and marginalized groups including communities with a special dependency on and attachment to their lands and the protection needs of women, children, the disabled, the elderly and other persons with special needs. It also affords protection to urban IDPs and integrated IDPs who are largely invisible.
- Flexible durable solutions frameworks that includes voluntary return, local integration and resettlement taking into account long term safety and security, livelihood concerns of IDPs, and restoration housing, land and property rights.
- Establishment of a focal institutional mechanism namely the National Consultative Coordination Committee on Internally Displaced Persons
- Establishment of the Protection and Assistance to Internally Displaced Persons Fund which will be used to help IDPs to among other things rebuild their homes or acquire alternative resettlement sites, replace their basic household goods, and re-establish their livelihoods.
- Creating of offences and stiff penalties for persons responsible for such offences like causing arbitrary displacement, looting humanitarian assistance for IDPs, cause harm or impede access to IDPs.
- Domestication of relevant standards including the United Nations Guiding Principles on Internal Displacement and the Great Lakes protocols on internal displacement.

(ii)Advisories on the Human Rights Situation of IDPs

The Commission developed an online system which it now used to monitor and document the status on IDPs human rights as well as progress in the resettlement process. Monitoring was done through 40 monitors who were trained and deployed in various parts of the country. This online IDP monitoring and reporting system enables monitors to upload data into the system straight for the field.. From the information generated from the field monitors the Commission was able to prepare advisories to relevant authorities and to design appropriate interventions.

(iii)Enhanced awareness of state and non- state actors on regional and international standards relating to internal displacement

The Commission in partnership with the United Nations High Commissioner for Refugees (UNHCR) jointly organized a workshop for state and non state actors working on internal displacement in Turkana, Nyanza and Western regions of Kenya. The workshop was held in Eldoret on 26th and 27th July 2011. 40 participants were sensitized in the two day workshop. The participants represented various stakeholders including members of the provincial administration (District Commissioners), civil society organizations, humanitarian agencies and representatives of IDPs in the targeted regions.

Concerned by the growing number of inhumane forced evictions in the country which have led to displacement of thousands of people, disruption of learning and loss of lives, KNCHR issued a statement through the media calling for an end to forced evictions. The statement was published in the Daily Nation and the Standard on the 6th March 2012. This caught the attention of the public and other key stakeholders in government and private sectors the procedural protections applicable to victims of forced evictions under the national and international law. It also ignited ongoing policy and legislative initiatives on forced evictions under the national eviction draft and resettlement guidelines, the national IDP policy draft and the IDP bill draft .It called for the government to immediately adopt and implement these frameworks.

The project can be accessed at : <http://www.knchr-idp.org/>

(iv) Public Sensitization on Rights of IDPs

The Commission also continued to enhance public awareness on rights of IDPs. This was achieved through:

- Dissemination of copies of national policy of IDPs draft and Information booklets on rights of IDPs: During a fact finding mission in Mombasa for example, the Commission disseminated 200 copies of the simplified version of the draft (English and Swahili) and 500 copies to the Provincial Administration, Muslim for Human Rights (MUHURI), Council of Imams and Preachers of Kenya (CIPK), Likoni Catholic Parish and IDP network.
- Sensitization of the Public on IDP Property Rights: In an effort to create awareness among the displaced communities and members of the public about property rights of displaced persons, two rounds of sensitization forums were held with displaced communities in October and November 2011. In the first round, sensitization forums were conducted in Garissa, and Kibwezi. In the second round the forums were held in Murang'a, Suguta Marmar in Samburu and Mbeere. About 100 persons were reached. Interviews were held with key informants such as provincial administration officials and IDP leaders.

(v) Coordination of Protection Working Group on IDPs

The Commission continued to provide Secretariat support to PWGID at the national and regional levels through facilitating its monthly meetings in Nairobi, Nakuru and Eldoret. These meetings strengthened coordination and information sharing among stakeholders. Such information sharing and coordination enabled effective emergency response and assistance to IDPs and affected communities in Isiolo, Tana River, Baringo North, Nandi East, Laikipia, Nyandarua and Kuresoi.



IDP Working group address the media on the delay adoption of IDP's policy by the government

Selected Success Story on Protection of IDPs Rights

In Feb 2011, The Kenya National Commission on Human Rights received complaints from IDPs in Upper Western Kenya that approximately 400 IDPs from Bungoma, Mayanja, Sirisia, Malakisi, Chwele, Kambole and Namwele had been beaten and harassed by the police and government officers while assembled at the Regional Provincial Commissioners office on 9th Feb 2012. The IDPs assembled for two days at the PC's office and declined to walk out until their grievances would be substantively heard and solutions given.

KNCHR visited the IDPs on 10th February 2012 to further investigate their complaints. The OCPD agreed with the commission that vetting was to be done to confirm who were the genuine IDPs for them to be assisted accordingly, and that Cases of actual bodily harm caused on some IDPs would be prosecuted before a court of law. These actions were subsequently undertaken.

4.8.3 Rights of Domestic Workers

KNCHR continued to lobby and advocate for respect and protection of the rights of domestic workers. Following the adoption of ILO Convention on Decent Work for Domestic workers, the Commission prepared an advisory to guide the implementation of standards set out in the convention. The advisory aimed to elucidate the position of the Commission on ratification of the Convention to the Parliament Committee on Labour and Social Welfare as well as to initiate dialogue on the development of Policies which address the needs of domestic workers.

In partnership with Kenya Union of Domestic, Hotels, Educational Institutions and Allied Workers (KUDHEIHA), the Commission enhanced awareness on the rights of domestic workers through listening forums with domestic workers in Kisumu, Eldoret and Mombasa. The forums were aimed to among others; create awareness on the rights of domestic workers as provided for in the Constitution and the five labour laws. In addition to this, the forums provided an opportunity for the National Health Insurance Fund (NHIF) and the National Social Security Fund (NSSF) to register domestic workers as members to the schemes. 57 participants attended the Mombasa function, 50 in Eldoret while 63 domestic workers attended the Kisumu function. Many workers were recruited to join KUDHEIHA or registered with NHIF and NSSF. In Eldoret 11 new members joined NSSF and NHIF. Membership in the two social benefit bodies gives leverage to the domestic workers in the realization of their social, cultural and economic rights.

4.8.4 Rights of Persons with Mental Illness

During the period under review, the Commission conducted an investigation into the status of mental health in the country. The investigation was prompted by a CNN documentary that was aired early in the year with allegations that the mental health status in Kenya was poor. The investigations and consultations with various stakeholders culminated in the production of a report titled "Human Rights Audit of the Mental Health Status in Kenya".

The report made a preliminary conclusion that the Government of Kenya through practice and policy has to a large extent discriminated against persons suffering from mental illness by marginalizing mental health. For this reason, the report urged the Government to significantly enhance its efforts to provide mental health care around the country in order to meet its human rights obligations. The report gave a number of recommendations on promoting discussions and building momentum for action on reforms in the mental health sector in Kenya.



Director of Mental Health, Dr. Kiima and KNCHR Chair Florence Jaoko launching the Mental Health Human Rights Audit report

9.0 Cross Cutting Issues of Vulnerability

For better protection of rights of some vulnerable groups in society, KNCHR has made programming, implementation and monitoring of these rights to be cross cutting. The commission has emphasized that all programming must factor in such cross cutting issues in all programme activities in order to foster social equity and equality. The commission also endeavors to mainstream concerns in other spheres of life for better participation of these vulnerable groups. This section reports major achievements with respect to these concerns.

9.1 Disability Mainstreaming

KNCHR in collaboration with the Disability Caucus for the Implementation of the Constitution (DCIC) prepared a joint memorandum which was presented to IEBC on inclusion of persons with disabilities in elections, both as voters and as candidates; as well as to establish parameters for future engagement with the Commission. The petition stemmed from the fact that the electoral process has not always been disability inclusive hence resulting in disenfranchisement of PWDs. The key recommendation from that meeting was that IEBC will engage with the DCIC and KNCHR as separate groups from the wider civil society because of the specificity of disability issues in elections which might be ignored if lumped with wider issues from civil society.

In addition, KNCHR participated in the final state report validation workshop where it facilitated the preparation of the initial state report to the RPD Committee at which its content was agreed upon. Further, the commission participated in the Working Group on Older Persons and Persons with Disabilities which took place in Gambia, alongside the meeting of the 50th Session of the African Commission on Human and Peoples' Rights. The said group resolved to proceed with the preparation of a Protocol on the Rights of Persons with Disabilities in Africa and so to review the draft protocol for older persons already prepared. Participation at the above fora enhanced the commission's stature as a leading NHRI on issues of rights of PWDs.

Concerning monitoring the status of the rights of PWDs in the country, the commission conducted monitoring visits in 8 (Elgeyo Marakwet, Masai, Gishu, Makueni, Machakos, Kiambu, Nyeri, Mombasa and Kilifi) counties subsequent to which based on the Constitutional provisions and the field findings; it identified issues for advocacy among which is legal capacity for PWDs. A stakeholder's forum on legal capacity aimed at building the capacity of DPOs and state actors on the meaning and importance of recognizing the legal capacity of PWDs has since been held.



KNCHR in conjunction with association of the Deaf conducts joint tournament to raise awareness

4.9.2 Gender Mainstreaming

KNCHR is mandated to ensure equity, inclusiveness and non-discrimination in the implementation of its mandate. This requirement has been made important by the recognition of those issues as key values and principles of governance that bind all State organs whenever they apply or interpret the Constitution, enact, apply or interpret any law or make or implement public policy decisions (Article 10 (1) and (2) of the Constitution). In the reporting year, KNCHR undertook the following in furtherance of its gender mainstreaming objectives;

- **Staff Capacity Development on Gender, Gender Analysis and Gender Mainstreaming:** A capacity building workshop was organized for KNCHR on the above concepts. Key principles on gender, women's human rights, and gender analysis and mainstreaming were disseminated to participants. The knowledge gained by staff at the workshop has been deployed in the Commission's work and programmes are more responsive to gender issues and concerns. The Commission Secretary promised to support KNCHR's work on gender mainstreaming to ensure the Commission's compliance with the Constitution.
- **Capacity building of other Actors on Gender, Gender Analysis and Mainstreaming:** The Law Society of Kenya (LSK) Council and the LSK Gender Committee who execute the mandate of monitoring government's application of the rule of law and council's application of gender considerations in its work respectively were trained on gender analysis concepts. Participants were sensitized on key gender principles and the role the LSK can play in monitoring the government's adherence to international human rights treaties that the country has ratified. In addition, the 2011 concluding observations made by the CEDAW Committee were disseminated to participants. The LSK committed itself to mainstreaming gender in its programmatic and operational work in compliance with the Constitution.
- **Dissemination of 2011 concluding Observations of the CEDAW Committee:** The dissemination was done targeting community based organizations based in Western and Nyanza regions that engage in gender and human rights work. KNCHR collaborated with FIDA Kenya with the sole aim of sensitizing participants on the concluding observations in order to place them in a position to monitor the government's implementation of the recommendations made therein. Organizations present clustered themselves and committed to monitor the extent to which the government was complying with its international obligations by implementing recommendations made by treaty bodies.

Selected Success Story on Sexual Offences

On 2/2/2012, the Northern Kenya Regional Office of KNCHR (based in Wajir) received a defilement case of a six-year old girl who was defiled while on her way from school in Wajir town. The family/clan of the suspect wanted the matter to be handled under the Maslah (traditional mechanism) system. The mother of the victim who was opposed to that step sought the intervention of the Commission. KNCHR regional office organized for medical examination of the victim and worked with the Wajir Women for Peace in securing the scene of crime as the police were called to collect evidence. Following the ensuing pressure from KNCHR and local partners, the violator was arrested and arraigned in Wajir law courts. KNCHR closely monitored the case and pressed for formal judicial process. The suspect (a 30 year old man) was sentenced to life imprisonment on 28/2/2012. During the hearings, the Commission mobilized the local media (Wajir Community Radio and Star FM) to highlight the case as part of our campaign against sexual violence. On the rulling day, the matter received prominent coverage in the local radio stations which sparked a major public debate with most residents condemning incidences of sexual violence.

4.10.0 Challenges and Recommendations on Infusion of Human Rights Practices and Principles in Public and Private Spheres

4.10.1 Challenges

- i. Low budgetary support to Kenya prison service continues to affect realization of the stipulations of the necessary human rights standards in prisons. Particularly affected are young children accompanying their mothers to prisons.
- ii. Some politicians continue to exploit the vulnerability of some communities and incite them towards negative ethnicity, conflict and violation of rights.
- iii. Cap. 90 on management of prisons remains a constraint for better respect of human rights in prisons since it has several stipulations since colonial times that are overdue for revision.
- iv. It proved rather difficult for KNCHR to press for implementation of UPR recommendations, when the focus of the state was on implementation of the constitution. This resulted to recommendations being overlooked.

4.10.2 Recommendations

- i. The Government needs to increase budgetary allocation to Kenya Prison Service so as to enable the prisons and other places of custody to realize greater respect of rights for those in custody, particularly as set out in the handbook on prisons management and in the UN Standard Minimum Rules on Treatment of Prisoners.
- ii. Parliament, the DPP and Judiciary should be vigilant and steadfast to ensure that unscrupulous politicians are investigated, prosecuted and punished for political incitement which drives a wedge between otherwise peaceful communities.
- iii. There is need to urgently review Cap 90 of the penal code to make it compliant to the current constitution.
- iv. KNCHR will continue to press for implementation of the pending UPR recommendations and urges the Executive and the Legislature to be more committed to the same.

4.11.0 Concluding Remarks

Increased knowledge and practice of human rights principles and standards in public and private spheres was the leading programme key result area that had quicker and more demonstrable results during the period. There is evidently increase in human rights knowledge in the country and of human rights principles and standards by duty bearers in various stations of public service, especially law enforcers. There is an increase in litigating behavior of citizens as has been seen in the rising cases being registered in courts on private matters, constitutional and policy issues. End of the year outcomes assessment in prisons and other places of detention also showed convincing results that the officers had an improved understanding of human rights principles and had changed their attitudes for the better towards human rights, though practice was still lagging behind in some facilities. As one long serving officer reported in Manyani Prison in the Coast Region,

“In the past, we would shudder when we heard that human rights were at the gate requesting to be allowed in. We would refuse them entry or refuse to cooperate with them. These days when they come, we know several problems are solved”. Prison Officer, Manyani Prison

Several improvements have been discussed in the report regarding prison reforms, such as housing infrastructure and food and nutrition for the vulnerable. Housing conditions, scheme of service and review of Cap. 90 remain issues that require immediate attention from the government for better realization of rights of those in custody and the prison officers. KNCHR is also delighted to report on improvements in protection of various vulnerable and marginalized groups. Monitoring of intermediate changes with respect to rights protection of PLWHPWDs, and Minority Groups indicated that there was increased enlightenment about the rights of these groups and that people were more willing to respect these rights. KNCHR also acknowledges the efforts that the government has done through the Ministry of State in for Special Programmes (MoSSP) in resettlement of the IDPs.

The commission however castigates the negative ethnicity that remains an area that is exploited by some politicians to manipulate some communities against each other. Such acts are a drawback to the country on its efforts of national integration and reconciliation, and negate constitutional gains on protection of human rights. KNCHR also urges the government to be steadfast in implementing the recommendations of the UPR process and general respect of international and regional treaties. Facilitation of the protection and policy formulation on Economic, Social and Cultural Rights also remain a priority for the nation and needs government attention. The KNCHR will continue to be steadfast to ensure that the rights of every Kenyan are sufficiently protected, particularly those that have suffered historical marginalization or suffered social inequality and inequity as a result of discrimination and weak legislative frameworks.

5.0 KEY RESULT AREA 4 - ORGANIZATIONAL GROWTH AND DEVELOPMENT

Apart from the core programmatic functions, KNCHR has several programme support functions which strive to ensure that human rights interventions are sufficiently enabled to deliver their objectives. The support functions are composed of Information and Communication Technology, Monitoring and Evaluation, Finance, Procurement, Human Resource and Administration, and Public Affairs and Communications. With support from the government (GoK) and from the various development partners (Norwegian Embassy, Embassy of the Royal Republic of the Netherlands, GIZ, among others), the commission invests to sharpen its human resource capacity, avail necessary equipment, as well as put in place appropriate management systems to enhance its efficiency and effectiveness.

The above support functions collectively work to address two institutional strengthening outcomes; (i) Increased capacity of the commission to deliver on its mandate, and (ii) An Effective and Efficient Institution. This chapter reports on progress that was made on these areas;

5.1.0 Institutional Strengthening on Information and Communication and Technology (ICT)

Information technology in an organization serves the purpose of leveraging the power of technology to make people more productive and effective through utilization of new appropriate technologies. This requires enhancement of the common information infrastructure allowing greater inter-operability and management of the Commission's equipment and scalability in deployment amongst other benefits.

The following is a summary of achievements made in the year as a result of the ICT support services;

1. Installation and implementation of a reliable power backup supply: The electric power instability within KNCHR premises has been an issue of concern and the frequent power outages have been affecting critical equipments like the servers and network equipments. Measures were taken to contain the situation hence the setup of the power backup. The power backup system has enhanced the availability and reliability of ICT equipments.

2. Reduced computer maintenance and increased throughput: Most of the computers within the network needed to be replaced as they were worn out. During the year under review, we purchased equipments such as computers to provide enabling work environment for staff. This process has led to increased computer availability, reliability and high throughput (rate of processing work).

3. Enhanced tracking and analysis of complaints and IDP monitoring issues: Staff members are now able to have real time status on the issues being analyzed due to computerized data management. This has enhanced reporting on the above issues with regard to accuracy and speed.

4. Upgrade of the Complaints Management System:

- a. Ability of a system to show analytical reports quarterly and yearly.
- b. Ability of the system to track opened cases assigned to various staff in the department.
- c. Complaints management environment is improved for better transparency, better documentation and archival of petitioner data. This has enhanced credibility and efficiency of staff in the complaints dept and easier referencing by the entire commission.
- d. Ability of the system to track and analyze official letters dispatched and received
- e. Improved internet accessibility by wireless devices.

5. Website Development

KNCHR also revamped its website to include more interactive options such as linking our facebook and twitter social media sites. This allows local and international audiences to interact with KNCHR in real time. The website has been an avenue where the commission articulates its plans, objectives and position on topical issues that pertain to human rights to the online community. Improvements have been gained in terms of quick uploading of publications, reports, and press statements among others.

KNCHR has also been able to integrate an online complaints module within the website. The module provides a web based platform for reporting complainants on human rights violations. The website has enhanced KNCHR's online presence as demonstrated by the over 400 new Facebook 'page likes' implying that more people are visiting the website and commenting on stories that are posted time to time.

5.2.0 Institutional Strengthening on Monitoring and Evaluation System

The M&E system of the commission has the primary purpose of providing guidance to programmes on matters related to programme planning, result tracking, reviews and reporting. It harmonizes the commission's programme interventions with respect to the strategic plan and the overall logical framework.

During the year, most Programme Officers showed increased interest and knowledge in monitoring and evaluation. This translated into better compliance with deadlines, and overall better programme management. As demonstrated in planning, resource use and inter departmental synergies, several aspects of programme management improved.

The year also saw a stabilization of the M&E committee which had been created the previous year but had not taken ground well enough in terms of exercising the necessary oversight. During the current year, the committee stabilized in its focus, hence buttressing the M&E system functionality.

Overall, the M&E systems contributed to institutional strengthening using a diversity of strategies as discussed below;

5.2.1 Staff Trainings

During the year, the commission conducted 4 internal quarterly trainings and one annual training which also saw the trained officers receive certificates. The trainings were adaptive in nature based on identified problems noted at quarterly reporting. The annual training conducted in Nov 2011 was marred by weaknesses of planning as was reported in the 1st quarter of the programme year. The 3rd quarter training was on outcome monitoring and was based on the problems experienced with outcome level data collection. Only two departments attempted the exercise the previous year partly due to insufficient capacity but this has since improved to about half of the departments.

The trainings have seen an improvement particularly in reporting and planning as the quarters progressed. An analysis of performance throughout the year indicated that reporting as an M&E dimension stabilized well above the 50% mark for most departments. Planning also scored an improvement, which is quite a good gesture after the Nov annual M&E training which mainly focused on planning.

5.2.2 Field Based Support

Field based support is offered to programme departments so as to demonstrate how the various concepts can be practically handled while in the field. During the period, monitoring change among target groups was one of the areas that needed such support. The M&E unit offered 6 field based demonstrations to officers in various parts of the country.

5.2.3. M&E Support Supervision to Regional Offices

The strategy of support supervision has three objectives; to conduct quarterly trainings in the regional offices; monitor compliance with set M&E guidelines, assess quality of documentation and reporting; and responding to any needs that may arise from the regions such as issues of programme relevance, conceptualization, among others. This ensures that there is consistency in conducting M&E related activities and that quality of deliverables meets the required standards. 6 support supervisory visits were conducted in the two existing regions. This was a shortfall of two which was caused by insecurity in Northern Kenya. There is an evident improvement in the quality of reports and plans from the regional offices which has been ascribed to the visits.

5.2.4 Development and Promotion of M&E Templates and Standards

Development and enforcement of standardized planning, data collection and reporting tools lie at the core of an M&E system. In the previous year, the department had consolidated 17 tools related to financial planning, procurement, and implementation planning and reporting. During the year under review feedback obtained from staff and observation on how the tools had been used enabled the M&E function to revise 5 of these tools for more concise but comprehensive reporting. This enhanced faster and more informative reporting, while reducing unnecessary details. One of the notable value addition parameters in the tools for the year was emphasis on financial reporting at departmental level.

5.2.5 Facilitation of Organizational Learning

Programmatic learning for adaptive management is another core M&E concern within KNCHR. The M&E system of the commission does this through coordinating internal reviews and reflections on quarterly and annual basis. During the year under review, KNCHR held 4 quarterly review sessions and one annual review, reflection and learning forums. These forums have proved to be effective in stimulating peer learning and feedback within the organization, to ensure that programs are managed in a more insightful manner.

5.3.0 Human Resource and Administration

In the year 2011/2012, the commission engaged 23 staff members. The regional outreach officer was to work towards strengthening partnerships and Internal Audit that was geared towards mitigating and dealing with risks that the Commission process may generate.

Additionally the Commission trained its various staff in various trainings so as to improve their skills/capacity for service delivery. Some of the trainings undertaken were on Finance for Non Finance managers, human rights trainings and team building techniques. In the same year, the commission strengthened its regional offices by recruiting additional staff to help cope with the work load, hence increasing their efficiency and effectiveness.

5.4.0 Public Affairs and Communication

During the year being reviewed, the commission also made several efforts to sharpen its engagement with the public. Such efforts included repackaging of information as befits the needs of specific public members, timely response to national human rights issues through the media and promoting human rights discourse through the media. Posting topical human rights issues on social media for public information and soliciting perceptions was one of the key achievements during the period. The revamping of KNCHR's website was the hallmark of revolutions in the commission's management of its public affairs. The public now have a website that is daily updated with on-goings in the country on human rights as well as updates on the work of the commission. A Google-tracking tool of the extent of utilization of the various social media packages during the year indicated that the website was attracting participation from the international community as well from as far as China, UK and America.

5.5.0 Challenges and Recommendations on Organizational Growth and Development

5.5.1 Challenges

1. Inadequate Funding: During the period under review, KNCHR did not get adequate money as requested from the GoK to support institutional strengthening workplans. The development partners supported to a large extent but this was still not sufficient. The website revamping delayed a lot while automation of the M&E system also did not materialize due to inadequate funding. Branding efforts of the commission were also affected in a similar manner.

2. Delay in Disbursement of Funds: Though the government and development partners committed to fund certain aspects of organizational growth and development, the quarterly disbursement often delayed, thereby making the schedules on systems improvements to lag behind time.

5.5.2 Sub Recommendations

1. Both the government and the development partners should give institutional strengthening functions an increasing attention and budgetary support. While some support has been forthcoming, it has not been at pace with the necessary institutional expansion in the light of the growing need for human rights protection in the country. There is urgency for the organization to expand faster but funds hinder this.

2. Development partners should be timely in disbursement of already committed funds. Sometimes there are bureaucracies introduced in the mid of implementation which brings a back and forth intercourse thereby delaying processes.

5.6.0 Concluding Remarks

KNCHR has pursued its expansionary as well as capacity development needs in tandem with the growing demand for services by human rights stakeholders. In terms of human resource capacity, the commission increased staffing levels of the regional offices as well as the head office as per the needs in those specific areas.

Internal management systems were also improved for better efficiency including reduction of power outages through high end back-up systems, machine upgrades for faster processing and improved networking and real time communication. The commission also improved its ability for better planning, programme execution and reporting. Programme Staff are increasingly becoming focused in designing their interventions as demonstrated in articulation of outputs in the plans and the reports, particularly at the process level and the immediate results level. Tracking of results at the outcome level improved for a few implementing units, while some were challenged by funds to carry out the exercise.

The commission also strengthened its internal audit function during the period by filling the office of the internal auditor with a competent and experienced professional. This will ensure that risk management is well considered for more cost effective and accountable utilization of resources entrusted upon the commission.

Finally, KNCHR during the period started a process of re-structuring by critically reviewing its functions, service delivery, organizational structure, and handling of critical processes. There are upbeat perceptions within the commission that the process has so far gone well and will re-engineer the outlook as well as performance of the commission for greater relevance.

6.0 LESSONS, CHALLENGES, RECOMMENDATIONS AND CONCLUSIONS

The journey through the 2011-2012 year availed much success as has been documented in the previous chapters. These achievements encountered some challenges as well as some insightful lessons which have been of importance in terms of helping the commission to find better ways of doing things for greater organizational efficiency and effectiveness. This closing chapter shares insight on some of the challenges and lessons learnt as well as gives recommendations to various stakeholders on how they could assist the commission to perform better or to advance the course of human rights in the country.

6.1.0 Lessons Learnt

6.1.1: Leadership and Personality Traits play an important role in Reforming Institutions for better respect of human rights: The commission during its various outcomes monitoring exercises in sampled prisons came across an interesting finding; that several prison facilities within the same environmental set up and facing similar budgetary and non budgetary challenges sometimes operate at wide disparities with respect to upholding human rights principles. In a number of prisons monitored to assess institutional changes, the leadership and personality style of the officer in charge made a big difference. Those with creative leadership styles did not complain about uniforms, toiletries, food, and other substances, which they sourced from elsewhere despite budgetary challenges from the government. Officers in Charge who were also regarded as friendly and approachable by junior officers also created an environment where junior officers reported less frustration and good relations with the inmates.

On the basis of this lesson, the commission has started advocating for short time leadership trainings for officers in management ranks in prisons. KNCHR on that note urges any organizations with a niche on leadership skills either in penal systems management or security sector management to consider this as an area with good potentials to improve other institutions.

6.1.2 Collaborations with Partners lead to better programme outcomes: During the year under review, the commission engaged various partners so as to have a stronger lobbying platform. Several of these cases have been mentioned such as the work on disability done together with the Disability Caucus on Disability Caucus for the Implementation of the Constitution (DCIC) which made it easy to achieve inclusion of persons with disabilities in elections, both as voters and as candidates. This intervention stemmed from an observation that the electoral process has not always been disability inclusive hence resulting in disenfranchisement of PWDs.

6.1.3 Monitoring of programme changes among target groups provide a chance for KNCHR to listen to feedback from target groups regarding its strategies: During the last two years, the commission has made efforts to monitor intermediate changes among target groups annually. As the commission engages them to understand the extent of the intermediate changes achieved and challenges that constrain pro human rights behavior, the monitoring teams have had a chance to listen to these target groups particularly regarding their perceptions on strategies used by the commission. This has provided a chance for the monitoring teams to clarify the misconceptions that some people hold as well as take up strategies that make target groups have hard feelings against the commission.

During the period under review, Focused Group Discussions held with various groups in prisons indicated that most prison officers perceived that KNCHR is only committed to the rights of inmates, but not theirs. This was a chance for KNCHR programme officers to clarify that all Kenyans are protected under the Bill of Rights and that the commission is equally interested in protecting the rights of everyone irrespective of their stations in life. The officers also sought clarification on strategies the commission uses such as policy advisories to improve terms and conditions of prison officers as well. This dialogue proved to ease tension and made the officers become more receptive to human rights education.

6.2.0 Overall Challenges

1. Human Resource Challenges: The commission as a national programme still has inadequate staff capacity as compared to the demand for human rights services in various corners of the country. In the period under review, KNCHR operated with just two regional offices in addition to the head office, and a staff size that fluctuated between 60–70. Compared to the volume of human rights violations that it receives and those that get reported in the media which need investigations, the commission is still understaffed. Since the promulgation of the new constitution, the bill of rights is having an essence in every sphere of public life. The country is also facing new dynamics in human rights concerns which the commission needs to respond to. The resources available during the year could not allow it to expand as per the unmet human rights needs as well as new emerging human rights situations.

This situation was compounded by a relatively high rate of staff turnover during the period as several staff were attracted to some other institutions such as newly created commissions. A few others left during the period for further education, thereby leaving the remaining few staff with an increased work burden.

2. Funding Inadequacy and Delays: During the year under review, the commission lacked enough funds to execute the proposed workplan. From the total of Kshs. 554,141,928 that was the total proposed budget from both GoK and development partners, the commission got total of Kshs. 393,630,565, a 29% shortfall. Further to that, much of what was provided by GoK funds could only be used for recurrent expenditure rather than growth, development and programme work.

Though several development partners came in to assist the situation, often the periodic disbursements delayed. This made it difficult to continue with some scheduled activities on time. The UNDP and GIZ funds were the most affected during the period. This affected completion rates on the workplan, which came to an aggregate of 67% as established during the annual review, reflection and learning retreat.

3. The Split Mandates on Human Rights Protection: KNCHR maintains the position that the protection and promotion of human rights in the country could have been better served if the human rights protection mandates were all housed into one as envisioned in the constitution. However, attempts for KNCHR to lobby for this position, (KNHREC position) it was unsuccessful when Article 59 in the constitution was split to constitute three different human rights institutions.

While KNCHR notes that things have started to improve in terms of inter-commission coordination and cooperation, ironing out the overlaps, creating systems for synergies, and institutional set up took quite some time during the year under review in a manner that reduced the efficacy of KNCHR in terms of protection and promotion of human rights.

4. Wavering Political Good will in Enforcement of the Bill of Rights and other Human Rights Concerns: Despite campaigning for the constitution in the last constitutional referendum, the political goodwill of the government to operationalize some aspects of the very constitution has often faltered. KNCHR, just like other relevant watchdogs like the CIC and the former CoE, KNCHR has in its numerous press conferences and advisories often decried the inconsistency and changing positions taken by the government, sometimes on constitutional provisions that are so crystal clear. This loses the public's trust in the government as well as their interest in the constitution that they so enthusiastically voted for in the 2010 referendum.

5. Slow pace of Institutional Reforms: Though there is in principle an atmosphere of state institutions reforming after the constitution, the pace of reform has sometimes been quite slow in most state agencies. For instance the slow pace in police reforms has made it difficult for KNCHR and other sectors in the Security Sector Reforms to advance in terms of realizing the desired impacts. The loss here is even dire in situations where the institutions work interdependently such as in criminal justice sector. The fact that some institutions such as judiciary are reforming much faster while others are dilly dallying makes operations quite challenging.

6. Threats to commission staff by unknown people: Several instances were experienced during the year where commission staff received threats from people as a result of their work. This was experienced at the commission's North Rift office as well as at the head office. This was particularly noted regarding extra judicial killings or cases of mysterious disappearances.

7. Poor Response to Commission's Letters and Request for Information by Some Government Agencies: KNCHR decries the poor responsiveness of some state agencies when the commission seeks clarity on public complaints against these institutions or those they are supposed to address. This continues to slow down efficient resolution to petitions, particularly against government agencies. The fact that prosecutions or redress of the complaints cannot be done without successful investigations on these cases means that the perpetrators continue on their errant ways, which continues to perpetuate impunity and inefficiency in state agencies.

6.3.0 Overall Recommendations

1. Funding Inadequacy: The commission urges the government to demonstrate its commitment to human rights in the country by funding it adequately as provided for under Art. 249 (3) of the Constitution (2010) and also in accordance with the Paris Principles on operations of HNRIs. Treasury should also consider the urgency of the commission to expand its operations to reasonably meet the human rights needs of Kenyans.

2. Enhanced Cooperation for Human Rights Commission: KNCHR appreciates the improvements that have so far been made with regard to sharing of information, explication of mandates, among other things. KNCHR further urges the sister commissions to continue working more collaboratively without being unnecessarily protective about their mandates. It will be particularly important for the commissions to find the points where their services connect and see how data, information and strategies can be shared for better realization of human rights in the country.

3. Consistency in Political Good will on implementing the Constitution: KNCHR hopes that the government will in the new year be steady and focused in implementing the new constitution, particularly the Bill of Rights. The commission also hopes that the citizens will be sufficiently visionary as to vote in leaders who are committed to reforms in governance in the next elections.

4. Institutional Reforms: There is need for Ethics and Anti Corruption Commission and all other commissions with human rights mandate to be vigilant and firm in ensuring that top positions in key state institutions are filled with people who have unquestionable integrity and who are committed to the course of reforms. True reforms in state institutions will depend on strong leadership that holds public interests

5. Security for commission staff: The Commission will consider the feasibility of making security arrangements for its staff in consultations with the Ministry of Justice and the Ministry of State for Internal Security to support on high risk assignments.

6. Re-institutionalization of the Complaints Hearing Panel: Since the quashing of the complaints hearing panel by the high court, most people who are alleged to have committed certain violations continue to take the commission for granted. Particularly noted are those in state institutions since they know that handling of petitions is procedural which may make them go unaccountable and that the best that It is also important for state institutions to observe Art 21 (1) and 21 (3) which require every state organ and all public officers to observe, respect, promote and fulfill the rights and fundamental freedoms in the Bill of Rights.

6.4.0 Opportunities

1. The Integrated public complaints handling referral mechanism: The integrated complaints management system presents a new opportunity for the commission to resolve public petitions more expeditiously. KNCHR is hopeful that this platform, bringing together key state institutions will bring greater harmony among the partners thereby contributing to achievement of KNCHR's overall goal of increased enjoyment of fundamental rights by all Kenyans. The mechanism is new and in its early stages but KNCHR has confidence that it will work efficiently and effectively for the good of the citizens.

2. The ongoing restructuring which will sharpen the commission's focus and resource deployment: The commission is currently undergoing internal re-organization which will see rearrangement of the functionalities, priorities, and delivery units of the commission. KNCHR considers that this will be another good opportunity to repackage its service delivery and deal better with the emergent human rights development in the country.

6.5.0 Conclusions

The new constitutional dispensation has registered remarkable achievement in terms of laying down legislative framework to curb corruption in public spheres. However, the commission has witnessed a slow process in legislating necessary Bills that would make the constitution beneficial to Kenyans. In some cases, the expected new institutions of governance were established but political interests delayed the appointment of officers to operate the functions. This continues to undermine the efforts of the country on fighting impunity and reigning in on malpractices witnessed in the previous political regimes when state agencies grossly violated the rights of citizens.

The commission has managed to progress steadily on the fight against impunity and systemic human rights violations through various strategies targeting to promote the awareness of rights among claim holders as well as training duty bearers on their obligations on respect of rights, transparency and accountability. Most of the strategies employed such as investigations, public interest litigations, trainings, among others worked remarkably. The commission has also placed primacy on enhancing strong legal foundations that would provide sustainability of human rights gains.

The commission takes an appreciative note of the ongoing endeavors from various fronts to transform Kenya into a rights respecting nation. There is visible progress going on in security sector management in the country, national cohesion and reconciliation, judicial reforms and access to justice, fight against discrimination, to name but a few. These demonstrate the gains that have been contributed by KNCHR and other stakeholders such as civil society organizations and the Ministry of Justice, National Cohesion, and Constitutional Affairs (MOJNCCA).

The commission has also witnessed the efforts being put in place by the government to address emergent national human rights issues. Among many things, the government finally is making significant progress in resettling post election violence IDPs. This is a significant step for the commission as it will ensure that those displaced are resettled and not disenfranchised in the upcoming national elections. The government has indeed also made significant progress in domestication of international protocols, though the effort is still not good enough. KNCHR is hopeful that the government will stay committed to all the relevant obligations under the UPR process.

With respect to legislation, the commission expresses a concern that down-stepping the constitution into relevant sectoral policies has been so slow and in some cases subjected to unnecessary bureaucracies which might derail the realization of the constitutional benefits. KNCHR takes particular note of policies around Economic, Social and Cultural Rights. The Commission urges vigilance on the part of citizens who are the principle owners of the constitution to ensure that the political class and the public service bureaucrats do not negate the gains that have been secured in the constitution.

KNCHR is happy about progress that has been made with respect to knowledge of human rights in the public and private spheres. The citizenry seem to be more aware of fundamental rights and freedoms, though not equally being responsive with regard to obligations that go with the rights. The commission is impressed by the efforts that have been made by other commissions, relevant government departments, and civil society organizations with regard to public sensitization about human rights. All the above actors were watchful particularly during the year under review to ensure that legislation of bills does not go astray.

Finally, the commission has also made remarkable steps towards improving its internal management systems, improving service delivery and building the capacity of its staff with respect to skills and equipments. The commission envisages that it will continue to expand its regional presence into other parts of the country so as to meet the growing need of Kenyans.

The commission hopes to utilize lessons learnt during the period under review so as to design and implement its programmes in a more strategic manner for better impacts. The commission appreciates the financial, technical, and lobbying support that it received from the government, development partners as well as other human rights organizations with which it has collaborated. KNCHR counts upon the invaluable support of these partners even as it continues to push the frontiers on protection and promotion of human rights.

0.0 FINANCIAL REPORTS

FINANCIAL STATEMENTS

For The Financial Year

2011 - 2012

REPUBLIC OF KENYA



KENYA NATIONAL AUDIT OFFICE

REPORT
OF
THE AUDITOR-GENERAL
ON
THE FINANCIAL STATEMENTS OF THE
KENYA NATIONAL COMMISSION ON
HUMAN RIGHTS, VOTE 64,
FOR THE YEAR ENDED
30 JUNE 2012

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

FINANCIAL STATEMENTS FOR R.64

Basis for Qualified Opinion

STATEMENT OF ASSETS AND LIABILITIES

1. The statement of assets and liabilities for Vote R.64 as at 30 June 2012 reflects a Paymaster General (PMG) balance of Kshs.5,539,292.00 which differs with the cash book and board of survey report balance of Kshs.4,845,671.43 as at the same date. The resultant difference of Kshs.693,620.57 has not been reconciled or explained.
2. The bank reconciliation statement as at 30 June 2012 reflects unknown bank debits of Kshs.330,000.00 dated 14 and 26 September 2007 whose nature and sources have not been explained.

STATEMENT OF FINANCIAL POSITION

3. The account receivables balance of Kshs.7,499,791.00 shown in the statement of financial position as at 30 June 2012 includes a temporary imprest balance of Kshs.93,792.00 and a staff advance of Kshs.954,201.32 owed by a former employee and a former commissioner, respectively. No evidence has been seen of the action taken to recover the long outstanding imprest and advance.
4. The statement of financial position reflects under Note (7) Government funding totalling Kshs.304,500,200.00 while exchequer records maintained at the Treasury shows that an amount of Kshs.305,000,000.00 was released to the



KENYA NATIONAL AUDIT OFFICE

REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS, VOTE 64, FOR THE YEAR ENDED 30 JUNE 2012

I have audited the accompanying financial statements of the Kenya National Commission on Human Rights for Vote R.64, together with a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya, Section 20 of the Public Audit Act, 2003 and Section 48 of the Kenya National Commission on Human Rights Act, 2011. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

Accounting Officer's Responsibility for the Financial Statements

The Accounting officer - Kenya National Commission on Human Rights is responsible for the preparation and fair presentation of these financial statements in accordance with the Government Financial Regulations and Procedures and the Public Finance Management Act, 2012 and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The Accounting officer is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 20 of the Public Audit Act, 2003.

Auditor - General's Responsibility

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 20 of the Public Audit Act, 2003. The audit was conducted in accordance with International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

Commission during the year. Consequently, the Grant Income has been understated by Kshs.499,800.00.

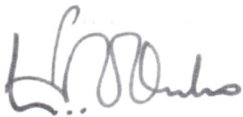
AUDIT OPINION

In line with my responsibility, I express the following opinion on the financial statements.

Qualified Opinion

- (i) Financial Statements for R.64.
- (ii) Statement of Financial Position for Kenya National Commission of Human Rights.

In my opinion, except for the effect of the matters described on the respective Basis for Qualified Opinion paragraphs in the report, the above two (2) financial statements present fairly, in all material respects, the financial position of Kenya National Commission on Human Rights as at 30 June 2012, and of its operations for the year then ended, in accordance with Government Financial Regulations and Procedures and the Public Finance Management Act, 2012.



Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

10 April 2013

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS FOR THE FINANCIAL YEAR ENDED 30TH JUNE 2012

CONTENTS

Part I: Introduction	4
Part II: Management Reports	6
(a) The Chairman's Report	6
(b) The Accounting Officer's Report	7
Part III: Statement of the Accounting Officer's Fund Responsibilities	9
Part IV: Financial Statements:.....	15
Statement of comprehensive income	15
Statement of financial position.....	16
Statement of Changes in equity.....	17
Statement of cash flow	18
Notes to the Financial Statements	19 - 30

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

YEAR ENDED 30TH JUNE 2012

PART I: INTRODUCTION

a) **Mandate**

The commission has two key mandates;

- i. It acts as a watch-dog over the Government in the area of human rights
- ii. It provides key leadership in moving the country towards a human rights state

b) **Vision**

A nationally and globally respected public institution providing leadership in human rights

c) **Mission**

To enhance the protection and promotion of human rights in Kenya through strategic programming and partnership

d) **Values**

Commission's values are rooted on the internationally recognized principles of universality, inalienability, indivisibility, interdependence, interrelatedness and promotion of human rights. More specifically, it endeavors to uphold the following values;

- Independence
- Integrity
- Inclusiveness
- Tolerance
- Accessibility

e) **Key strategic objectives**

- Promotion of greater adherence to the rule of law
- Advocating increased compliance and adherence to human rights principles and standards
- Enhance protection of human rights through investigation, redress and referrals
- Promote human rights through public education

f) **Strategic programmes**

The commission is organized around 14 departments composed of seven programmatic departments and seven support departments through which the commission's goals, key result areas, objectives and core outcomes are realized. These are;

1. Complain and investigation
2. Redress
3. Research and compliance
4. Reforms and accountability
5. Public education and training
6. Economic, Social and Cultural rights
7. Outreach and regionalization department

These programmatic departments are supported by

8. Public Affairs and Communications
9. Finance
10. Human Resource and Administration
11. Procurement
12. Information and Communication Technology
13. Internal Audit
14. Monitoring and Evaluation

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
COMMISSION INFORMATION
FOR THE YEAR ENDED 30TH JUNE 2012

PRINCIPAL PLACE OF BUSINESS

CVS Plaza, 1st Floor, Lenana Road
P.O. Box 74359-00200
NAIROBI

BANKERS

Kenya Commercial Bank
Milimani Branch
P O Box 69695
NAIROBI

AUDITORS

Auditor General
Kenya National Audit Office
P O Box 30084 – 00100
NAIROBI

PRINTED BY

JOHILTON PRINTERS & DESIGNERS
Unique Arcade House
Tel: +254 20 267 4048
Mobile: 0726 80 29 73
P O Box 55906 – 00200
NAIROBI

g) Key strategic priorities

1. During the period under review the commission's priorities remained within the realms of its mandate guided by the programmatic areas;
2. Monitoring and advising on the institutional reforms under which the commission majorly focused on security sector reforms as well as the penal reforms
3. Profiling and enhancing realization of economic, social and cultural rights under which the commission focused on special groups; the internally displaced persons through capacity building and lobbying the adoption of IDPs Draft National Policy; domestic workers, indigenous persons as well as persons with disabilities.
4. On the infusion and mainstreaming of human rights in public and private spheres, the commission developed education materials and conducted civic education to the public as well as trainings of state and non-state actors. This was characterized by infusion of Human Rights Based Approach in the public sector planning and programming.
5. Constitutional reforms being one of the major milestones in Kenya during the period under review, the commission undertook constitutional reform as priority. In this, the commission had participated in monitoring the 2010 referendum on the draft constitution and remained active in review and advisory on policy and legislation in a bid to infuse human rights in policy and legislations accompanying the new constitution.
6. Protection on human rights through investigation and resolution of complaints and provision of legal services was also a priority focus in the period under review.
7. Transitional justice through monitoring and advising the government and relevant agencies also remained a priority area. The commission monitored and continuously advised on Truth Justice and Reconciliation process as well as continued advocacy on the ICC process.

h) Key management staff

The Commission has a Secretariat which is the implementing organ. The Secretariat is composed of the Secretary, who is appointed by the Commissioners and serves as the Chief Executive Officer. The Secretary is assisted by the Deputy Secretary who acts as the head of programmes. Below the Deputy Secretary, there are Heads of Departments whose role is to oversee their respective departments.

The Commissioners who served during the year and to the date of this report were:-

Ms. Florence Simbiri-Jaoko	Chairperson (up to 8th January 2012)
Mr. Hassan Omar Hassan	Commissioner (up to 8th January 2012)
Ms. Winfred O. Lichuma	Commissioner (up to 8th January 2012)
Ms. Wambui Kimathi	Commissioner (up to 8th January 2012)
Ms. Fatuma Ibrahim Ali	Commissioner (up to 4th September 2012)
Mr. Lawrence Mute	Commissioner
Dr. Samuel Tororei	Commissioner then Ag. Chairperson (from 9th January 2012)
Ms. Fatuma Dullo	Commissioner
Ms. Anne Munyiva Kyalo Ngugi	Commissioner
Mr. Mohamed Hallo	Commission Secretary (up to 4th September 2012)
Dr. Bernard Mogesa	Acting Secretary (from 5th September 2012)

PART II: MANAGEMENT REPORTS

a) The Chairman's Report:

I. Changes in policy/strategy that affected MDA's operations such as legislative changes or new strategic initiatives developed during the year

a. The year July 2011 to June 2012 began with the Commission being the Kenya National Human Rights & Equality Commission but in November 2011 under Article 59(1) it was reconstituted into 3 Commissions, that is, the Kenya National Commission on Human Rights, the Commission on Administrative Justice and the National Gender & Equality Commission. Mid-year however, the Kenya National Human Rights & Equality Commission reverted to the Kenya National Commission on Human Rights. This affected the Commission's operations, character and identity.

b. Departure of just under half of the Commissioners – this meant that there had to be a lot of internal re-organization both at secretariat and commissioner level e.g.:

1. The new Act provides that Commissioners meet 4 times a year and previously there was a requirement for monthly meetings.
2. The new Act provides only for 5 Commissioners whereas previously there were 9 out of which 4 had left and the other 4 of the remaining 5 would be finishing their term in November 2012. It was therefore necessary to recruit replacement Commissioners. In this regard, an amendment to the Act was negotiated and agreed in June 2012, passed through the Miscellaneous Amendment Act of 2011.
3. Now that the KNCHR is a constitutional commission, it had to be placed in the Government IFMIS system and this has required retraining of staff and re-organization of internal financial system/processes. Closed financial year 2011/12 with the Commission undertaking structured secretariat re-structuring and which also involved seeking advice from Department of Personnel Management (DPM).

ii. An overview of the MDA's accomplishments during the year and challenges met

a. Accomplishments

1. Smooth transition from KENHREC to KNCHR
2. Accomplished transition from 9 Commissioners to 5 Commissioners without adversely affecting operations
3. Accomplished the transfer of power from outgoing Chairperson to Acting Chair.
4. Improved the budgetary allocation from Government of Kenya from Kshs 135 million to Kshs 210 million
5. It was the first time KNCHR was able to meet the Parliamentary Committee on Legal Affairs to discuss the KNCHR budget
6. KNCHR was able to formally distribute the 2010/2011 annual report to the President in addition to the Legislature.

b. Challenges

Uncertainty because of transition, that is, the Commissioners leaving and uncertainty over the appointment processes. The Commission sought an amendment of the Act through the Miscellaneous Amendment Act to enable recruitment of additional Commissioners whilst others are still in Office.

iii. Acknowledgments

We would like to acknowledge:

1. The immediate former Commissioners for their dedicated service
2. The Government of Kenya for improved funding to the Commission
3. Our development partners for continued funding of KNCHR's activities
4. Civil Society for the close working relationship between KNCHR and Civil Society Organizations especially those within the human rights sector
5. The Media due to the balanced media coverage received by the Commission
6. Lastly but not least, the secretariat staff at the Commission for dedicated service over the years.



Anne Muniyva Kyalo-Ngugi
Acting Chairperson

) The Accounting Officer's Report:

The Kenya National Commission on Human Rights is an independent National Human Rights Institution (NHRI) established in August 2011. The Commission is entrenched in the Constitution of Kenya (2010), Part 5, Article 59 on the establishment of the Kenya National Human Rights and Equality Commission (KNHREC). Pursuant to Article 59(4) of the Constitution which states that "Parliament shall enact legislation to give full effect to this Part and any such legislation may restructure the Commission into two or more separate Commissions", Parliament in August 2011 enacted three separate legislations establishing the Kenya National Commission on Human Rights, the National Gender and Equality Commission (NGEC) and the Commission on Administrative Justice (CAJ). The Commission [KNCHR] is subsequently established under the Kenya National Commission on Human Rights Act, no. 14 of 2011, and succeeded the statutory Kenya National Commission on Human Rights, which was established in July 2003 through an Act of Parliament (the KNCHR Act, 2002).

The KNCHR Act, 2011 however limits the number of Commissioners to 5 (Chairperson and 4 other members). Part 6 of the sixth schedule of the Constitution on Transitional and Consequential provisions provides that "Commissioners of the KNCHR appointed under the KNCHR Act... shall become members of KNHREC for their unexpired term but each shall retain the terms of service as at the effective date". It is for this reason that the Commission had 9 Commissioners until 8th January 2012. Terms of 4 Commissioners came to an end on 8th January 2012, and the terms of 4 others will come to an end in November 2012.

The KNCHR is a Commission within the meaning of Chapter 15 of the Constitution and has the status and powers of a Commission under that Chapter. The Commission is not subject to the authority or control of any person or agency in the performance of its functions. Chapter 15 of the Constitution, Article 249(2) on Commissions and Independent Offices provides that:

The Commissions and holders of independent offices-

-) Are subject only to this Constitution and the law; and
-) Are independent and not subject to direction or control by any person or authority.

The Commission is organized around seven main programmatic Departments as follows: Complaints and Investigations, Redress, Reforms and Accountability, Public Education and Training, Research and Compliance, Public Affairs and Communications and Economic, Social and Cultural Rights. These are supported by the Monitoring and Evaluation, Regional Outreach, Internal Audit, Information Technology, Finance and Human Resource and Administration departments. In addition, the Commission has two regional offices – the North Rift regional office based in Kitale and the Northern Kenya regional office based in Wajir.

The Commission has commenced preparations towards establishment of a Coastal regional office in Mombasa: this office is expected to serve the 5 Counties of Mombasa, Kilifi, Kwale, Malindi, Lamu and Tana River and should be fully operationalized by the end of the 2012 calendar year. The Commission believes that the establishment of one new regional office will improve its accessibility to Kenyans, in particular, those in the Coastal region. At the moment, the Commission has submitted a memorandum to the Government and Parliament (Committee on Justice and Legal Affairs) in which the Commission is seeking additional resources to enable it establish more regional offices (at least 6) in order to better serve Kenyans by being more accessible.

However, before the establishment of the additional regional offices, the Commission is currently conducting an audit of key civil society organizations and community based organizations at the counties in order to establish and set in place better mechanisms for outreach to Kenyans in the rural areas. The database of the NGOs and CBOs, once finalized, will form the basis of formal engagement, through MoUs, with the local based NGOs and CBOs.

Concluding Remarks

The programmatic activities of the Kenya National Commission on Human Rights are mainly funded by the Development partners and the operating expenses by the Government of Kenya. This scenario needs to change because donors may fail to finance critical programmatic activities that are important to the country.

It is against this background that the Kenya National Commissions on Human Rights' budgetary requirements and the Treasury Ceiling allocation need to be critically addressed. There is need to fund the National Commission adequately during the current MTEF period 2013/2014-2015/2016 especially with the implementation of the Constitution.

The fourth chapter of the Constitution deals with the Bill of Rights of which the National Commission will play a key role in ensuring that it is properly understood by the general public through civic education. There is need to open county offices so that emerging Human Rights issues can be addressed at the grass root level all over the country. This is in line with the provision Article 249.

Article 249 (3) of the Constitution states that "Parliament shall allocate adequate funds to enable each Commission and independent office to perform its functions and the budget of each Commission and Independent Office shall be a separate Vote."



Patricia Nyaundi
Commission Secretary

PART III: STATEMENT OF THE ACCOUNTING OFFICER'S FUND RESPONSIBILITIES

Section 4 of the Public Audit Act, 2003 Sections 18,82 and 84 of the Public Finance Management Act, 2012 require the Accounting Officer to prepare and sign accounts for each financial year relating to their areas of responsibility within three months and transmit them to the Auditor General for Audit. The responsibilities of an Accounting Officer, including the responsibility for the propriety and regularity of the public finances, for keeping proper financial and accounting records, for safeguarding the assets within their responsibility and for ensuring funds entrusted to them are applied only for the purposes intended and approved by Parliament, are set out in the Public Finance Management Act, 2012, various other laws, Government Financial Regulations and Procedures and Treasury Circulars issued from time to time.

I accept responsibility for the maintenance of accounting records which may be relied upon in preparation of the financial statements, as well as adequate systems of internal control.

I further accept responsibility for the attached annual accounts, which have been prepared in conformity with Treasury directions and appropriate Government Financial Regulations and Procedures.

In my opinion that the attached Appropriations and other Financial Statements present fairly the financial state of affairs of the Kenya National Commission on Human Rights Vote 064 as at 30th June, 2012.

AUDITORS

Pursuant to section 48 (2) of the Kenya National Commission on Human Rights Act No. 14 of 2011, the Commission's Auditors remains the Auditor General under the Kenya National Audit Office of the Government of Kenya.

.....
Commission Secretary

07/02/2013
.....

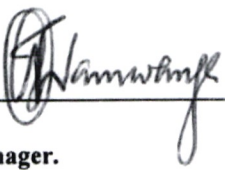
Date
7.2.2013
.....

Acting Chairperson

.....
.....

VOTE R-64 HUMAN RIGHTS AND EQUALITY COMMISSION
 KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
 STATEMENT OF ASSETS AND LIABILITIES - AS AT 30 JUNE 2012

	<u>Prior Financial Year (Kshs)</u>	<u>Current Year(Kshs)</u>	<u>Amount Kshs</u>
ASSETS			
EXCHEQUER ACCOUNT	-	2,500,000	2,500,000
TEMPORARY IMPREST	-	550,260	550,260
STAFF ADVANCE	-	161,000	161,000
PMG BALANCE	-	5,539,292	5,539,292
	<u>-</u>	<u>8,750,552</u>	<u>8,750,552</u>
LIABILITIES			
GENERAL ACCOUNT VOTE	<u>-</u>	<u>8,750,552</u>	<u>8,750,552</u>

Signature  _____
Finance Manager.

Date 13/2/2013

VOTE R64 HUMAN RIGHTS AND EQUALITY COMMISSION
RECURRENT APPROPRIATION ACCOUNT - FOR THE YEAR ENDED 30TH JUNE 2012

TITLES AND DETAILS		APPROVED ESTIMATES	ACTUAL EXPENDITURE	OVER	UNDER
		kshs	Kshs	Kshs	Kshs
Sub-Vote	640 GENERAL ADMINISTRATION AND PLANNING				
Head	545 KENYA NATIONAL COMMISSION ON HUMAN RIGHTS				
Sub-Head	0000 HEADQUARTERS				
2110200	Basic Wages-Temporary Employees	104,941,773	102,446,301		2,495,472
2110300	Personal Allowance - Paid as Part of Salary	5,666,018			5,666,018
2120100	Employer Contributions to Compulsory National Social Security Schemes	10,418,069	8,878,542		1,539,527
2120200	Employer Contributions to Compulsory Health Insurance Scheme	22,720			22,720
2210100	Utilities Supplies and Services	156,000	101,886		54,114
2210200	Communication, Supplies and Services				
	Original.....	4,250,000			
	Less Supplementary.....	(1,275,000)			
		2,975,000	5,406,172	2,431,172	
2210300	Domestic Travel and Subsistence , and Other Transportation Costs-Staff				
	Original.....	3,950,000			
	Add Supplementary.....	1,200,000			
		5,150,000	5,199,683	49,683	
2210500	Printing , Advertising and Information Supplies and Services				
	Original.....	3,960,028			
	Less Supplementary.....	(500,000)			
		3,460,028	4,359,476	899,448	
2210600	Rentals of Produced Assets				
	Original.....	26,813,116			
	Less Supplementary.....	(1,200,000)			
		25,613,116	26,269,847	656,731	
2210700	Training Expenses- Staff Local				
	Original.....	7,800,000			
	Less Supplementary.....	(1,000,000)			
		6,800,000	7,418,358	618,358	
2210800	Hospitality Supplies and Services				
	Original.....	4,294,093			
	Less Supplementary.....	(700,000)			
		3,594,093	4,214,044	619,951	
2210900	Insurance Costs	12,700,000	12,283,846		416,154
2211100	Office and General Supplies and Services	1,136,000	1,508,650	372,650	
2211200	Fuel Oil and Lubricants	3,240,000	3,260,112	20,112	
2211300	Other Operating Expenses	3,542,183	2,121,713		1,420,470
2220100	Routine Maintenance- Vehicles and Other Transport Equipment	2,000,000	3,301,007	1,301,007	
2220200	Routine Maintenance- Other Assets	1,000,000	481,926		518,074
2620100	Membership Fees and dues and Subscriptions to International Organizations	400,000	757,963	357,963	
3111000	Purchase of Office Furniture and General Equipment				
	Original.....	11,690,000			
	Less Supplementary.....	(1,300,000)			
		10,390,000	9,594,581		795,419
3111100	Purchase of Specialised Plant Equipment and Machinery				
	Original.....	2,020,000			
	Less Supplementary.....	(300,000)			
		1,720,000	2,024,336	304,336	
	NET EXPENDITURE SUB HEAD	204,925,000	199,628,443	7,631,411	12,927,967
	0324 NATIONAL COMMISSION ON GENDER AND DEVELOPMENT				
2110100	Basic Salaries - Permanent empl				
	Original.....	37,612,348			
	Less Supplementary.....	(12,701,067)			
		24,911,281	17,066,125		7,845,156
2120100	Employer Contributions to Compulsory National Social Security Schemes				
	Original.....Kshs	48,000			
	Add Supplementary.....	52,800			
		100,800			100,800
2210200	Communications Supplies and Ser				
	Original.....	2,210,000			
	Less Supplementary.....	(197,600)			
		2,012,400	1,571,702		440,698
2210300	Domestic travel and subsistence				
	Original.....	3,990,000			
	Less Supplementary.....	(715,000)			
		3,275,000	4,393,512	1,118,512	
2210400	Foreign Travel & subsistence				
	Original.....Kshs	4,000,000			
	Add Supplementary.....	300,000			
		4,300,000	6,265,224	1,965,224	
2210500	Printing,Advert. & Info. Supp.				

VOTE R64 HUMAN RIGHTS AND EQUALITY COMMISSION

RECURRENT APPROPRIATION ACCOUNT - FOR THE YEAR ENDED 30TH JUNE 2012

TITLES AND DETAILS		APPROVED ESTIMATES	ACTUAL EXPENDITURE	OVER	UNDER	
	Original.....	12,938,940				
	Less Supplementary.....	(5,393,940)			2,782,125	
2210600	Rentals of produced Assets		7,545,000	4,762,876		
	Original.....Kshs	4,612,268				
	Add Supplementary.....	3,859,000	8,471,268	4,790,469	3,680,799	
2210700	Training Expenses					
	Original.....	3,750,000				
	Less Supplementary.....	(908,500)	2,841,500	4,227,260	1,385,760	
2210800	Hospitality Supplies and service					
	Original.....	8,795,000				
	Less Supplementary.....	(1,271,020)	7,523,980	15,280,485	7,756,505	
2210900	Insurance Cost					
	Original.....Kshs	3,200,000				
	Add Supplementary.....	485,989	3,685,989	3,909,126	223,137	
2211000	Specialised materials & supplies					
	Original.....	450,000				
	Less Supplementary.....	(350,000)	100,000	4,585	95,415	
2211100	Office&general supplies&service					
	Original.....	3,589,711				
	Less Supplementary.....	(1,289,711)	2,300,000	2,327,352	27,352	
2211200	Fuel Oil & Lubricants					
	Original.....	3,080,000				
	Less Supplementary.....	(830,000)	2,250,000	1,461,924	788,076	
2211300	Other Operating Expenses					
	Original.....Kshs	4,178,512				
	Add Supplementary.....	2,710,129	6,888,641	5,697,240	1,191,401	
2220100	Routine Maintenance- Vehicles					
	Original.....Kshs	1,200,000				
	Add Supplementary.....	500,000	1,700,000	1,509,397	190,603	
2220200	Routine maintenace-other asset					
	Original.....Kshs	660,510				
	Add Supplementary.....	339,490	1,000,000	24,600	975,400	
2710100	Government Pension and Retirement Benefits					
	Original.....	3,534,711				
	Less Supplementary.....	(504,544)	3,030,167	4,294,969	1,264,802	
3110300	Refurbishment of Buldings					
	Original.....Kshs	1,500,000				
	Add Supplementary.....	5,200,000	6,700,000	2,932,836	3,767,164	
3111000	Purchase of office furniture and General Equipments					
	Original.....Kshs	2,800,000				
	Add Supplementary.....	2,620,000	5,420,000	6,897,843	1,477,843	
3110700	Purchase of vehicles					
	Original.....Kshs	5,000,000				
	Original.....	1,018,974	6,018,974	11,703,481	5,684,507	
3111100	Purchase of Specialized Plant, Equipment and Machinery					
	Original.....Kshs	1,500,000				
	Original.....	1,000,000	2,500,000		2,500,000	
3111400	Research, Feasibility studies, project Preparation & Design, project supervision					
	Original.....	5,850,000				
	Original.....	(5,850,000)	-			
NET EXPENDITURE SUB HEAD 0324			102,575,000	99,121,005	20,903,642	24,357,637
NET EXPENDITURE HEAD 545			307,500,000	298,749,448	28,535,052	37,285,604
NET EXPENDITURE FOR SUB VOTE 640			307,500,000	298,749,448	28,535,052	37,285,604
TOTAL NET EXPENDITURE VOTE R64			307,500,000	298,749,448	28,535,052	37,285,604

VOTE R64 HUMAN RIGHTS AND EQUALITY COMMISSION
 KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
 RECURRENT APPROPRIATION ACCOUNT - FOR THE YEAR ENDED 30TH JUNE 2012

SUB-VOTE	APPROVED ESTIMATES (KSHS)	ACTUAL EXPENDITURE (KSHS)	
GROSS EXPENDITURE			
640 General Administration and planning	307,500,000	298,749,448	
Gross Total Expenditure.....	307,500,000	298,749,448	Surplus of Gross Estimates over expenditure Kshs.8,750,551.9

NOTES TO THE ACCOUNTS

545 KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

1 2110200 - Basic Wages - Temporary Employees - Underexpenditure of KShs. 9,723,736

The funds on Personnel Emoluments was under utilized by KShs. 9,723,736 mainly because we had budgeted to implement salary increment to staff members of 10% during the 2011/2012 FY but this was not possible because of the directive from the Permanent Secretary and Secretary to the Cabinet stopping all salary increments until the time that the Salaries and Remuneration Commission is Established.

2 2210200 Communication, Supplies and Services - Overexpenditure of KShs. 2,431,172

There was a reduction in the budget of KShs 1,275,000 during the Supplementary Estimate. A substantial amount of these funds had already been spent by the time the Revised Printed Estimates information was communicated to the Kenya National Commission on Human Rights during the month of May 2012. The other overexpenditure was caused by the increment of airtime provision to staff members.

3 2211300 Other Operating Expenses - Underexpenditure of KShs. 1,420,470

We had envisaged an overexpenditure on budget line 2210200 and this was supposed to be taken care of by underexpenditures in the budget lines under Other Operating Expenses.

0324 NATIONAL COMMISSION ON GENDER AND DEVELOPMENT

4 Note 1

2110100 - Basic Salaries - Permanent employment

The basic salaries vote was underspent by Kshs. 7,945,995.60 because the Commission had not hired all proposed staff.

5 Note 2

2210300 - Domestic travel and subsistence

The vote was overspent by Kshs 1,116,692 owing to Commissioners costs resulting from serving on a full time basis that had not been factored into the budget.

6 Note 3

2210400 - Foreign Travel & subsistence

The vote was overspent by Kshs. 1,965,224 because of 4 additional commissioners serving on full time basis and had not been previously factored into the budget

7 Note 4

2210500 - Printing, Advert. & Info. Supp.

The line was underspent by Kshs. 2,918,012 because of the change of status of the Commission to a constitutional Commission with a change of mandate. It led to a delay in procurement processes for this line item. The austerity measures circular from Treasury also contributed to the underexpenditure.

8 Note 5

2210600 - Rentals of produced Assets

The line was underpernt by Kshs. 3,680,799 because the planned movement to new offices did not take place.

9 Note 6

2210700 - Training Expenses

The line was overspent by Kshs 1,385,760 as a increased need to educate the public on the new mandate of the new Commission.

10 Note 7

2210800 - Hospitality Supplies and service

The line was overspent by Kshs. 7,363,731 as a result of Commissioners who were serving on full time basis and drew sitting allowances for their meetings. Previously the commissioners were serving on part time basis and only attended four meetings per year.

11 Note 8

2211300 - Other Operating Services

The line was underspent by Kshs. 1,233,198 as a result of the hire of contracted professional services to draw a new strategic plan and also representation at a court case involving the Commission that was not previously budgeted for.

12 Note 9

2710100 - Government Pension and Retirement Benefits

The line was overspent by Kshs. 1,264,802 as staff contracts were terminated prematurely to fir into the new Commission.

13 Note 10

3110300 - Refurbishment of Buldings

The line was underpernt by Kshs. 3,767,164 because the planned movement to new offices did not take place.

14 Note 11

3111000 - Purchase of office furniture...

The line was overspent by Kshs. 1,477,843 in buying new office equipment including computers, tables, cabinets to accommodate the commissioners who were now serving on full time basis.

15 Note 12

3112000 - Purchase of vehicles

The line was overspent by Kshs. 5,684,507. The Commission procured a vehicle for use by the Commissioners.

16 Note 13

3111100 - Purchase of Specialized Plant, Equipment and Machinery

The amount of Kshs 2,500,000 was not spent at all because it was for the development of a commission web site. The web site was not developed due to restructuring as a result of the change in status of the Commission.

PART IV: THE FINANCIAL STATEMENTS

RESULTS

The results for the year are shown on pages 17-29

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 30 JUNE 2012

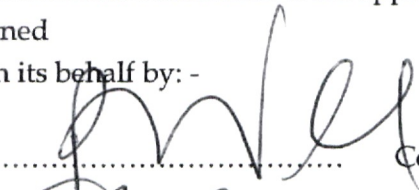
REVENUE	<u>Notes</u>	2012 <u>Kshs</u>	2011 <u>Kshs</u>
Grants Received	7	<u>434,334,706</u>	<u>241,917,071</u>
Grant income		418,899,760	319,411,521
TOTAL REVENUE		<u>418,899,760</u>	<u>319,411,521</u>
OPERATING EXPENSES			
Personnel costs	9	128,612,964	104,365,385
Programme support costs	10	55,550,357	45,085,563
Programme costs	11	234,736,440	169,960,573
Total Expenses		<u>418,899,760</u>	<u>319,411,521</u>
SURPLUS FOR THE YEAR:		<u>39,189,092</u>	31,227,064
Capital Reserve		<u>39,189,092</u>	<u>31,227,064</u>

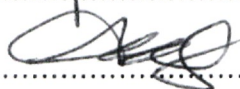
**KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2012**

	<u>Notes</u>	<u>2012 Kshs.</u>	<u>2011 Kshs.</u>
NON-CURRENT ASSETS			
Property, Plant and equipment	2	39,189,092	31,227,064
CURRENT ASSETS			
Inventories	3	1,044,520	806,923
Grant receivable	7	354,003	917,777
Accounts receivables	4	7,499,791	6,218,752
Cash and cash equivalents	5	65,474,583	73,698,082
		<u>74,372,897</u>	<u>81,641,533</u>
TOTAL ASSETS		<u><u>113,561,988</u></u>	<u><u>112,868,597</u></u>
FUND BALANCE AND LIABILITIES			
FUND BALANCE			
General reserve	6	2,491,674	2,491,674
Capital grants	6	39,189,092	31,227,064
Deferred income	7	61,540,228	64,251,166
CURRENT LIABILITIES			
Accounts payables	8	10,340,995	14,898,692
TOTAL FUND BALANCE AND LIABILITIES		<u><u>113,561,988</u></u>	<u><u>112,868,597</u></u>

The financial statements were approved by the Commissioners on ^{27th} September.....2012 and signed

On its behalf by: -

.....

 Commission Secretary

.....

 Acting Chairperson

**KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
STATEMENT OF CHANGES IN FUND BALANCE
FOR THE YEAR ENDED 30 JUNE 2012.**

Details	General/Capital Reserves Kshs
As at 1st July 2010	38,387,393
Additions & Disposals	2,481,695
Depreciation	(7,150,350)
As at 30 June 2011	<u>33,718,738</u>
As at 1st July 2011	38,718,738
Additions & Disposals	17,582,111
Depreciation	(9,620,083)
As at 30 June 2012	<u>41,680,766</u>

Capital reserves relate to net capital value of the property and equipment, being capital grants received from the funding agencies.

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
STATEMENT OF CASH FLOW FOR THE YEAR ENDED 30 JUNE 2012

	Notes	2012 Kshs	2011 Kshs
Operating Activities			
Cash flows from operating activities	I&E	7,962,028	(4,668,655)
Depreciation		9,620,083	7,150,350
Sale proceeds		-	-
Loss on disposal of fixed assets		-	-
Operating surplus before working capital changes		17,582,111	2,481,696
Working Capital Changes			
Inventories		(237,597)	(17,391)
Accounts receivable	4	(1,281,039)	3,880,091
Grants receivable	7	563,774	1,675,300
Accounts payable	8	(4,557,697)	(235,193)
Deferred income	7	(2,710,939)	(81,651,445)
		(8,223,499)	(76,348,638)
Net cash flows generated by operating activities		9,358,612	(73,866,942)
Investing Activities			
Acquisition of Fixed Assets	2	(17,582,111)	(2,481,696)
Net increase in cash and cash equivalents	5	(8,223,499)	(76,348,638)
Cash and cash equivalents at beginning of the year		73,698,082	150,046,720
Cash and cash equivalents at end of year	5	65,474,583	73,698,082

KENYA NATIONAL COMMISSION OF HUMAN RIGHTS

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30TH JUNE 2012

1. ACCOUNTING POLICIES.

The financial statements have been prepared in accordance with International Financial Reporting Standards. The principal accounting policies adopted remain unchanged from the previous year and are stated below:

a) Basis of accounting

The financial statements are prepared on the historical cost basis.

b) Income recognition

Income comprises grants from various donors and other income. Operating grants are recognized over the period necessary to match them with related expenses.

c) Expenditure

Expenditure comprises expenses incurred directly for and in support of programme activities. These are recognized on accrual basis.

d) Property and equipment

Property and equipment are stated at cost less accumulated depreciation.

Depreciation is calculated on the reducing balance method at annual rates estimated to write off carrying values of the assets over their expected useful lives. The annual depreciation rates used are:

Computers & Printers 33.33%

Office Equipment 12.5%

Furniture, Partitions & Fittings 12.5%

Motor Vehicles 25%

Full depreciation is charged in the year of purchase / acquisition and non in the year of disposal.

e) Foreign currency translations.

Foreign currency grants and transactions during the year are converted into Kenya Shillings at rates ruling at the transactions dates. Gains and losses on exchange are dealt with in the Income Statement.

f) Retirement benefits costs

The Commission contributes to a statutory defined contribution provident scheme and to the National Social Security Fund (NSSF).

Contributions to NSSF are determined by local statute and are currently limited to Kshs 200 per employee per month, while those to the provident fund scheme is 10% of the basic monthly salary for all secretariat staff.

The Commission's contributions to the above schemes are charged in the income and expenditure account in the year to which they relate.

g) Cash and cash equivalents

Cash and cash equivalents comprise balances held in current accounts with banks and cash on hand.

h) Deferred income

Unexpended grant receipts are deferred and recognized as income when the related expenses are incurred.

j) Comparatives

Where necessary, comparative figures have been adjusted to enable them conform to changes in presentation in the current year.

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
 NOTES TO THE FINANCIAL STATEMENTS (Continued)
 FOR THE YEAR ENDED 30TH JUNE 2012

2. PROPERTY AND EQUIPMENT

	Computers & Printers Kshs.	Office Equipment Kshs.	Partitions, Furniture & Fittings Kshs.	Motor Vehicles Kshs.	Total Kshs.
COST					
At 1 July 2011	19,204,711	10,545,243	31,994,248	38,534,556	100,278,758
Additions	6,270,320	4,038,650	2,825,390	4,447,751	17,582,111
Disposals	-	-	-	-	-
At 30 June 2012	25,475,031	14,583,893	34,819,638	42,982,307	117,860,869
DEPRECIATION					
At 1 July 2011	15,054,193	4,388,156	17,413,244	32,196,101	69,051,694
Charge for the Year	3,473,265	1,274,467	2,175,799	2,696,552	9,620,083
Disposals	-	-	-	-	-
At 30 June 2012	18,527,458	5,662,623	19,589,043	34,892,653	78,671,777
NET BOOK VALUE					
At 30 June 2012	6,947,573	8,921,270	15,230,595	8,089,655	39,189,092
At 30 June 2011	4,150,518	6,157,087	14,581,004	6,338,455	31,227,064

The Commission maintains a memorandum account showing details of the existing property and equipment at any one time.

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
NOTES TO THE FINANCIAL STATEMENTS (Continued)
FOR THE YEAR ENDED 30TH JUNE 2012

3. INVENTORIES

Inventories comprise stationery stocks valued at the lower of their cost and net realizable values. No provision is made for obsolete, slow moving and defective stocks. The closing stock figure stood at Kshs 1,044,520.

4. ACCOUNTS RECEIVABLES

<u>DETAILS</u>	<u>2012</u> <u>Kshs.</u>	<u>2011</u> <u>Kshs.</u>
Banker's Guarantee for Fuel - Total Kenya	930,000	930,000
Interproject	179,338	48,533
Rent deposit - CVS Plaza	2,778,986	2,400,986
Rent deposit - Kapenguria Office	60,000	60,000
Airtel telephone lines deposit	101,000	101,000
Safaricom telephone lines deposit	100,000	100,000
Staff Imprests	1,993,552	1,017,487
Staff Advances	1,356,916	1,560,745
TOTAL	<u>7,499,791</u>	<u>6,218,752</u>

5. CASH AND CASH EQUIVALENTS

For the purpose of the cash flow, cash and cash equivalents comprise: -

<u>DETAILS</u>	<u>2012</u> <u>Kshs.</u>	<u>2011</u> <u>Kshs.</u>
Bank and cash balances	65,474,583	73,698,082

6. RESERVES

<u>DETAILS</u>	<u>2012</u> <u>Kshs.</u>	<u>2011</u> <u>Kshs.</u>
Capital reserves	39,189,092	31,227,064
General reserves	<u>2,491,674</u>	<u>2,491,674</u>
	<u>41,680,766</u>	<u>33,718,738</u>

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
 NOTES TO THE FINANCIAL STATEMENTS (Continued)
 FOR THE YEAR ENDED 30TH JUNE 2012

7. GRANT RECEIVABLE) /DEFERRED INCOME

Movement in deferred grant income and grant receivable is analyzed as follows:

FUNDING	Opening Deferred Income Balance	Opening Receivable Income Balance	Receipts in the year	Expended in the year	Income Receivable	Deferred Income
SOURCE	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs
GOK	4,849,336		304,500,200	302,203,445		7,146,091
EU	226,966		26,517,207	20,755,466		5,988,707
Norway (105)	13,795,457		31,570,639	27,531,470		17,834,626
CIDA-3 (59)						
TROCAIRE	749,052					749,052
UNCHR (102)	839,702					839,702
FINLAND STUDY (97)		-	-			-
DUTCH	32,011,141		28,000,000	50,133,946		9,877,195
CIDA-4 (95)		1,410			1,410	
GTZ -Witness protection FINLAND(92)		44,628			44,628	
OHCHR (70)		276,715			276,715	
SIDA/UNDP -PEV (91)	59,342					59,342
Other Income	5,536,702		5,579,713	1,148,426		9,967,989
OHCHR (109)	2,312,905		256,470	1,634,150		935,225
BHC (103)	2,739,787		(2,739,787)			-
DFID -INVESTIGATIONS.	337,276		(337,276)			-
UNCHR - IDP (110)		595,024	8,996,752	8,335,720		66,009
GIZ-113-Social Justice	130,805		18,814,443	15,727,289		3,217,959
GIZ-115- GOGO			5,760,000	5,567,304		192,696
OHCHR -SOUTH AFRICA(111)	121,392					121,392
IGWGIA (118)			564,234	387,820		176,414
OHCHR Exit Report(116)			1,365,000	395,000		970,000
UNCHR -IDP (119)			4,775,110	2,630,586		2,144,524
OHCHR (121)			712,000			712,000
UNDP (117)				31,250	31,250	
IIE - HRD CONFERENCE	541,305					541,305
Total	64,251,167	917,777	434,334,706	436,481,871	354,003	61,540,228
Capital Grants				17,582,111		
Grant Income				<u>418,899,760</u>		

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
NOTES TO THE FINANCIAL STATEMENTS (Continued)
FOR THE YEAR ENDED 30TH JUNE 2012

Government of Kenya (GOK) - Fund:

The grant supported operational support costs such as wages and salaries, operations and maintenance, and donor counterpart contributions. It does not include the salaries and allowances for Commissioners which is met directly through the Consolidated Fund.

TROCAIRE Fund:

The grant supported programmatic work on promoting accountability in political processes.

Kingdom of the Netherlands (DUTCH) Fund:

The grant supported KNCHR strategic plan 2009-2013.

Royal Norwegian Embassy Fund:

The grant supported KNCHR strategic plan 2009-2013.

European Union (EU) Fund:

The grant supported addressing torture as a systemic Human Rights violation in Kenya.

United Nations High Commissioner for Refugees (UNHCR) IDP PHASE I

The grant supported Internally Displaced Persons (IDPs) Phase I. It strengthened the Protection Working Groups on Internally Displaced Persons through protection monitoring, coordination, advocacy and capacity building.

United Nations High Commissioner for Refugees (UNHCR) IDP PHASE II

The grant supported Internally Displaced Persons (IDPs) Phase II. It strengthened the Protection Working Groups on Internally Displaced Persons through protection monitoring, coordination, advocacy and capacity building.

GIZ Social Justice

The grant supports Social Justice, Reconciliation and National Cohesion.

GIZ Good Governance

The grant supports Promotion of Good Governance through strengthening investigative, redress and institutional capacities.

Office of the High Commissioner for Human Rights (OHCHR) EXIT REPORT

The grant supported exit report "Telling our story: Eight years of Kenya National Commission on Human Rights"

Office of the High Commissioner for Human Rights (OHCHR) ECOSOC

The grant supported Economic Social and Cultural rights Department Project Briefs for the 2010/2011 workplan

Office of the High Commissioner for Human Rights (OHCHR) South Africa

The grant supported attendance and participation in roundtable to influence drafting of the African protocol on Disability in South Africa.

International Work Group for Indigenous Affairs (IGWGIA)

The grant supported launching of African Commission's documentary film " a question fo justice, the rights of indigenou peoples in Africa"

UNDP

The grant supports the realization of Human Rights and Access to Justice in Kenya

None of the grants or donations were made or received for purposes of influencing the decision or ability of the Commission.

**KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
NOTES TO THE FINANCIAL STATEMENTS (Continued)
FOR THE YEAR ENDED 30TH JUNE 2012**

8. ACCOUNTS PAYABLES

DETAILS	2012 Kshs.	2011 Kshs.
Amounts falling due within one year	10,340,995	14,898,692

9. STAFF COSTS

DETAILS	2012 Kshs.	2011 Kshs.
Salaries and benefits -Staff	117,390,495	89,277,062
Medical Insurance Scheme	11,222,469	10,458,346
Interns Stipend		4,629,977
TOTAL	128,612,964	104,365,385

The salaries and benefits of Commissioners (nine) are paid directly to them by Treasury from the Consolidated Fund and are not included under staff costs.

10. PROGRAMME SUPPORT COSTS

DETAILS	2012 Kshs.	2011 Kshs.
Office Rent	26,271,267	22,248,845
Telephone and E-Mail	4,694,022	4,412,433
E-Mail & Internet services	1,717,260	750,830
Printing and Stationery	2,942,853	2,084,429
Postage and deliveries	350,689	227,106
Equipment Repairs and Maintenance	1,550,273	1,015,622
Professional Subscription Fees		2,320,742
Office Utilities	1,774,436	1,192,651
Advertisement costs	1,705,766	1,482,930
Equipment Insurance	725,455	183,164
Legal fee	1,000	1,028,980
Bank Charges	455,077	400,597
Subscriptions	757,963	60,280
Training internal	4,860,852	3,514,100
Team Building	3,105,730	
Conference & workshop	1,979,728	475,830
Cleaning Services	977,960	686,668
Security Services	733,176	544,040
Library Materials & newspapers	326,447	331,887
Electricity bill	177,866	23,480
Water bills	163,478	56,987
Guest House Utilities	77,000	38,963
Consultancy	202,060	2,005,000
TOTAL	55,550,357	45,085,563

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
 NOTES TO THE FINANCIAL STATEMENTS (Continued)
 FOR THE YEAR ENDED 30TH JUNE 2012

11. PROGRAMME COSTS

DETAILS	2012 ACTUAL Kshs.	2011 ACTUAL Kshs.
Movement of political accountability & election monitoring		
Production of publicity materials		
MOPA workshop, signing & newspaper advert		
Sub-total		
REFORM & ACCOUNTABILITY		
Workshop police oversight body		24,900
Monitoring visits to detention places		891,649
Transport meeting torture survivor		151,350
Media monitoring consultancy proposed constitution referendum		1,438,400
Newspaper adverts & IEC material-proposed constitution		1,262,927
B/fast meeting with political leaders- proposed constitution	5,632	581,728
Media advocacy -proposed constitution		1,214,721
Induction & capacity building of monitors for mon campaigns-proposed con		85,368
Monitoring human rights in Rift Valley		23,000
Monitoring reporting & advising resettlement of IDP's		1,081
Accommodation /Stipend -witness protection intervention		4,140,491
Incidentals-witness protection intervention		103,913
Human rights clinics		386,490
Training workshop- CSO's FBO's	156,872	1,583,620
Conducting of public forums-TJRC public forum.	810,811	4,306,258
Human rights officer		722,690
Consultative forum -judiciary reform		39,360
Award reformist Institutional & individual on HR	1,902,951	2,930,942
Sensitization forums on Implementation of HR	528,674	849,200
Forums with NGO's FBOs CBO's on reforms	519,804	648,667
Development of task force on recommendation		309,250
Publication & dissemination of report		2,841,979
Media campaign on reforms		3,600,864
Scheduled /unscheduled visits		53,000
Advocacy on rights of children in prisons	903,020	43,250
National conference -law enforcement	24000	5,229,616
Protection of working groups		
Implement task force -Judicial reform	700,432	1,450,250
Partnership Key Stake holders Agenda 4	12,524	64,100
Sensitization court users	77,130	767,688
Training selected victims groups on effective engagement		4,453,727
Media advocacy on transitional justice		223,060
TJRC hearing	9,653,630	2,101,451
Exposure visit on penal reform & prisons management	1,338,378	2,119,766
Public education proposed constitution		5,380,203
Monitoring constitutional referendum		13,210,552
Agenda 4 IEC materials		24,233,085

	2012	2011
KENYA NATIONAL COMMISSION ON HUMAN RIGHTS		
NOTES TO THE FINANCIAL STATEMENTS (Continued)		
FOR THE YEAR ENDED 30TH JUNE 2012		
11. PROGRAMME COSTS		
	ACTUAL	ACTUAL
DETAILS	Kshs.	Kshs.
Visits prisons & police stations	2,821,869	1,718,264
Peace Building & Conflict management	687,895	
Regional Social Justice	656,504	
Joint Coordination with strategic partners	1,206,035	
Expert support	5,756,460	
Elections 2012	43,250	
Sub-total	27,805,870	89,186,861
COMPLAINS & INVESTIGATION		
Human Rights complaints investigation-rapid response	5,084,458	2,439,978
Human rights clinics.	973,805	1,695,987
Capacity Building Counseling & debriefing -CIP	253,422	468,904
Training on Gender Based Violence investigation	442,140	488,400
Investigation alleged violation	1,181,409	218,250
Capacity building ADR	464,000	
Sub-Total	8,399,234	5,311,519
REDRESS		
Filing public interest case	1,126,927	-
Serv. Summons & court proceedings	101,906	22,000
Sustain the appeal for the restoration of Complaints Hearing Panel and other incidental cases	278,231	2,521,818
Recording complains hearing (Hansard)		150,000
Human Rights Defenders	1,531,590	3,644,081
Human Rights Defenders	133,492	
Media publicity on regional hearing -Reproductive health	2,000,824	294,930
Public inquiry incidental costs	3,469,287	1,908,185
Engage experts for regional hearing on productive health	560,710	431,909
Draft report & peer review on reproductive health report	34,500	861,500
Disseminations of report on reproductive health	215,840	178,280
Validation of reproductive health report	1,031,465	
Publication of reproductive health report	485,000	
Implementation of report finding	480,340	
Review & drafting of KNHREC act	3,555,636	1,091,468
One Stop Public complaints and referral services	1,291,210	
Human Rights Officer	2,194,534	
Sub-Total	18,357,820	11,104,171
REGIONAL OUTREACH		
Regional outreach & strengthening partnership	635,640	259,290
Regional local point Org. & stakeholders	705,100	3,830,577
Advocacy on Agenda 4 items	251,583	3,668,137
CEDAW - Gender mainstreaming	1,129,704	825,598
Statutory Documents publication/ Annual report	358,996	23,526
Resource Centre for Regional for Offices/ Head office	1,098,280	1,000,965
Forum with district peace committee to foster peace & reconciliation	170,000	380,950

**KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
NOTES TO THE FINANCIAL STATEMENTS (Continued)
FOR THE YEAR ENDED 30TH JUNE 2012**

11. PROGRAMME COSTS

DETAILS	2012 ACTUAL Kshs.	2011 ACTUAL Kshs.
Forums with Local religious leaders on peace & reconciliation	749,340	103,000
Conduct training for Endoroise	301,143	410,000
Human right Officer	1,976,543	
Sub-total	7,376,329	10,502,042
ECONOMIC, SOCIAL & CULTURAL RIGHTS		
Document public & launch monitoring report on IDP		12,990
Investors & stakeholders round table meeting	23,577	297,794
Monitoring business compliance with human rights	483,275	641,614
Production of documentary on regional imbalances & inequality	-	199,800
Regional forum/ dilemma session on business & human rights	333,412	811,250
ILO convention & domestic workers	264,025	140,062
Workshop on culture & human rights	1,274,035	613,394
Protection of working groups	11,600	33,360
Publication & dissemination draft National IDP policy	370,000	1,703,374
Sensitization of public- property rights IDP's		83,598
Auditing land titles held-IDP's	2,260,625	
Capacity building workshop -Regional monitors	1,902,890	295,000
Support & facilitation 20 regional monitors		725,210
Lobby & advocacy National Legal framework on IDP	1,151,850	1,152,055
Monitoring workshop for PWG	979,953	100,890
Monitoring /Secretariat-IDP		386,111
Develop IDP Policy	60,000	
Public Awareness on property rights (IDP)	1,189,553	
Profile social protection of domestic workers	670,050	
Development of eviction guideline	820,758	
Rights to water	27,958	
Review tool to monitor devolved funds	319,600	
Investors workshop	1,081,523	
Mainstream indigenous people rights	256,400	
Participatory Assessment	700,141	
IDP reintegration	2,607,706	
Stake holders forum for implementation of HIV	647,700	
International working Group -Indigenous	387,120	
Quoted company's compliance with CMA guideline	100,000	
Monitoring Government allocation & expenditure of devolved fund	1,025,160	
Salary for monitors-IDPS	3,349,275	1,561,313
Personnel costs	418,562	
Sub-total	22,716,748	8,757,816
RESEARCH & COMPLIANCE		
Nguzo za haki / Human rights Journal	450,000	187,000
Stake holders forum on the shadow reporting on the Convention on the rights	2,388,323	2,773,711
UN human rights universal periodic review		796,096

**KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
NOTES TO THE FINANCIAL STATEMENTS (Continued)
FOR THE YEAR ENDED 30TH JUNE 2012**

2012

2011

11. PROGRAMME COSTS

DETAILS	ACTUAL Kshs.	ACTUAL Kshs.
Workshop disseminate finding on human rights council		233,920
Document and publication of the third state of human rights report		6,522,114
Publish report on anti-discrimination & equality	663,350	
Monitoring the extend of implementation of UPR report	641,868	
Universal periodic review	900,718	1,354,860
Launch Third state of human rights report	1,054,370	272,880
Baseline survey on the status of human rights in Kenya		1,784,080
Draft bill on prevention of torture		418,000
Forum with stake holder to review bill	329,662	208,960
Forum with the Office of Attorney General & MPS		73,780
Workshop to lobby ratification of the OPCAT	926,170	1,511,699
Development of IEC materials	257,520	104,000
Media features -print & electronic		2,342,040
Targeted advocacy for implementation anti torture		6,704
Human rights Officer	4,108,873	
Exit report	2,762,955	
Report drafting, publicity & launch		358,001
Publication & Publication Occasional report on Constitution	261,600	
Rebranding of KNCHR-KNHREC	1,844,908	
Dissemination & Finding of Human Rights Council	338,547	
Stakeholders forum on HR indicators	278,261	
Sub-total	17,207,126	18,947,845
HUMAN RIGHTS EDUCATION		
Awareness on Human Rights	1,698	2,737,108
Conduct needs assessment on torture places	1,214,520	193,200
TOT's trainings HRBA for state actors	988,500	
Training police & prisons officers	5,183,518	5,657,367
Train prisons & police colleges	130,921	2,405,429
Curriculum & Manual on HRBA for Public Officers	1,639,248	
Visits to police station & detention places	746,250	
Human Rights Officer	472,717	
Lobby & Implement HIV laws		98,285
Specialized training for Monitoring & Evaluation	295,535	
Baseline survey	1,780,600	
Monitoring & evaluation training	1,722,964	1,758,161
Project management training	308,295	230,760
Result based management training	633,650	
Television commercials	144,600	
Support transition of Article 59	31,250	
Human Rights Office -PAC	221,840	
Sub-total	15,516,106	13,080,310
Disbursement to Gender Commission	102,575,001	
Totals	219,954,234	156,890,564
Field Program support		
Vehicle running and maintenance.	14,782,206	13,070,009
Sub-total	14,782,206	13,070,009
TOTAL	234,736,440	169,960,572

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
NOTES TO THE FINANCIAL STATEMENTS (Continued)
FOR THE YEAR ENDED 30TH JUNE 2012

12. MANDATE

The Commission is domiciled and is established in Kenya under the Kenya National Commission on Human Rights Act (No.14 of 2011).

13. CURRENCY

The Financial statements are presented in Kenya Shillings (Kshs.)



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