Kenya National Commission on Human Rights

12TH ANNUAL REPORT

2015/2016
His Excellency, Hon. Uhuru Kenyatta C.G.H.  
President and Commander in Chief of the Defence Forces of the Republic of Kenya

LETTER OF TRANSMITTAL


Please accept, Your Excellency the assurances of our highest regard.

Kagwiria Mbogori.

Chairperson

Cc,  
Speaker of the Senate  
Hon. Ekwe Ethuro E.G.H, E.B.S, M.B

Speaker to the National Assembly  
Hon. Justin Muturi E.G.H, M.B
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<th>Abbreviation</th>
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<tr>
<td>ACHPR</td>
<td>African Commission on Human and Peoples’ Rights</td>
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<td>ARP</td>
<td>Alternative Rites of Passage</td>
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<td>CAJ</td>
<td>Commission on Administrative Justice</td>
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<td>CAT</td>
<td>Convention Against Torture</td>
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<td>CBO</td>
<td>Community Based Organization</td>
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<td>CIC</td>
<td>Commission on the Implementation of the Constitution</td>
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<td>CoG</td>
<td>Council of Governors</td>
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<td>CRPD</td>
<td>Convention on Rights of People with Disability</td>
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<td>CUC</td>
<td>Court User Committee</td>
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<td>CSOs</td>
<td>Civil Society Organizations</td>
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<td>DPP</td>
<td>Director of Public Prosecutions</td>
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<td>ECOSOC</td>
<td>Economic Social and Cultural Rights</td>
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<td>FIDA</td>
<td>Federation of Women Lawyers</td>
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<td>GoK</td>
<td>Government of Kenya</td>
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<td>HRBA</td>
<td>Human Rights Based Approach</td>
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<td>HRD</td>
<td>Human Rights Defender</td>
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<td>ICC</td>
<td>International Criminal Court</td>
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<td>IPCRM</td>
<td>Integrated Public Complaints Referral Mechanism</td>
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<td>IPOA</td>
<td>Independent Police Oversight Authority</td>
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<td>KFS</td>
<td>Kenya Forest Service</td>
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<td>KNCHR</td>
<td>Kenya National Commission on Human Rights</td>
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<td>KPRs</td>
<td>Kenya Police Reservists</td>
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<td>M&amp;E</td>
<td>Monitoring and Evaluation</td>
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<td>NCCC</td>
<td>National Coordination and Consultative Committee on Internal Displacement</td>
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<td>NERO</td>
<td>KNCHR, North Eastern Regional Office</td>
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<td>NHRI</td>
<td>National Human Rights Institution</td>
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<td>NORRO</td>
<td>KNCHR, North Rift Regional Office</td>
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<td>NPS</td>
<td>National Police Service</td>
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<td>NPSC</td>
<td>National Police Service Commission</td>
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<td>PEV</td>
<td>Post-Election Violence</td>
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<td>PWGID</td>
<td>Protection Working Group on Internal Displacement</td>
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<td>RRM</td>
<td>Rapid Response Mission</td>
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<td>SMRTP</td>
<td>UN Standard Minimum Rules for the Treatment of Prisoners</td>
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<td>ToT</td>
<td>Trainer of Trainer</td>
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<td>UPR</td>
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STATEMENT FROM CHAIRPERSON

It is our delight as the KNCHR to share with the government, the public and other key stakeholders the report of our engagements, results and observations during the programme year 2014/2015. It has been a good year, with numerous transformations as the country continues to operationalize the constitution of Kenya (2010). The commission worked very productively and consultatively pursuant to its mandate in ensuring that every Kenyan is guaranteed equal enjoyment of rights as protected under the constitution and under provisions of regional and international law.

Kenya has indeed made progress on ensuring that public institutions continue to reorient their culture and professional demeanour to move from the heritage of colonial master-servant relationship in their service delivery to Kenyans. Most of these institutions have now begun to wake up to that reality that the mandate they hold is exercised on behalf of the sovereign power of the people of Kenya. The National police service has made remarkable progress in pursuing the recommendations of the Ransley Taskforce on Police Reforms. The separate arms of the police service, including the independent policing oversight authority are duly discharging their mandate to ensure that there are sufficient checks and balances, despite the operational setbacks that they still face. Much still needs to be done particularly to ensure a harmoniously working policing system that upholds the principles of democratic policing and that refrains from unnecessary use of force to brutalize Kenyans to fight crime and insecurity. The commission has been a key partner in the management of security in Kenya and has built capacity of hundreds of police officers from the National Police Service, the Anti-Terrorism Police Unit, Administration Police, among others.

The judiciary is one other public institution that warrants specific mention in so far as striving towards the fundamentals of human rights is concerned. The judiciary has come out firmly to assert its independence and to lead the way in the development of jurisprudence in the country. There are numerous determinations that were made which demonstrated the novelty of the judicial system in not only defending the fundamentals of human rights, but also exploring the uncharted waters of socio economic rights that were previously considered non justiciable. Engagements of the commission with the judiciary have been multiple, either in terms of advisory role as amicus curiae (fiend of the court) or instituting cases from the powers of the commission based on public complaints received. It is worth mentioning the contributions of the judges and magistrates vetting process, which apart from weeding out office of questionable integrity, has also instilled in a new culture of self awareness among judicial officers in the manner in which they handle their work. The commission urges the judicial fraternity to give support to the judges and magistrates vetting board so as to ensure that the purpose of this institution is realized.

The above two institutions have been singled out since they lie at the core of administration of justice, but there are certainly other actors that have demonstrated good performance during the period. The commission urges the ministry of public service and the ministry of devolution to ensure that reforms
are pushed beyond political rhetoric to real change in service delivery in the public sector, both at national and county levels. The commission remains open and ready to work with all public and private institutions to infuse human rights principles in their operations, for people friendly and sustainable results in provision of public services.

On development of laws and the compliance of the state to international obligations, the commission has been an active partner in the review of bills and legislation in the country, so as to safeguard constitutional rights of Kenyans as well as human rights entitlements from other jurisdictions. During the year, the commission reviewed a total of 20 bills and 5 policies. The commission applauds the efforts of various agencies, both state institutions and civil society groups to exercise vigilance in ensuring the constitution is progressively implemented. Most of these groups have literally fought in courts of justice to seek interpretational guidance and enforcement of rights as enshrined in the constitution. There have been noteworthy milestones with regard to advancement of women’s rights, the rights of persons living with disability, and other previously marginalized groups. The commission wishes to make special mention of the Commission on implementation of the Constitution (CIC) which has worked hard, racing against time to ensure that the implementation schedule of the constitution is achieved. Parliament has done a good job too, though is still lagging behind in meeting the deadlines set under the fifth schedule to legislate on fundamental legislation. The pace of amendment of previous Statutes to make them compliant to the constitution has also not been up to speed, thus creating room for much error in determinations of both civil and criminal matters when such are based on provisions of the yester years.

The year also saw several instances of demonstrations by members of the public and by civil society against parliament, expressing their discontent with the apparent disregard for compliance with constitutional standards in the conduct of parliamentary business. Matters that are in need of prioritization in the interest of common good, such as the Public Participation Bill, Freedom of Information Bill, among others, seem not to have been prioritized by the August House. This has seen a drop in public approval rating of the legislature, as reported in the May 2015 survey released by the research agency, IPSOS Synovate. There have been numerous instances where the Commission on implementation of the Constitution as well as the Judiciary and Independent Commissions have faulted Parliament on the constitutionality of certain legislative decisions they have made. This in the opinion of KNCHR is not a good trend. It is in the interest of parliament that the image of the August House be improved by standing true to the principles of the constitution. The Commission urges the legislature to pay special attention to fast tracking of yet pending legislations to avoid a constitutional crisis arising from the deadlines under the fifth schedule.

The commission however wishes to laud the ongoing work by the Kenya Prison Service and other stakeholders to review Cap 90 and Cap 92 of the Prisons Act to make places of detention more correctional rather than punitive. The commission also urges Parliament to fast track the realization of the National Human Rights Policy and National Action Plan on Human Rights to provide a more stable framework for protection of rights. The commission particularly urges county leaders to be proactive and make use of the benefits of devolution to legislate meaningfully for enhanced livelihoods, prosperity and increased enjoyment of rights based on the devolved functions.

Finally, on social, economic and cultural rights, the year saw some progress in terms of sensitization of the public on the meaning of these rights. There is now more awareness. However, there still exists some fog regarding the practical steps in litigating on these rights. This lack of clarity is a blanket problem that affects not just the public, but also government institutions, the judicial mechanisms as well as advocates alike. The commission lauds
the Advocates colloquium (2014) which seeks to stimulate prosperous discussions and development of good practice on these rights. The national government through the exercise of its legislative function and other stakeholders need to work together more effectively to develop core minimum standards and timelines to facilitate realization of these rights. Kenyans continue to suffer the cruelty of poverty, famine, and preventable deaths just because there is low commitment on effecting these rights.

We wish to thank the public, the civil society fraternity, fellow constitutional commissions, the Office of the Attorney General, as well as the State and its diverse departments for the support we have enjoyed in promoting human rights. We continue to count on your support as we enter a new year of work.

Kagwiria Mbogori
Chairperson, KNCHR
Kenya National Commission on Human Rights is an independent National Human Rights Institution that is established pursuant to Article 59 of the Constitution and operationalized by the Kenya National Commission on Human Rights Act 2011. The Commission discharges its functions through the following departments: Complaints and Investigations, Reforms and Accountability, Public Education and Training, Research and Compliance, Public Affairs and Communications and Economic, Social and Cultural Rights. These departments are further supported by the Monitoring and Evaluation, Regional Outreach, Internal Audit, Information Technology, Finance and Human Resource and Administration Department.

The Commission is in the process of implementing its fourth Strategic Plan 2015-2018 which was launched on the 30th of June 2015. The strategic Plan followed the review of the third strategic plan (2013-2018). The review was necessitated by changes in external and internal factors within which the commission operates. The revised strategic plan focuses on four strategic objectives. These are; observance of human rights by public and private actors, access to justice, economic, social and cultural rights and the organizational efficiency and effectiveness.

The main activities undertaken during the period included conducting public awareness campaigns and capacity building with various stakeholders in both the public and private spheres including the police, prison officers and the civil society. In order to effectively discharge its functions, the Commission also entered into new partnership agreements with different institutions like Laikipia University and the Kenya School of Government. The year also witnessed the strengthening of partnership with the Kenya Forest Service (KFS) through which Sixty two conservators and foresters (55 male and 6 females) were trained. The officers were imparted with knowledge on basic human rights and the application of Human Rights Based Approach to the work of the Kenya Forest Service.

Additionally, the Commission seized emerging opportunities to assert itself as a defender of human rights in a fragile environment that saw the onslaught on certain fundamental freedoms as the state responded to the threat of terrorism. The Commission challenged the Security Laws (amendment) Act No.19 of 2014 after it was acrimoniously passed with the commission being of the view that the law posed a threat to the enjoyment of fundamental rights and freedoms. This litigation was successfully closed following a ruling by the court, in which the court suspended the operationalization of eight clauses which were found to be repugnant to the constitution and to rules of natural justice. The commission also made numerous contributions to legislative and policy developments, thereby providing anchorage to protection of special interest issues such as surrogacy (Petition No. 78 of 2014) in which the commission successfully defended the rights of children borne out of wedlock. Furthermore, the Commission was able to validate the National Human Rights Policy and Action Plan that is currently before the National Assembly for consideration. This was done after heavy consultation with the relevant stakeholders and parliamentary Committees.

The Commission also undertook field study on various human rights related matters that revolved around the social action study on upholding rights to water, food and clean environment, persons living with disabilities and security and Human Rights. The Commission also undertook investigations into the killings of Human Rights Defenders in the
North Eastern region and other parts of the country with the Commission engaging the relevant persons to implement the recommendation given after conclusion of investigations. The Commission also undertook investigations into forced disappearances of youths from Isiolo County where the Kenya Wildlife Service was accused for the disappearances. The Commission also undertook capacity building of County officials on Human Rights Based Approach and ECOSOC Rights from 13 counties including Nakuru, Lamu and Taita Taveta whose officials are now trainer of trainers. The other counties are Bomet, Nyandarua, Kericho, Narok, Mombasa, Kwale, Kilifi, Baringo and Tana River Counties. Moreover, 39 OCPDs and 44 OCSs drawn from Western Kenya (former Western and Nyanza provinces) were trained on human rights principles and standards & the Human Rights Based Approach. Through Partnership with the Kenya Prisons Service, a total of 50 (36 male and 14 females) prisons officers from Nairobi County were trained and gained knowledge on Minimum Standard Rules for Treatment of Prisoners and the application of Human Rights Based Approach in the service for both inmates and prisons staff.

Moreover, the Commission issued a number of advisories on a number of Bills pending before Parliament and had engagements with the respective parliamentary Committees. A total of 15 bills and 3 policies were reviewed with 2 policies being formulated for adoption. The legislation and policy reviewed include inter alia the National Security Amendment Bill 2014, Amended Prisons Act (Cap 90) and Borstal Institutions Act (Cap 92) and the National Registration and Identification Bill. The Draft policy on Human Rights Defenders; Human Rights Defenders Policy for KNCHR; Public sector remuneration policy and Devolution policy were also reviewed.

However, in discharging its functions, the commission has faced a number of challenges with the major hindrances being limited funding and the low levels of staff coupled with insecurity in the coast and North Eastern regions. The Commission is however grateful for the support it continues to enjoy from the Government of Kenya and the development partners including Help Age, Action Aid, BHC, GIZ, OSIEA, Kingdom of the Netherlands and UNDP.

The Commission will continue to follow up on the Protection and Promotion of Human Rights by ensuring that the state complies with its regional and international obligations in accordance with the treatise and conventions that the country has acceded to.

We are hopeful that we shall have the full cooperation of both state and non-state actors in discharging our mandate effectively.

Patricia M. Nyaundi
Commission Secretary
CHAPTER 1
OVERVIEW OF THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
OVERVIEW OF THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS


The Commission implements two key broad mandates: first, it acts as a watchdog over the Government in the area of human rights (the protection mandate); secondly, it plays a key leadership role in advising and moving the country towards becoming a human rights state (the promotion mandate). These mandates are implemented through various strategies including research, advocacy, lobbying, education and training, outreach, investigations and redress, issuing advisories and publications, and through partnerships building and networking.

The KNCHR has its head office in Nairobi with 4 regional offices in Wajir, Kitale, Kisumu and Mombasa. Currently the Commission has 93 staff.

Independence of the Commission
The KNCHR has the status and powers of a Commission within the meaning of Chapter 15 of the Constitution. 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:

a) 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. It, however, 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 to deliver the objectives set out in the strategic plan.

Functions and powers of the KNCHR
The functions of the Commission are set out in Article 59(2) of the Constitution and have been 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.

The powers of the Commission on the other hand are prescribed under the Constitution and the KNCHR Act. Article 252(1) states; each Commission, and each holder of an Independent office -

a) May conduct investigation on its own initiative or on a complaint made by a member of the public;

b) Has the powers necessary for conciliation, mediation and negotiation;

c) Shall recruit its own staff; and

d) May perform any functions and exercise any powers prescribed by legislation, in addition to the functions and powers conferred by this Constitution.

Article 252(2) states; a complaint to a Commission or the holder of an independent office may be made by any person entitled to institute court proceedings under article 22(1) and (2).

Section 26 of KNCHR Act, 2011 provides for general powers of the KNCHR;

In addition to the powers conferred in Article 252 of the Constitution, the Commission shall have powers to

a) Issue summons, as it deems necessary for the fulfilment of its mandate;

b) Require that statements be given under oath or affirmation and to administer such oath or affirmation;

c) Adjudicate on matters relating to human rights;

d) Obtain, by any lawful means, any information it considers relevant, including requisition of reports, records, documents and any information from any person, including governmental authorities, and to compel the production of such information for the proper discharge of its duties;

e) By order of the Court, enter upon any establishment or premises, and to enter upon any land or premises for any purpose.
material to the fulfilment of the mandate of the Commission, in particular, for the purpose of obtaining information, inspecting any property or taking copies of any documents, and for safeguarding any such property or document;

f) Interview any person or group of persons

g) Subject to adequate provisions being made to meet his expenses for the purpose, call upon any person to meet with the Commission or its staff, or to attend a session or hearing of the Commission, and to compel a person who fails to respond to a request of The Commission to appear and to answer questions relevant to the subject matter of the Session or hearing;

h) Conduct audits of any public or private institution to establish the level of compliance with the Constitution with regards to integrating the principle of equality and equity in its operations; and

i) Require any public or private institution to provide any special report on matters relating to the institution’s implementation of the principle of equality and equity including gender equity.

**Affiliation to International and Regional Networks**

The Commission is affiliated to the International – Coordinating Committee of National Human Rights Institutions (ICC) an international, independent body established to promote the establishment and strengthening of NHRIs in conformity with the Paris Principles and enjoys ‘A’ Status accreditation. The ICC’s sub-committee on accreditation conducts periodic review (every five years) of existing NHRIs to assess their continued compliance with Paris Principles and strengthen NHRIs to ensure full compliance through technical assistance. Proposed and new NHRI are assessed against Paris Principles benchmarks before their accreditation as status A, B or C NHRI depending on their level of compliance. Accreditation regulates NHRIs’ access to the UN Human Rights Council and the treaty body mechanisms, hence the key significance of this mechanism to the work of NHRIs.

The ICC of NHRIs facilitates interaction and cooperation between NHRIs and the UN system, as well as coordination and collaboration among NHRIs. In addition, it strengthens NHRIs to ensure full compliance with Paris Principles. The ICC currently has 16 voting members representing four regions (Africa, America, Europe, and Asia/pacific region).

The work of NHRIs in Africa is coordinated by the Network of African National Human Rights Institutions (NANHRI), which is headquartered in Nairobi and is hosted by the KNCHR. NANHRI encourages and supports the establishment of strong and independent African NHRIs in compliance with Paris Principles through national, sub-regional, regional and international cooperation. It strives to ensure that African NHRIs effectively undertake their mandate of human rights monitoring, protection, promotion and advocacy towards a continent characterized by human rights culture and justice for all.

The Commission remains a full member of NANHRI and has committed to continue offering institutional support to the Network to enable it undertake its mission of strengthening NHRIs in Africa.
Strategic Direction for the Financial Year 2014/2015

The commission’s strategic direction as outlined in the 2013-2018 strategic plan is structured as follows:

**Vision**
A nationally and globally respected public 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
- Accessibility
- Inclusiveness
- Tolerance

**Strategic Objectives**
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 knowledge and practice of human rights principles and standards in public and private spheres.

4. Organizational growth and development.
CHAPTER 2
REPORT ON ACTIVITIES AND RECOMMENDATIONS
STRATEGIC OBJECTIVE 1:

TO PROMOTE THE RESPECT AND OBSERVANCE OF HUMAN RIGHTS IN PUBLIC INSTITUTIONS.

Public Institutions operating in accordance with human rights principles

**Police recruitment monitoring exercise**

In the year under review, KNCHR monitored the national police recruitment process which took place on 20th April 2015. This monitoring exercise was aimed at strengthening and reinforcing efforts by the National Police Service towards instilling its key values of accountability, transparency, professionalism and that would ultimately lead to the realization of Security Sector Reforms in the Country.

The interest in this process emanated from the lessons of the 4th July 2014 exercise which was marred by several complaints of alleged irregularities that included corruption, tribalism, nepotism, favouritism among others. This would have compromised the entry into the service, a number of undesirable recruits who whose credentials could further dent the public perceptions towards the Service.

Although the court declined the request by KNCHR to participate in the case challenging the police recruitment, KNCHR fully supported the Independent Policing Oversight Authority and 24 other petitioners who proceeded to Court to challenge the process on the grounds that the recruitment exercise failed to adhere to the Constitutional Standards set out in articles 10, 27, 73, 232(1) (d) and (e), 244, 246 and 249 of the Constitution and the statutory requirements under sections 10, 12, and 28 (f) of the National Police Service Commission Act.

The judgment on this Consolidated Petitions and the Judicial Review Applications directed the NPSC to undertake a repeat recruitment exercise in compliance with the provisions of the Constitution and National Police Service Commission Act. The Attorney General appealed unsuccessfully paving way to the 2015 Police Recruitment Exercise.

The 2015 Police Recruitment Exercise was carried soon after the publication of the Recruitment and Appointment Regulations, 2015 as guided by Articles 10, 243 and 244 of the Constitution, the National Police Service Act 2011 and the National Police Service Commission (Recruitment and Appointment) Regulation 2015. Compliance with the regulations would ensure a transparent and accountable process.

The Commission sought and obtained accreditation to monitor the exercise. The monitoring of the Recruitment exercise was a joint exercise between the Kenya National Commission on Human Rights and members of the Police Reforms Working Group. The monitoring exercise was conducted in 102 centres out of the 294 Centres gazetted by the Inspector General of the National Police Service with a total of 1

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1 Independent Policing Oversight Authority & Another v Attorney General and 660 others (2014) eKLR
117 monitors engaged for the process as some of the centres had more than one monitor due to the huge geographic expanse of these centres. KNCHR hosted an information hub created through Uwazi SMS Platform that allowed for the sending and receiving of free bulk SMS (Short message service). This system and platform was manned at the KNCHR headquarters with a total of 25 staff from different organizations that were in charge of the different regions in the Country. This team at the Headquarters maintained contact with the members of the public and the deployed monitors. KNCHR also got in touch with the NPSC Commissioners, as well NPS officers in different parts of the Country and were thus able to seek immediate help and whenever it was required especially in situations where controversies arose in one way or the other.

KNCHR and the stakeholders sought information on various aspects of the process including the time of opening the station, the availability of complaints desks, gender considerations, briefing on the recruitment exercise, the cooperation of the officers undertaking the assignment, the number of the people to be picked in each station, the time of the completion of the exercise among other parameters.

The key finding from the monitoring of the recruitment was the inability of the National Police Service and the National Police Service Commission to adhere to the recruitment and appointment regulations that were gazetted by the National Police Service Commission 10th April 2015, a few days to the recruitment. There was thus lack of advertisement of the positions as required, lack of a two-tier process in the recruitment, inability to set up complaints desk in certain stations, inability to give premium to academic excellence, poor composition of the recruitment panels with some lacking very critical actors, inability to create a window for addressing the complaints arising from the process by making candidates report to the training centres only one day after the recruitment among others. These were all done without regards to the regulations that had provided a very clear departure from the old recruitment method which was aimed at assisting in the transformative journey of the National Police Service.

These findings were consequently presented to the stakeholders led by the National Police Service Commission as the employer of the Police with the strong recommendation that there is need for the NPSC to strictly follow its own regulations during subsequent recruitment process. It would only be through this that the transformative and reforms will be realized for the benefit of Kenyans. This would further ensure that the country develops a police service whose major aim will be service delivery and the promotion and protection of the rights of all residents of Kenya.

The KNCHR consolidated the report with strong 5 point recommendations on total adherence of regulations, gender and ethnic balance, premium on physique instead of professionalism, accountability of recruitment panel members and serious consideration of centres which have traditionally been unethical.

It is anticipated that the report and its recommendations will boost the recruitment process as a starting point towards a professional institution operating within human rights principles.

Capacity Building Session for the Anti-Terrorism Police Unit (ATPU)

Terrorism is a global threat to peace and Kenya experienced severe and fatal attacks. Since the 1998 bombing of the US embassy in Nairobi the terror attacks have intensified with the highest threat peaking with the entry of the Kenya Defence Forces in Somali in 2011. The Al-Shabaab’ s fury...
was then stirred leading to retaliatory and sporadic attacks occasioning an unprecedented era of insecurity characterized by constant threats of attacks, radicalization, bombings and kidnappings. Amid this violence, the Kenyan government has credited the country’s Anti-Terrorism Police Unit (ATPU) with thwarting dozens of other terrorist plots, and arresting or killing dozens of terrorist suspects, in an ostensibly robust counterterrorism response. But, in carrying out its work, the ATPU has committed a wide array of human rights abuses that violate international, regional, and domestic law. It has been accused of torture, harassing, enforced disappearances, deporting and extrajudicial killings.

Alive to the situation at hand and in a bid to intervene against rights breaches by ATPU, KNCHR organised a meeting in February aimed at increasing the capacity of ATPU officers on human rights aimed at infusing human rights principles in counterterrorism measures. The capacity building initiative involved 18 ATPU officers drawn from Mandera, Wajir, Garrissa and Nairobi Counties.

The ATPU officers were taken through the Human Rights Based Approach to democratic policing with discussions focused on the Human Rights Based Approach to policing and was used to shed light on local, regional and international frameworks which guide democratic policing practices.

At the end of the training, the ATPU officers appreciated that though there has been in the past negative perceptions on human rights practitioners as obstacles in their work, they noted that the training was timely as it equipped them with knowledge that would help them discharge their mandate better. To underscore their appreciation, the officers called for training for their counterparts especially in the coastal region who they said face a myriad of problems and would therefore benefit a lot from the knowledge.

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*Operation “Linda Nchi” - a coordinated military mission comprising of Somalia and Kenyan military*
based approach in security operations. The basic human rights standards in policing were also discussed and a relationship between human rights and policing demystified. The participants were then encouraged to view human rights as a complimentary aspect of their work rather than an obstacle that they need to overcome.

Through the training, KNCHR was able to establish a close working relationship with the police officers and this has enhanced cooperation between the Commission and law enforcement officers from the regions.

Similarly, we partnered with the Kenya Prisons Service (KPS) to capacity build 50 (36 male and 14 females) selected prisons officers from Nairobi County for three days. The officers were taken through discussions on the minimum standard rules for treatment of prisoners and the application of HRBA in the service for both inmates and prisons staff as means to improve conditions and relations in the service. The officers were encouraged to adopt gender mainstreaming practices as well as attempt to decongest living structures for officers and cells for inmates. The training also served a conducive platform to discuss critical areas in the review of the existing KPS laws (CAP 90 and 92) in which the Commission has been a leading player.

The year also witnessed the strengthening of partnership with the Kenya Forest Service (KFS). Sixty-two conservators and foresters (55 male and 6 females) were targeted for training. The officers received knowledge on basic human rights and the application of HRBA to the work of the KFS. During the training, draft Human Rights curriculums and training manual developed by the Commission for use by the KFS in its training of recruits was presented for validation and acceptance by senior KFS officers. For sustained mainstreaming of human rights principles in the KFS training curriculum, the Commission continues to support the KFS training School in Londiani by offering capacity-
building sessions for the college instructors. The department has since started capacity building of KFS instructors on human rights with the first training happening in March 2015 for 22 officers.

Outcome monitoring on human rights compliance for institutions trained on human rights

The Commission strives to safeguard the respect and protection of human rights to all the partners we engage with. We endeavour to disseminate relevant human rights knowledge that is practical to the diverse end users of our human rights education programmes. To guarantee that our human rights programmes have the desired output of learning and improving human rights compliance, KNCHR undertakes post training monitoring and evaluation exercises to audit the change realized from implemented activities. In the period under review, we undertook outcome monitoring exercise for human rights training undertaken with the KPS and the NPS. We evaluated the practical application and understanding of the SMRTP and human rights principles in Kodiaga and Kibos prison facilities and Shikusa Bostal facility. The monitoring exercise identified limited budgetary allocation, congestion and inefficient CuC as the main challenges hindering the KPS from adequately complying with human rights standards.

Following a successful capacity building achievement police officers from the Western Kenya region in July 2014, KNCHR undertook a monitoring exercise in the region to evaluate the impacts realised in policing and any other measures taken to improve policing as a result training of senior police officers on human rights standards in policing. The exercise established improved police public relations in Kisumu, Kakamega and Malava areas as confirmed with decrease of complaints against the police by the public from an average of 30 complaints before the training to an average of 4 after the training. Crime occurrence had also decreased due to police public cooperation, however, the same was partly attributed to the ‘Nyumba Kumi’ Initiative.

The challenges facing the officers featured prominently during the monitoring exercise. These include, Inadequate staffing and facilities, record keeping and the general welfare of police officers, these had a cumulative effect of inhibiting the effective delivery of the police and by extension compromised the capacity of the police to deliver on human rights.

Notable achievement

One of the senior police officers who attended the training (the OCS for Kisumu Central Police Station), in a bid to improve relations between police officers and members of the public has founded a football club that has both police officers and civilians as players.

A total of 20 bills and 5 policies were reviewed. 2 policies were formulated for adoption. Details are as follows:

Prisons Act (Cap 90) and the Borstal Institutions Act (Cap 92)

The Commission has been convening the Civil Society Working Group on the review of Prisons Act Cap 90 and the Borstal Institutions Act Cap 92 and have held a series of meeting which culminated in two drafts of the said laws.

Within the period, KNCHR worked with the Kenya Law Reform Commission (KLRC), Kenya Prison Service and the working group on prison reforms to develop drafts of the proposed amendments to Cap. 90 and Cap. 92. Subsequent to the drafts were subjected to further validation of key stakeholders including, Office of the Director of Public Prosecutions (ODPP), Kenya Law Reform Commission (KLRC), Kenya Prison Service (KPS), Civil Society Organizations (CSOs), Office of the Attorney General (AG), office of the Solicitor General.

The Drafts are with the KLRC for review and it is anticipated that they shall be forwarded to Parliament in the next quarter.

National Registration and Identification Bill

The Commission has been involved in a working group on Statelessness that is convened by the UNHCR. The working group has been reviewing the draft National Registration and Identification Bill and advocating for its adoption in Parliament. The government finally embarked on registration and issuance of Identity cards to the Makonde Community. However, there is need to follow up on complaints of unfairness in the identification of genuine Makonde people.

Review of the Water Bill, 2013

The Commission reviewed the water bill to ensure that the bill complies with the object of the core content in respect to the right to clean drinking water and sanitation. The key concerns raised in the bill were that the bill focussed heavily with the supply of water but did not address the issue of water tariffs; the rationale for this was that in practice the water tariffs in informal settlements was high and therefore limits the access to clean drinking water, the other concern related to the articulation of sanitation in the water bill, the bill was not well pronounced on the issue of sanitation yet the issue of sanitation is central to human dignity and the right to health. The commission made its representations to the relevant committee of parliament; the bill is still pending passage into law.

Fair Administrative Action bill

The major concern in respect to this bill was that the methods in which the public could participate was limiting and made a suggestion of the inclusion of Public inquiry as one of the methods in which the public could engage in. The proposal was therefore an inclusion of a clause to incorporate into the bill the concept of public inquiry as one of the methods for public participation.

Health Bill

The major concern was inclusion of provisions that would see the national government playing a role in the core provision of health care service; it was the commissions suggestions that in line with the constitutional provision as to the division of roles and responsibilities the National government ought to only play the role of policy formulation

3 Members of the working group include ICJ, LRF, KHRC, Philemon Trust, KPS, ODPP, DCS and KLRC
as envisaged in the constitution. The centralization of procurement in the view of the commission went against the principles of decentralization and devolution of functions.

**Review of the Constitution of Kenya (Amendment) Bill 2015**

The proposed law seeks to change the date of the next general election from 8th August 2015 to December 2017. The commission advised that the proposed change of date is unconstitutional as the Constitution requires a change of date of a presidential election to be subjected to a referendum to preserve the sovereignty of the people. Moreover, the date of the next election is pre-determined within the Constitution and the term of elected members does not constitute five calendar years but calculated and lapse at the date of the next election. In addition, the commission critiqued the justification for the proposed change of date, interference with the education schedule, Kenyan tradition of conducting elections in December, electorate preference on rural voting stations, and concluded that they were not factual.

**The Agreements Relating to Natural Resources (Ratification of Parliament) Bill 2015**

The concerns of the commission in relation to this bill were that there must be clear guidelines on the key aspects for scrutiny for parliament and the classifications of the agreements that are subject to ratification. A review of the draft bill revealed its inability to achieve these basic objectives thereby relegating parliament to the role of rubberstamping executive decisions. The other concern was that Natural resource agreements are technical in nature and two critical aspects should be considered. Firstly is a review of the agreements and the parties therein. The key information required of the companies or consortia should include; Beneficial owners of the companies, financial and technical capacity. Secondly are the agreements themselves and whether they provide the best deal for the country. For the latter parliament shall require more information from the contracting government entity including models used, projections on revenue and comparison with similar jurisdictions. It is critical that this bill addresses these aspects to prevent a futile process of ratification and have a comprehensive memorandum to parliament.

**Witness Protection Amendment Bill**

The main concerns in respect to this bill were that the constitution of the advisory board was too bloated and needed to be reduced to 3 members competitively recruited this would ensure that the board gains credibility as an independent board capable of discharging its mandate without perceived influence. The other concern was the narrow definition assigned to a witness by the proposed amendment this would have an effect in limiting the class of people who would be able to access the services of the Witness Protection Agency.

**Traditional Health Practitioners Bill**

Though Parliament indicated that this Bill did not concern Counties, it indeed concerns Counties since it is about primary health care which is a devolved function according to the Constitution. The Bill also focused much on regulating the practitioners rather than regulating the practice of traditional health itself.

**Persons with Disability Amendment Bill, 2014**

The department participated in a Workshop organized by Kenya Disabilities Parliamentarians Caucus (KEDIPA) to review the Persons with Disabilities Bill, 2015. KEDIPA was taking in stakeholder views before the Bill could be presented in Parliament for debate.

**Memorandum on Review of Anti-Corruption Laws**

The Office of the Attorney General requested KNCHR to prepare a memorandum on Anti-Corruption laws that need to be reviewed. The department prepared this memorandum and submitted it to the AG for his action. In summary, the submission recommends as follows: The government should consider consolidating all the Acts into a single legislation as this will stop
escapism by public officers who commit corruption crime and argue that they are supposed to be investigated by a specific Act. The government should consider coming up with an Anti-Corruption Policy and Action plan that would provide rules and guidelines on how to deal with perpetrators and cases on the same. The government should also conduct widespread public awareness campaigns. Citizens need to understand that corruption undermines the effective protection and promotion of human rights and therefore develop a culture that discourages corrupt practices.

Other Bills reviewed

1. Mining Bill, 2014
2. Review of the draft National Coroners Bill, 2013
3. The National Flag Emblems and Names Amendment Bill, 2013
4. Energy Bill, 2014
5. Victim Protection Bill, 2014
7. Public Benefit Organizations (Amendment) Bill, 2013
8. Language Bill
9. Petition on Insecurity to the National Assembly
10. Presentation to the Parliamentary Select Committee on Security
11. Persons Deprived of their Liberty Bill

Policies formulated/Reviewed

1. Human Rights Defenders Policy
2. Equality Policy
3. Gender Diversity Mainstreaming Policy
4. Public sector remuneration policy and Devolution policy were also reviewed.

Notable achievement

*The UPR process achieved remarkable success due to the role that the commission played in lobbying the permanent missions to make specific recommendations to the state. The recommendations made were a reflection of the lobbying made by the commission with partners during the UPR pre session and in country advocacy.

*KNCHR as the convener of the working group on the review of Cap 90 (Kenya Prisons Act) and Cap 92 (Borstal Institutions Act) is proud to note that the review process recorded many successes in the year since the drafts were discussed, agreed and validated by all the key stakeholders. The drafts have been forwarded to the CIC for advice and hopefully, the country may have the new laws aligned to the new constitution in place in 2016 once the National Assembly debates and concludes the matter. The new laws will drastically reform the management of places of detention and correctional facilities as they outline high human rights standards.

Empowered communities that are able to claim their human rights

Enhance civil society organisations and communities' capacity on human rights

The Commission engages with communities to create civic awareness on topical human rights issues and empower them to claim their rights. This engagement takes the form of capacity building for grassroots CSOs (CBOs and FBOs) networks at the community level. Grassroots Civil Society Organisations (CSOs), Community/ Faith Based Organizations (CBOs/FBOs) provide a direct link between the state and the grass root population. They advocate for the welfare of the members of society, as well as play an integral role in acting as a watchdog in preventing any form of oppression. Cognisant of the roles of CSOs the Commission has conducted capacity building workshops for CSOs and CBOs/FBOs networks in Migori and Embu Counties. In the two counties a total of 88
participants representing diverse community-based organizations were trained on the role of community organizations in defending and promoting human rights and community interests. Special focus was given to economic and social rights and community participation in county affairs to safeguard these rights as well as strategy for eradicating Female Genital Mutilation in Kuria and Kisii regions.

Besides training of community organizations, we cemented our strategic partnership with CSOs. We supported the Ecumenical Centre for Justice and Peace (ECJP) to enhance the capacity of 57 CSOs members (32 male & 25 female) from Laikipia and Nyandarua Counties to undertake civic education and promote public participation in County governance and promote constitutionalism among the public. The intervention was geared towards enhancing knowledge of the CSO leaders to encourage and promote public demand for accountability and good governance in the Counties.

Further, to achieve enhanced human rights enjoyment by rights holders, the department teamed up with Action Aid to develop a Trainer of Trainer (ToT) training manual and curriculum on human rights and devolution. The manual serves as a training tool for state and non-state actors to deliver their mandates through efficient and affective service delivery to the public and to set in place mechanisms which can enhance citizen participation for full realization of human rights in the respective counties. Using the manual and curriculum 75 (33 female, 42 male) county officials and 82 CSOs actors (37 female and 45 male) drawn from the three counties of Lamu, Nakuru and Taita Taveta were capacity build.

**Human Rights Defenders (HRDs) Project**

The Commission embarked on implementing two key projects that specifically targeted Human Rights Defenders (HRDs) due to the important role played by them in the promotion and protection of human rights. Further, the unique position occupied by KNCHR as a NHRI that works with both the state and non-state actors provided it with the requisite platform for giving the HRDs a space to connect with the Government and channel all their concerns. The projects were designed on the premise that the prevailing political environment within the country appeared to have lost traction on intended reforms in the security sector. Commitment to steer the aforementioned reforms had waned partly on account of the political leadership leading to slowed institutional reforms especially in considering the fact that those who are to drive the reforms might not necessarily ascribe to the transformation agenda. At the same time CSOs that historically championed the reform agenda had been stifled by the unprecedented attacks both on their institutions and individuals and thus a call for specific project that could work in protecting these gains.

These projects, implemented in Busia, Kwale, Marsabit, Bungoma, Turkana, Nandi and West Pokot County took the form of training HRDs, community media practitioners and law enforcement officers (LEOs) on the rights of HRDs in a bid to support the work of HRDs. Community sensitization forums were also conducted as a way of educating the public on the role of HRDs and the need to cooperate with them. Inspection visit to places of detention were conducted to ascertain the conditions of HRDs in detention. The training also involved in building the capacity of HRDs so that they can carry out advocacy in line with the domestic law as well as the international standards that includes the United National Declaration on Human Rights Defenders.

A total of 150 HRDs that are both institutional and individual have had their capacity built and have consequently engaged themselves in passing the information to other members of the public for purposes of enhancing community support to the work of HRDs. On the same note, a total of 30 community forums have been facilitated by the HRDs within the various communities for purposes of getting the communities to understand the role of HRDs and how the communities can get
to utilize the HRDs on different fronts. Media practitioners were also trained to not only report on the human rights abuses that are meted on HRDs but to also consider themselves as HRDs in their own right by virtue of their political democracy watch dog role. A total of 55 media correspondents have been reached through the trainings which has greatly changed the perception of the media to the entire discourse of HRDs. The project has also worked and trained a total of 60 LEOs that have been very instrumental in supporting the work of HRDs at the local project sites. The LEOs have too appreciated their role on protecting rights and by extension regarded themselves as HRDs in their own right.

The projects created human rights defenders networks in all the regions that includes the human rights defenders, media and police agencies who are in the forefront in championing the human rights agenda of the local population. The networks collaborate with other institutions working on human rights agendas as well offer solutions to the various problems affecting the local communities. Also, a microsite has been developed where information on various aspects of the work of human rights defenders is shared across the board. The information and knowledge that has been passed to the human rights defenders have enabled them to carry out their advocacy in intended manner and bear fruits from their work for the benefit of the communities that they serve.

Following the various challenges faced by HRDs in the court process, the project embarked on the development of a self-representation manual for Human Rights Defenders in a criminal trial. The development of the manual was necessitated by the inability of the HRDs to access legal representation due to the costs that come with it as well as the need for the HRDs to have some knowledge of the legal processes due to need to advice some of their clients on the same. A total of 250 manuals were printed and shared with the HRDs in the various project sites. Further, the manual is available both in the HRDs microsite as well as in the KNCHR website. It is believed that the availability of this manual would help in reducing the victimization of HRDs whenever they get in conflict with the law and this would in the long run lead to protection and promotion of the rights of HRDs.
Improved redress for victims of human rights violations by public institutions

The Commission through its complaints handling arm addressed this strategic objective by; processing human rights complaints lodged by complainants (petitioners) using various modes, providing psychosocial support to complainants, conducting investigations, holding quarterly referral partners’ meetings as well as half yearly public forums/legal aid clinics with referral partners. The various modes of lodging complaints included; physical visits to KNCHR head office (walk in petitioners), via telephone, emails, IPCRM and website. In addition, the Commission employed different strategies to offer appropriate redress to petitioners such as; providing legal advice, resolving complaints through alternative dispute resolution methods, conducting field investigations, holding strategic meetings with state and non-state actors, offering psycho-social support services to needy petitioners, giving legal advice and referring complainants to KNCHR’s strategic partners for further action.

It is notable, that the Commission has continued to strengthen its partnership with other referrals partners for easy complaints processing in particular to matters that fell outside KNCHR’s mandate. Petitioners whose complaints fell outside KNCHR’s mandate were adequately advised and thereafter referred to other partners through the established referral partners mechanisms such as the; referral partners’ network and the Integrated Public Complaints Referral Mechanism (IPCRM) for further assistance. These mechanisms enhanced efficiency in human rights complaints processing and resolution due to coordinated approach,
regularized feedback which reduced time wastage brought about by parallel interventions in different institution.

**Complaints received within the reporting period**

The Commission received and processed a total of 4,667 complaints compared to 1,797 received in the previous financial year. This increase of 2870 (159.7%) is attributable to deliberate outreach activities conducted by the Commission and its partners in targeted areas which have previously registered few complaints. During the outreach activities the Commission sensitized members of the public on its mandate and urged the Wananchi to report violations of their rights to the Commission. The Commission also set up complaint desks during the outreach forums and recorded numerous complaints from members of the public. The increase is further attributable to the recent restructuring of the Complaints Management System (CMS) which inter alia enhances accountability of the staff in utilization of the system.

Out of the 4667 new complaints lodged, 3,581 (76.71%) were assisted through legal advice, alternative dispute resolution measures or referred to relevant agencies as they did not fall within the mandate of the Commission. 682 (14.61%) complaints were admitted for investigations and further follow up while 405 complaints (8.68%) are pending awaiting submission of more supporting documents before final determination regarding their admissibility and way forward.

**Gender analysis of the complaints received**

Gender analysis of the complaints received shows that complaints by women accounted for 30.8% (1,438 cases) while men comprised 69.2% (3,229 cases). The representation by females and males both recorded a 2.4% increase from the previous reporting period.

We note that as a whole the Commission (apart from North Eastern Regional Office which recorded a higher number of females than men) received more petitions from males than it did from females. This is could be as a result of a lot of factors coming into play stemming from the social, cultural or economic background of the petitioner. The Commission is however brainstorming so as to facilitate an increased number of females reporting to the complaints.

**Schedule of complaints received at the offices of the commission.**

<table>
<thead>
<tr>
<th>KNCHR Office</th>
<th>Number received</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nairobi Office</td>
<td>1,855</td>
<td>35.9</td>
</tr>
<tr>
<td>North Rift Regional Office</td>
<td>1,750</td>
<td>32.7</td>
</tr>
<tr>
<td>North Eastern Regional</td>
<td>285</td>
<td>6.4</td>
</tr>
<tr>
<td>Coast Regional Office</td>
<td>743</td>
<td>14.4</td>
</tr>
<tr>
<td>Western Regional Office</td>
<td>319</td>
<td>10.6</td>
</tr>
<tr>
<td>Total</td>
<td>4,667</td>
<td>100</td>
</tr>
</tbody>
</table>
**Analysis by mode of lodging the complaint**

*Mode of lodging complaints.*

<table>
<thead>
<tr>
<th>Mode of Lodging</th>
<th>Number Received</th>
<th>Percentage (100%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical Visits</td>
<td>3,855</td>
<td>85.2</td>
</tr>
<tr>
<td>Print Media</td>
<td>2</td>
<td>0.04</td>
</tr>
<tr>
<td>Postal Mail</td>
<td>66</td>
<td>1.41</td>
</tr>
<tr>
<td>Telephone</td>
<td>346</td>
<td>7.41</td>
</tr>
<tr>
<td>Email</td>
<td>130</td>
<td>2.79</td>
</tr>
<tr>
<td>Website</td>
<td>42</td>
<td>0.90</td>
</tr>
<tr>
<td>IPCRM</td>
<td>40</td>
<td>0.86</td>
</tr>
<tr>
<td>Fax</td>
<td>2</td>
<td>0.04</td>
</tr>
<tr>
<td>Referral</td>
<td>7</td>
<td>0.15</td>
</tr>
<tr>
<td>Public Forums</td>
<td>137</td>
<td>2.94</td>
</tr>
<tr>
<td>Huduma Centre (Eastleigh)</td>
<td>40</td>
<td>0.86</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4,667</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

**Analysis of complaints by categories of human rights violations**

As in the previous years, violations of Economic, Social and Cultural (ECOSOC) Rights continued to rank the highest, recording 2,749 (58.9%) compared to Civil and Political Rights 1,360 (29.1%) and Group Rights 558 (12%). This is due to the fact that the bulk of petitioners at the Commission are the majority poor whose primary violations touch on basic livelihoods such as access to land, water, employment, education and housing. This data calls on the Commission to intensify its ongoing focus on realization of ECOSOC rights conferred by Article 43 of the Constitution. The ongoing partnership between the Commission and the County Governments is crucial in this regard as the County Governments have a constitutional obligation to deliver ECOSOC rights in the counties. The Commission shall continue to campaign and lobby for the enactment into law of the Human Dignity Bill spearheaded by Senator Hassan Omar which seeks to inter alia establish a framework to guarantee the enjoyment of ECOSOC rights by Kenyans as provided in the constitution.
Integrated Public Complaints and Referral Mechanism (IPCRM)

The Commission recorded an increase in complaints lodged through the IPCRM which comprised of 40 complaints, compared to 17 of the total complaints received from previous financial year. This is attributed to department’s active participation in the IPCRM activities such as; outreach forums, technical and policy makers meetings, strengthening of existing strategic partnerships as well as operationalization of KNCHR’s Huduma Centre strategy.

Investigation of alleged human rights violations

The Commission conducted field investigations and Rapid Response Missions (RRM) on complaints that merited such actions. Field investigations are informed by the findings of the preliminary investigations and are done as follow up to give effect to the recommendations made at the preliminary investigations report. Further investigations are therefore conducted to determine whether the violation actually occurred and thereby inform appropriate redress measures. RRMs on the other hand, are investigations conducted in situations that warrant urgent intervention with a view to forestalling an on-going violation or to prevent the imminent violation from occurring. A RRM is usually conducted within 24 hours from the time of receipt of the alleged violation.

The total number of field investigations (including Rapid Response Missions) conducted by the Commission during the reporting period were 93. Below is a tabulation of all the investigated cases which were sampled in order to show the main human rights violations reported during the reporting period.

The geographical distribution of complaints

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4IPCRM is an initiative that brings together the Kenya National Commission on Human Rights (KNCHR), Ethics and Anti-Corruption Commission (EACC), National Cohesion and Integration Commission (NCIC), National Anti-Corruption Campaign Steering Committee (NACCSC), Commission on Administrative Justice (CAJ) and Transparency International-Kenya (TI-K) to strengthen partnerships between state oversight institutions in the handling, management and disposals of received reports as well as feeding back to the members of the public.
<table>
<thead>
<tr>
<th>Civil and Political</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right to personal liberty/ security</td>
<td>259</td>
<td>5.55%</td>
</tr>
<tr>
<td>Access to Justice</td>
<td>257</td>
<td>5.51%</td>
</tr>
<tr>
<td>Right to fair trail</td>
<td>187</td>
<td>4.01%</td>
</tr>
<tr>
<td>Right to life</td>
<td>147</td>
<td>3.15%</td>
</tr>
<tr>
<td>Right to property</td>
<td>137</td>
<td>2.94%</td>
</tr>
<tr>
<td>Right of arrested persons</td>
<td>100</td>
<td>2.14%</td>
</tr>
<tr>
<td>Right to Human dignity</td>
<td>79</td>
<td>1.69%</td>
</tr>
<tr>
<td>Access to information</td>
<td>66</td>
<td>1.41%</td>
</tr>
<tr>
<td>Right to personal integrity and dignity</td>
<td>51</td>
<td>1.09%</td>
</tr>
<tr>
<td>Freedom from discrimination</td>
<td>34</td>
<td>0.73%</td>
</tr>
<tr>
<td>Freedom of movement</td>
<td>9</td>
<td>0.19%</td>
</tr>
<tr>
<td>Freedom of conscience, religion, belief &amp; opinion</td>
<td>6</td>
<td>0.13%</td>
</tr>
<tr>
<td>Right to privacy</td>
<td>6</td>
<td>0.13%</td>
</tr>
<tr>
<td>Freedom from slavery /forced labour</td>
<td>5</td>
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<td>Freedom of assembly and association</td>
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<td>Freedom of opinion and expression</td>
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<td>Right to participate in government</td>
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<tr>
<td>Right to assemble, picket and petition</td>
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<td>Political rights</td>
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<td><strong>Subtotal</strong></td>
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<td>Right to social security</td>
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<td>0.11%</td>
</tr>
<tr>
<td>Right to participate in Cultural life</td>
<td>3</td>
<td>0.06%</td>
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Sampled investigations and interventions

Moyale follow up investigations on the killing of a HRD.

The Commission has been pursuing accountability for the killing of Hassan Guyo in August last year. Mr Guyo was a human rights defender in northern Kenya region. KNCHR had investigated this matter during the previous financial year and commenced follow up on recommendations made by the investigating team. The commission has so far engaged relevant authorities including the Inspector General of Police (IGP), The Director of Public Prosecutions (DPP), The Ministry of Defense and The Parliamentary Select Committee on Security. As a result of which two responses to our previous inquiry correspondences were received from the Ministry of Defense. The office of the Director of public prosecution (ODPP) wrote to the Commission confirming that he had directed that an inquest be commenced, immediately KNCHR continued to monitor the inquest proceedings since this is one of the strategic cases aimed at addressing the systemic violations of the rights of human rights defenders.

Bahati /Nakuru HRD’s rapid response mission

KNCHR conducted investigations in Kabatini area of Bahati constituency Nakuru between 7th and 12th March 2015 on receipt of allegations of assault and malicious prosecution of a Human Rights Defender (HRD) and other residents of Bahati Constituency (Nakuru) by the area Chief and the Officer Commanding Bahati Police station. The gist of the complaint was that the Chief had assaulted an innocent youth for failing to pay bribe and conspired with the OCS to frame up charges against the youth jointly with another man (a grassroots human rights defender). The two were subsequently charged with criminal offences in Nakuru Law Courts. Additionally five more petitioners alleged that the OCS had failed to take action against the Chief when the latter committed criminal acts but instead conspired to defeat justice by threatening the complainants to drop the charges. The complainants reported that there was a trend where the Chief was abusing his office and colluding with the said OCS and other police officers to fabricate criminal charges as a way of intimidating those who stand up for their rights. The mission aimed at establishing the truth of the allegations and consequently recommend on appropriate redress.
The investigations established a trend where some complainants had been maliciously charged in Court, witnesses of human rights abuses and HRDs intimidated and in some cases, withdrawal of Court cases when it became apparent that the conspirators’ scheme would fail. A report with findings and recommendations was prepared and follow up actions which include engagement with the office of the DPP, CAJ and NPSC for appropriate redress measures made.

**Kinna/Isiolo rapid response mission**

In May 2015, KNCHR conducted an investigation in Kinna and Duse locations of Isiolo County on an alleged arrest of three persons by Kenya Wildlife Service (KWS) officers on 9th May 2015 and their subsequent disappearance. The petitioner stated that there were indications that the three could have been killed in a different place as efforts to find them were unsuccessful. Further, the petitioner reported that Kinna community members organized peaceful demonstrations on 18th May 2015 and the KWS officers disrupted the same by shooting at the participants with live bullets thereby killing one person and injuring thirteen others. The Commission therefore decided to conduct an RRI with a view to ascertaining the allegations and possibly stop further human rights violations. The investigation team has gathered substantive information from the petitioner’s side and has sought response on various allegations, from the KWS side and the hospital where the victims were treated, to enable completion of the investigation. There are indications that the three missing persons could have been killed soon after arrest/abduction and search efforts have been unfruitful. A report with findings and appropriate recommendations is being finalized to inform redress action. The department is in the process of commencing follow up actions on recommendations made in the investigation’s report.

**Alleged cruel, inhuman and degrading treatment of prisoners at Shikusa Farm Prison**

On 12th March, 2015, KNCHR received an anonymous complaint citing instances of gross physical abuse and mistreatment of inmates, and corrupt practices by prison officials at Shikusa Farm Prison. The complainant further accused the prison administration of illegally selling maize produced at the prison farm and distributing some of the maize produced to five prison officers working within the facility. Upon visiting Shikusa Farm Prison, the team found that allegations of inmates assaulting fellow inmates and working for long hours often without lunch were true. The quality of food was equally poor. A follow up visit on 19th June, 2015 established that inmates who had been previously assaulted by fellow inmates had been taken to hospital, the hours of work had been ‘normalized’ and inmates were being served three meals a day. The quality of food and access to medication had also improved significantly. KNCHR referred the corruption allegations to EACC Kisumu office.

Inmates working at Shikusa Farm Prison
Investigation of the rights of a minor

The KNCHR investigation was informed by reports of apparent violation of rights of a 16 year old secondary student who was reportedly detained at Maua police station for seven (7) months. The preliminary inquiry on the matter with the OCPD was fruitless as the officer would avoid responsibility by stating that the matter was still a Court case. The Commission also received reports that a police officer in Maua had asked the minor’s family to finance the minor’s transfer to Shimo La Tewa Borstal Institution by paying a sum of Kes.20, 000, yet it is the responsibility of the State. KNCHR obtained the details of the matter from the minor’s family and the office of the DPP, Meru and has written to Meru High Court resident judge to consider review of the High Court’s order committing the minor to Shimo La Tewa Borstal Institution as the said institution had no vacancy and the minor was not attending classes since his trial started. Further, report’s recommendations were made to the ODPP and the OCPD Maua for appropriate actions.

Kikuyu Police Stations further investigations

The Commission admitted a petition from X and Y (mother and daughter) that they were facing criminal threats perpetrated by persons known to them for seeking justice in a case of rape and assault causing grievous harm on Y. They reported that Y had been raped, sodomized, injured on her backbone and threatened with further attacks. The alleged perpetrators were known to the petitioner who reported the matter to Tigoni and Kikuyu Police Stations but the police had failed to take substantive action as they were compromised.

The petitioners initially requested KNCHR to assist them get asylum to another Country preferably the USA stating that they were not keen on pursuing justice locally as they believed that the environment was too dangerous for them. The Commission, recognizing the seriousness of the matter that disclosed human rights violations, advised the petitioners that KNCHR has no mandate on asylum but would facilitate a safe environment for pursuing justice. Basic psycho-social support (counselling) was administered to the petitioners by the KNCHR counsellor and further by full time counsellors facilitated by the NCHRD as it was discovered that they were suffering from high degree of stress. Further, KNCHR has facilitated the petitioners to be admitted into a witness/human rights defenders protection programme where they are receiving medical treatment as well as enhanced personal safety. The department has commenced plans for joint investigations with IPOA to redress these violations.

Masinga/Kambiti follow up investigations

KNCHR received a complaint alleging violation of the land rights, right to administrative action due to issuance of eviction notices squatters who have been living in Mathingira Tumutumu farm situate within the Mananja location and the larger Masinga Constituency. In addition there were allegations of threat to human rights defender geared to intimidate the community representatives who were viewed by duty bearers as being in the forefront. A team was deployed to the area and held focused group discussions with the squatters, interviewed individual Riakanau shareholders and also the duty bearers. It was established that there were emerging internal displacements within the area due to land ownership disputes between the shareholders of Riakanau society and squatters who comprised of more than 100 households who had resided there for decades. Further, that the land problem in the area was becoming more complicated due to the continued sale by both parties to unsuspecting buyers. The chief had been used by some Riakanau shareholders to issue evictions notices contrary to the law. The chief was informed of his role and the repercussion since it contravened the law. The team also discussed the concern and the findings of these investigations with other duty bears in the region from both the National and the County government of Machakos for their action noting that land administration had also devolved in the
new constitutional dispensation. The team found that the intimidation of the HRDs had subsided after he personally decided to exercise principles of personal security and the robbery with violence allegations were never documented nor followed up by the OCPD Masinga not the chief who was keen on his prosecution. The Sub county commissioner had resulted to negotiation with the community in order to ensure peaceful coexistence in the area. These findings will be shared with the Machakos county permanent secretary in Ministry of lands and National lands commission for their further action.

**Kirwara police station rapid response mission**

The Commission received a complaint from a female petitioner who alleged that her rights to fair trial, security of person, right to own property were violated due to inaction by police in Kirwara police station as well as the area chief. Further, that she and her two grandsons were charged with defilement and murder of a 7 year old girl whose body was found in a pit latrine within her compound. A team was deployed to the area to investigate the matter particularly since the petitioner had raised concerns about her security and the possible involvement of a third person with the aim of framing her for these offences. Investigations were conducted after interviews with the area sub chief, some of the community members and the investigating officer at Kirwara police station, findings were made which included the fact that police failed in their duty to protect the property of the petitioner, undertook shambolic investigations which resulted to 2 criminal cases. She and her two grandsons (minors) were with the offences of murder and defilement, but the two court cases collapsed for lack of evidence. It was clear that a third party was involved in these offences and the police reaction to fast track the prosecution of the suspects before proper investigations resulted to breach of fundamental rights and freedoms to both the family of the deceased girl and the petitioner. Plans are underway to undertake follow up investigations, perusal of the court files in order to engage the relevant duty bearers and see to it that justice is done for all parties involved and ensure accountability of duty bearers involved.

**Shianda-Butere Further Investigations**

KNCHR had in the previous year admitted a complaint alleging that the Marenyo-Shianda Ward representative and the County Governor incited and organized goons to attack, destroy property and evict the petitioner’s family from their family land on 24th April 2014. The matter had been reported to Butere Police station but the family was apprehensive that the police were unable to take action against the Governor and the MCA, (who were allegedly interested in petitioner’s land) as they were powerful and influential. The displaced family sought refuge in a Church’s compound. During the reporting period, KNCHR followed up on the matter with the ODPP and the jurisdictional police and hastened the completion of the investigations and arrest of seven (7) suspects. The Commission is following up on the recommendations made to ensure the reinstatement of the petitioners to their home.

**Lanbib Investigations**

The Commission conducted investigations surrounding the discovery of shallow graves in Lanbib, forced disappearances of persons and torture in Wajir County. A team visited the sites of shallow graves, made several visits to the homes of victims of torture and managed to get a few courageous petitioners who recorded statements on their missing relatives and alleged torture by the security forces.

It was deduced that there is a possibility that the victims were people known to the locals but also well-known adherents of Al-Shabaab militia. To this extent, the villagers didn’t want any association with them even in their death for fear of criminalization through association.

The community seemed to have no confidence in police. This explains why KNCHR managed to get victim statements while the file at the county CID coordinator had only one statement.
There are more than ten security units operating in the region in the period of reporting. The reporting mechanism is unstructured and neither the county commissioner nor the county police boss seems to be in charge of the situation. This creates a dangerous situation and makes follow up of violations complicated.

The families of the missing people that KNCHR spoke to seem to be extremely poor mentally deranged and indisposed as to pursue any legal redress regarding the disappearance of their kin. The security operation in general seems to have mostly targeted the Marehan and Rahawein clans which are minority Somali clans believed to be originally from Somalia.

Public interest litigation cases

The KNCHR’s functions are stipulated under Section 8 of its Constitutive Act. They include, among others, receiving and investigating complaints of alleged human rights violations and taking steps to secure appropriate redress where rights have been violated. The redress mechanisms adopted by the Commission in this regard include: Human Rights Litigation, alternative dispute resolution and Coordination of the Commission’s public inquiries on specific human rights thematic areas. This has similarly been strengthened under Article 22 of the Constitution. In order to enhance its capacity and presence in public interest litigation, the Commission, together with civil society organizations regularly meets to identify and develop strategies on moving law and policy through strategic litigation. The department handled the following cases:

Petition No. 628 consolidated with 630 of 2014 – CORD & KNCHR vs. Attorney General

The petition was filed on 22nd December 2014 and involves the Security Laws (Amendment) Act which was hurriedly and unprocedurally passed by the National Assembly on the 18th of December and subsequently signed into law by the President on 19th December, 2014. The KNCHR argues that apart from Parliament not following laid down rules and procedure in the course of passing the law, the Act infringes on the bill of rights. On the 2nd of January, 2015, the court granted conservatory orders with regard to 8 sections pending the constitution of a 3 judge bench by the Chief Justice to hear the main petition. The AG appealed and filed a motion for the lifting of the conservatory orders by Odunga. On 23rd January, 2015, the Court of Appeal dismissed the application and reiterated that not even ‘public interest’ was justification enough to violate the constitution and human rights.

The full hearing of the main petition took place on 21st, 22nd and 23rd of January, 2015 before a 5 judge bench. On 23rd February, 2015, the court finally declared 8 sections of the law unconstitutional.

Petition No.273 of 2011 FIDA and 27 others vs. Attorney General and 3 others

This is a Constitutional Petition filed by FIDA-Kenya and 27 other applicants seeking among other things compensation and accountability for damage to property, loss of life and sexual violations suffered by Internally Displaced Persons (IDPs) during the 2007/8 Post Election Violence. The Commission is participating in this case as Amicus Curiae. Hearing was on 7th and 8th June 2015. An application by the petitioner seeking various documents under Article 35 on access to information with regard to disbursement of funds to IDPs was heard on 28th May 2015; ruling to be delivered on 10th July 2015.

Petition No.132 /2013 KNCHR vs. AG (Presidential benefits case)

KNCHR filed this case on 26 February 2013 seeking among other orders, an order for the invalidation of the Presidential Benefits (Amendment) Act of 2013, as it was enacted in an unconstitutional manner-without the involvement of the Salaries and Remunerations Commission. The judgment was delivered on 11th September 2015. The Court held that the Legislature (National Assembly) contravened Article 230 of the Constitution in enacting the Presidential Retirement Benefits (Amendment) Act No.9 of 2013. The amendment was declared unconstitutional.
Petition No. 122 of 2013 COVAW sexual violence case

Case was filed in 2013 by the Coalition on Violence Against Women and other civil society organizations (CSOs) seeking inter alia compensation for victims of sexual and gender based violence during the 2007/2008 post-election violence. The case was heard on 16th and 17th June and 2 witnesses gave their oral evidence. Next hearing was fixed for 18th August 2015.

Petition No. 484 of 2014 L.N.W v A.G and another

Case was filed on behalf of a child who was born out of wedlock and the mother is fighting to have the child's rights recognized by insisting that the father's name be included in the Birth certificate. The case came up for mention on 29th June 2015 to check on parties' compliance. The next court appearance was fixed for 19th August 2015.

Petition No.6 of 2015 Haki na Sheria Initiative vs. Inspector General and 2 others

Case as filed by the Initiative on behalf of the residents of Garissa who had been under the curfew from 3rd April after the Garissa University attack. The Commission had been sued as the 4th Respondent, but upon further reflection and discussions between the Commission and the Petitioner, the Petitioner made an application to strike the Commission off as a Respondent and the Commission thereafter applied to join as interested party. The application was heard on 8th June. Ruling was delivered on 22nd June. The Petitioner’s application for conservatory orders was dismissed. Parties to fix date for further mention.

Petition 126 of 2015 Judith Chemorei & 4 Others vs. Attorney General & 4 others

This petition was filed on 2nd April by Judith Chemorei, Abubakar Ndiema, Sarah and Elijah Chemorei and the Commission. The petition is seeking compensation for the summary execution of Erastus Chemorei and the cruel torture of Abubakar Ndiema. Further attempts to trace the criminal case proceedings of one of the petitioners Abubakar Ndiema at the Kitale court and GK prison for records relevant to the case proved futile as the record both at the Magistrate's court and the prison were unavailable presumed destroyed. Case to go for hearing at the Constitutional and Human Rights division Milimani Nairobi.

Petition 19 of 2015 MUHURI and Haki Africa vs. Inspector General and 4 others

Petition was filed by the two NGOs to contest their listing by the Inspector General under S.2 of the Prevention of Terrorism Act in Gazette Notice No. 2326. The Petitioner made an application seeking conservatory orders against the Respondents from listing them and an order to unfreeze their accounts. The Commission joined as amicus curiae in this Petition. Judgment was delivered came up on 12 November, 2015 and the Court held that the action of freezing the Petitioners accounts was unconstitutional. The Court ordered that the accounts be unfrozen forthwith.

The court further added that the actions of the IGP contravened Article 47 of the Constitution and more so the right to reasons before any action is taken adversely against any person and that only cabinet secretary has power to issue gazette notice. The Respondents applied for a stay of the orders made by the court arguing that the accounts went to the core of the case and the unfreezing orders would render their appeal nugatory. The Court dismissed that application and added that the judgment had deemed the actions of the IGP as unconstitutional and any extension of the orders would continue the violation complained of as well as self-negate the order of the Court.

Petition No. 323 of 2014 (Wilfred Olal & others (including KNCHR as 5th Petitioner) vs. The AG & 2 others.

This Petition was filed on 25/3/2014 by four human right defenders, KNCHR and IMLU to challenge constitutionality and continued prosecution of the four petitioners in Criminal Case No. 251 of 2014 in
which the four Petitioners are charged with offences relating to a peaceful demonstration organized on 13/2/2014 to protest against corruption, mutilation of the Constitution and poor governance among other issues. On 12th of August, the Commission and the other Petitioners submitted and closed the Petitioner’s case. The matter comes up for further hearing on 17 May 2016.

**Petition No. 45 of 2014 Anthony Njenga Mbuti & 5 others vs. Attorney General & 2 others as interested party.**

KNCHR and the Petitioners sought to challenge provisions of Sections 41 to 61A of the Criminal Procedure Code (Cap 75) which relate to the power of the police to arrest and bond individuals without charging them. The Commission sought and was granted leave to be enjoined as Interested Party to show that the aforesaid provisions wrongfully legitimate arrest, detention, confinement and imposition of bond on mere suspicion of unspecified criminal activity, without any formal charge or trial. The matter was heard on 7th October 2014 and judgment delivered on 27th March 2015. The details of the judgment were that:

a. The provisions of Sections 43-61A of the Criminal Procedure Code are unconstitutional for violating the Petitioners’ rights under Articles 27, 28, 29, 49 and 50(2) of the Constitution.

b. Orders as to compensation was never made since, the court argued, would open floodgates for other cases to pursue the same. Kyalu Mutua Muthiani case (Cr. Appeal no. 101 of 2015)

This case was filed on 24th of June. It involved a minor who was committed to death row at Kamiti Maximum Prison on a charge of Robbery with violence on his own plea of guilt. He was unrepresented at the trial. KNCHR filed an appeal on his behalf at the High Court in Machakos. The State conceded the Appeal on 30th November 2015 but made an application for a re-trial. The Commission objected to the application and the Court dismissed the same on 8th December 2015. The minor Petitioner was acquitted and set free.

**Notable achievements**

The KNCHR has in the recent past sparingly exercised some of the powers conferred under the CoK, 2010 and the KNCHR Act in a bid to promote ‘non-compelled’ responsiveness by State and Non-State actors in providing information needed for resolving human rights complaints. Such powers include power to issue summons in fulfilment of its mandate under Ss. 26 (a) and 27 (a) of the KNCHR Act. During the year under review KNCHR exercised this power by issuing summons to the director of Kenya Wildlife Services and his deputy in charge of Meru National Park which effectively elicited provision of the required information and cooperation. The preliminary investigations reports was submitted to the joint Senate Committee on National Security, Foreign Relations, Land and Natural Resources.

*IPCRM and KNCHR Referral Partnerships continued to enhance speedy resolution of complaints in a manner that promotes cooperation between State and Non-state agencies that handle
Enhanced Compliance with International & Regional Human Rights Standards & Obligations.

Universal Periodic Review (UPR)

Pre session – Geneva

The commission was invited by UPR for a UPR Pre session in Geneva which brought together all permanent missions in Geneva with NHRIs and CSOs from states that are set to be reviewed in January 2015. The Pre session was preceded by a training and experience sharing by the participants on the process that proceeded the Pre session. The commission shared with the 60 permanent missions that attended the pre session the human rights issues that are appertaining in Kenya and suggested to them the recommendations that they could make to the state when Kenya comes up for review in January 2015. Out puts: Knowledge on the UPR process enhanced; 60 permanent missions lobbied to make specified recommendations to Kenya; in country Human rights information shared with the Permanent Missions.

Engagement with Human Rights Council

The commission participated in the review of Kenya before the human rights council under the Universal Periodic review. Before the actual review the commission engaged the Kenyan delegation with a view of getting a consensus on what the state deemed to be contentious issues; the discussions were held in Nairobi and Geneva.

The state softened its stand on Death Penalty among other contentious issues by indicating that it was willing to work with other partners to engage the public in a bid to get acceptance by the members of the public. (The state had earlier on indicated that the issues around death penalty, Abortion and same sex unions did not enjoy the support of the state due to public perception of the issues). The commission still pursed the Permanent missions in Geneva to ensure that they raise specific recommendations with the state; notably out of the engagements Norway raised the issue on the need for the state to put in place a policy on business and human rights along the lines of the United Nations Guiding Principles on Business and Human Rights.

UPR advocacy EU mission in Geneva

Due to the close working relationship between the Commission and the EU delegation in Nairobi, The EU delegation organized a meeting between the commission and the members of the EU missions in Geneva who had attended the pre session but wanted specific information about the Human rights situation in Kenya based on their priority areas of concern in Kenya, the session was attended by 22 EU member state missions. The commission based on the advocacy charter lobbied specific missions based on their areas of interest on suggested recommendations that they could make to the state

UPR advocacy EU Mission in Nairobi

The commission was invited to attend a meeting convened by the EU delegation in Nairobi that was attended by 18 members of the EU delegation; the session provided the commission the opportunity to commission with the opportunity to share with the missions the human rights situation in the country and make suggestions/Lobby them on the recommendations that they could share with their permanent missions in Geneva to be made to Kenya since the permanent missions in Geneva largely relies on the mission in the country to provide it with Human rights information that will inform the kind of recommendation that will be made to the state under review.

Round table meeting on UPR with various missions in Nairobi convened by Brazil Embassy Nairobi

Due to the fact there are missions who are not necessarily in the EU yet during the first UPR circle made far reaching recommendations on various human rights issues; the Commission made representations in a meeting convened by the Brazilian Embassy in Nairobi which was attended
by Swedish, Norwegian, US, Canadian, UK, Finish, Swiss embassy representatives amongst others. The commission pursued issues that were not likely to be picked up by the EU missions this was to ensure that the whole gamut of human Rights issues was covered. The commission also stressed on the need for the missions to coordinate to ensure that they do not duplicate the recommendations made to the state.

**Engagement with Norwegian Embassy-Nairobi on UP**

The Commission attended a meeting at the Norwegian Embassy attended by the Deputy Ambassador amongst other embassy and commission representatives; the meeting discussed the proposed recommendations as espoused in the advocacy charter with special focus on the areas that the embassy works on; the embassy indicated the areas that it would be interested in making the recommendations in.

**KSC-UPR advocacy charter meeting**

The Universal Periodic Review advocacy charter was finalized in the quarter under review; the charter formed the basis of the coalition’s engagements with the Missions both in Kenya and in Geneva. The Advocacy helped in mapping out areas of commonality between the KSC-UPR and CSO-UPR which ensured that the coalitions did not duplicate the issues that each of the coalition’s felt they had strength in.

**Submission to Human Right Council (27th Ordinary session)**

The Commission prepared and submitted 2 reports to the human right council for the 27th Human rights council ordinary session under Agenda 3 of the Human Rights council session; the reports related to the rights of the child and access to education the reports formed part of the documents used by the council during its panel discussions under Agenda 3.

**56th ordinary session of the African Commission on Human and Peoples’ Rights**

The Commission submitted the Alternative report to the African Commission on human and people’s rights and attended the Commissions 56th Ordinary session in Banjul the Gambia in April 2015. The overall goal of the ordinary session was the consideration of state periodic reports and updates on the state of human rights in Africa by various special rapporteurs. 8 state parties presented their periodic reports for consideration. These are Nigeria, Djibouti, Niger, Senegal, Ethiopia, Uganda, Sierra Leone and Malawi. Key highlights from the presentations and panel discussions include;

1. Excessive use of force by state security agencies during peaceful demonstrations which undermines democracy and is a violation of human rights including the non-derogable right to life.

2. There was a call on state parties to observe regional and international commitments.

3. Human Rights Defenders are under threat in many countries and Djibouti tops the list of countries that detain HRDs without trial while others are killed.

4. There was call for abolition of the death penalty. ACHPR is working with stakeholders to ensure that Africa becomes death penalty-free.

5. Concerns on Women participation in public life, governance and development.

6. The need for state parties to embrace the guiding principles on Business and Human Rights.

7. African Union reported that a Human Rights and Transitional Justice Policy Framework has been developed and ready for state parties implementation.
8. 2016 has been declared as the year of Human Rights in Africa with great focus on Women Rights.

9. A call on state parties to strengthen institutions to deliver on ECOSOC Rights with an appeal for the establishment of ECOSOC Country chapters.

**Alternative report to the Committee on Elimination of Racial Discrimination (CERD)**

The department finalized the CERD report within the quarter; the department is awaiting the state to finalize its report so that the commission may respond to issues that may arise in the state report before submitting it; the department has also been attending the technical stakeholder meetings with the department of justice that is drafting the state report.

**3rd Optional Protocol on the Rights of the Child**

The commission was invited by Plan international, Ratify Optional Protocol on CRC and Save the Children for a conference in Addis Ababa on the ratification of the Optional Protocols to the CRC especially since Kenya has not ratified the 2nd and 3rd Optional Protocols; An action plan was agreed upon on how to lobby the state for the ratification of the Optional Protocol. The Commitment culminated in the inception meeting on the Drafting of the Alternative CRC report that is due in March of 2015. In the meeting modalities of drafting the report were agreed upon.

**Drafting alternative report on the Convention on the Rights of the Child**

The commission with other partners drafted the alternative report to the Convention on the rights of the child; the report has since been submitted to the committee on the Rights of the Child. Several recommendations are made which include but not limited to; expedite the proposed amendments to the Children Act, which amendments propose to strengthen the National Council for Children Services to coordinate the implementation of child rights in Kenya. Increase allocations to child specific sectors including education, health and social assistance, and put in place measures to ensure that the allocated funds are used in an accountable and transparent manner. Ensure that children through, the Children Assemblies at the county and national levels are optimally involved in the budget making process.

**Training for CSOs and NGOs on international reporting on the rights of the child**

The Commission was invited by Save the Children (UK) and CRADDLE to facilitate training for CSOs and NGOs with respect to the role of NGOs in respect to international obligations with special reference to treaty monitoring under the various treaties, Charter based reporting and special procedures. The knowledge of 18 NGOs members was enhanced in respect to procedure and role in respect to reporting; the collaboration between the commission and the organizations was also enhanced due to the interactions and training.

**Recommendations**

1. In regard to Police and Prison work, the human Rights desk should be an independent office run by a civilian.

2. The human Rights agenda seems to be taking a back seat in some prison facilities, therefore continuous inspection, monitoring and training especially of junior officers are necessary.

3. Improve the welfare of the police and prison staff with regards to salaries, housing, insurance, training, medical services.

4. Police Officers are not properly capacitated to handle modern day offences like terrorism requires appropriate skills, technology and equipment, hence need for enhanced budget allocation by the government.

5. Good governance practices in Counties can only be achieved through public participation and empowerment of CSOs to ensure accountability is realized based on the lesson from EMBU County CSOs.
STRAIGHT OBJECTIVE 2:

TO INCREASE APPLICATION OF HUMAN RIGHTS PRINCIPLES AND STANDARDS IN INSTITUTIONS AND MECHANISMS OF JUSTICE.

Expeditious and fair dispensation of justice in accordance with human rights principles and standards

Strengthening parliament’s role in protecting Human Rights

Through the department, KNCHR has been engaging with Legislators through the Kenya Parliamentary Human Rights Association (KEPHRA), commonly known as the Caucus for Human Rights with the aim of strengthening the partnership between the two institutions to promote the protection of human rights.

Within the period, KNCHR and KEPHRA held a series of meetings to which the outcome has been the development and adoption of the Caucus action plan on human rights. In recognition of the important role played by the Civil Society, KNCHR convened a Technical Committee on Human Rights whose membership will include CSOs and other actors.

The Committee work is to assist the Caucus to effectively engage with CSOs and promote human rights through the legislative body. In a meeting held between KNCHR and the Caucus, the passing of the National Human Rights Policy and Action Plan was discussed at length with the Members promising to have the Policy discussed in Parliament for passing. The Caucus is expected to table the sessional paper in Parliament to facilitate its discussion in Parliament.

KNCHR notes that with adoption of the Action Plan, advocacy for mainstreaming human rights principles in national legislation will be made much easier and these include legislation which will enable timely justice for Kenyans.

Alternative Dispute Resolution (ADR)

Under the guiding principles of exercising judicial authority, the Constitution under Article 159(2) (c) recognises alternative dispute resolution and obliges both state and non-state actors in the judicial system to promote the application of ADR. The mechanisms postulated include reconciliation, mediation, arbitration and traditional dispute resolution mechanisms. For such mechanisms to be applicable, they ought to be in tandem with the provisions of the Bill of rights. In addition, it ought not be repugnant to justice or morality or be inconsistent with other provisions of the Constitution or written law.

It is in this precept that KNCHR undertook a mapping out exercise of traditional forms of dispute resolution in the six counties of the Coast region. Different communities were sampled and the following traditional justice system were identified: the Kaya for Mijikenda community, wazee wa magongo, Ngambi wa Watano, Simba Tisa, Wazee wa lalo and village elders. Pokomos have the Gasa and Kijo, while Orma have Matadetha and Had Gasa. Taita they have Waghosi wa Isanga. Other
forms of dispute resolution mechanisms present in the region include the administration especially the chief and assistant chiefs who work closely with village elders as their council. The district peace committees comprising of actors from different organizations are also widely used in the region.

From the mapping exercise, the Commission established that some of these institutions were structured whereas others were ad-hoc and only convened as and when a dispute arose. It was also established that the scope of operation and jurisdiction was quite a challenge. For instance, some institutions handled all cases that arose in the community including criminal cases where some institutions had a limited scope with focus on specific issues such as land, domestic violence and inter clan conflicts.

As a point of entry, the office settled on the Kaya elders. This was informed by the fact that the kaya elders were clearly recognisable by community members and further, their system was structured across the region.

From the interaction with their systems, it was established that the elders play a greater role in the preservation of ancestral customs, healing, administration of oaths and resolving conflicts. However in the course of duty, they are faced with a couple of challenges ranging from capacity constraints, resource constraints, lack of proper documentation to job hazards. For quite a long period of time, the elders received threats from some community members who mistook them for being witches and practising witchcraft. The office received several reports of elders both men and women who had been killed on accusations of bewitching some community members. This was rife in Ganze, Rabai areas of Kilifi County and posed quite a big challenge in executing their duties.

In a bid to mitigate this situation, Kaya elders drawn from across the region held a baraza to seek ways of preventing these attacks. They established community customary courts to deal with witchcraft related cases among other cultural related conflicts in the region where killings of elderly people linked to the vice have been on the increase.

The Commission worked to capacitate these customary courts so that their decisions can be guided by human rights and rule of law. The elders were taken through 3 trainings. The following topics were handled: Bill of Rights as enshrined at Chapter IV of the constitution, Peace building and gender mainstreaming in to the customary courts, court procedures and record keeping.

So far some of kayas like Kaya Kauma, Kaya fungo and Kaya Godoma have restructured their composition for elders sitting at the local courts. In addition they have included women in their council. So far they have a secretary who keeps records of all the cases handled and decision made.

The kayas are also engaging with the Kaloleni and Malindi courts. For instance, in Kaloleni they have come up with an MOU for referring cases to the law courts. They also have full blessing of the Sub County commissioner who even attended one of the Commission’s training.

In Malindi law court, one of the kaya elder was enlisted as a member of the CUC. They are also in the process of coming up with an MOU.

**Court User Committee (CUC)**

The emergence of the Court Users Committee was brought about by the Kenya Magistrates and Judges Association. The Association was convinced that involving the public in judicial processes through meeting with various stakeholders would foster mutual understanding, open the judiciary to public scrutiny and increase public participation in decision making. The intended outcome would be to help cure misconceived public perception of the judiciary, demystify judicial process and change perceptions of judicial officers being unsuitable to serve the needs of the consumers.
This was precipitated by the fact that prior to the enactment of the new Constitution, the judiciary was perceived to be one of the most corrupt institutions in the country. There was little or no trust at all in the judicial mechanism and notably, the judiciary came under heavy criticism for bias, lack of openness and accountability and was considered to be puppets of the executive. As a result, in 2006, the KMJA initiated the Court Users Committees (henceforth CUCs) aimed at mitigating frustrations that were being experienced by members of the public and judicial officers on judicial processes. Since then, the CUCs have assisted in the transformation of the justice system. It is in light of this that CUCs were incorporated into the Constitution and subsequent Acts of parliament.

The Constitution and the Judiciary Service Act, 2011 have now given credibility to CUCs, institutionalizing them and even expanding them to the County and National level. Through the National Council on Administration of Justice and the institutionalized CUCs, the Judiciary has acknowledged the need to coordinate responses to criminal and other justice issues, as well as its own critical role in implementing these initiatives and reforms in a collaborative fashion and without risking its independence. The CUCs are simply forums for different agencies to meet, brainstorm, pool and direct synergy towards facilitating and improving the courts’ administration of justice, and have been found to be extremely useful in terms of improving co-ordination among the different departments and agencies within the system of the administration of justice. Results ranging from improving and reorganizing the filing system in the criminal registry, improving communication and interpersonal relationships among judicial officers and other stakeholders and acting as platforms for inter-disciplinary learning among, others are just some of the benefits the CUCs have demonstrated. In this context, involved in the justice system include the Attorney General, the Director of Public Prosecution, the Inspector General of Police, the Commissioner of Prisons, the Law Society of the Kenya, the Public Service including officers responsible for women and children’s affairs, associations dealing in legal aid, non-governmental organizations and the private sector.

The KNCHR as a stakeholder in the reform of the justice system in Kenya was co-opted into the membership of the National Council for the Administration of Justice (NCAJ) whose mandate as set out in the Section 35 of the JSC Act includes: Facilitating the establishment of CUCs at the County Level, reviewing and implementing reports of the CuCs and oversight over the operations of any other body engaged in the administration of justice. To this end, KNCHR representatives as part of the NCAJ technical committee participated in consultative workshops, collection and review of data from the Council’s secretariat and stakeholders, review of relevant existing policies and legislation, as well as site visits including one to Shimo La Tewa Prison, Mombasa. Additionally, our North Eastern Regional Office (NERO) has been serving as the secretary to the CUC since its inception. After JSC Act incorporated CUC as one of the roles of the Judiciary, Wajir CUC elected new officials and retained KNCHR as the secretary. The Commission sets the agenda of every meeting in consultation with the Principal Magistrate and also invites committee members for meetings. During the past financial year, five meetings were held. The meetings deliberated on a wide range of issues which affected access to justice like possible weak points for corruption, improving access to justice by establishing mobile courts, activating sub-committees, bail issue, land issues and witness transport reimbursement. The notable achievements from the CUC meetings was the active participation of members in terms of raising and addressing key concerns related to access to justice. Being a platform where CSOs and HRDs meet together with the magistrate and other criminal justice actors, there was a sense of holding key duty bearers to account; especially when a concern was raised against the county referral hospital for overcharging people who required
P3 forms and this was rectified. A remarkable achievement was the formation of sub committees and specifically the sub-committee dealing with issues of children has helped in ensuring cases of rape and defilement are attended to through the formal justice system.

The Commission carried out 3 forums with CUC in Kisumu. The discussion forums were on challenges at the Lands Registry in Kisumu and how they can be dealt with. Following invitations by the Judiciary’s Sentencing Taskforce to members of the public and actors in the justice sector to submit views on sentencing, the Office participated in a discussion forum on the sentencing laws and policies in the country convened by the Kisumu CUC. The discussions were about concerns on the sentencing process and outcomes, especially the role of victims and disparities in outcomes; the effect of sentencing policies and laws on crime; and how sentencing can be reviewed to enhance administration of justice.

The forums and the meetings provided the Commission with an opportunity to increase collaboration and linkages with other actors in the justice sector, and such collaboration is pivotal to enhancing access to justice.

The Commission also engaged with the CUCs in Trans Nzoia and West Pokot Counties. The CUC meetings, which brought together the criminal justice system actors and civil society, discussed access to justice related matters such as labour rights (in ADC farms), witness protection, supply of witness statements to accused persons and missing court files. The Commission continues to receive and process access to justice related complaints that are often shared with CUC members during CUC meetings, through the sharing of complaints and owing to the mandates of the various stakeholders and strategic partners sitting in the CUC meetings, most complaints have been resolved and/or the relevant bodies tasked to address matters relevant to their mandates. For example, cases of missing court files where NORRO received complaints from petitioners were discussed with the CUC meeting in Kitale sometimes in 2014. The Judiciary and the police were tasked to put up measures to curb the problem. At a recent CUC meeting held in July 2015 the Executive Officer, Kitale Law Courts explained that the judiciary had contracted for the installation of lockable cabinets at the court registry and the contractor was already on site. He further explained that the court had tasked each court clerk to ensure safety of the files that they handle and always keep records and in case of loss of any file, they be personally liable. The Judiciary further reported that a file movement register had been introduced to track the movement of files thus curbing losses.

NORRO also strengthened existing partnerships with criminal justice actors in West Pokot and Trans Nzoia counties.

Culture and Human Rights

Concerned about the violation of human rights on the girl child perpetrated through Female Genital Mutilation KNCHR has been working with elders from Kisii, Kuria and Meru to promote alternative rites of passage. This is aimed at protecting the girl child from human rights violations resulting from FGM and other forms of violations such as early marriages. KNCHR realizes the entrenched cultural practices that have perpetuated human rights violations over time and has been therefore engaging the custodians of those cultures in order to build their capacities to embrace human rights friendly practices. The commission has made significant progress in this regard. In Kisii 94 girls were taken through alternative rites of passage (ARP) and mentored by women elders, professionals and young female role models from the community. The essence of the ARP is to take the girl child through a human rights compliant social education to facilitate decent living within society without subjecting them to the harmful FGM. This has resulted in reduced cases of human rights violations through FGM and the promotion of the right to education, the right to health and the right of the child to make progressive choices in life. In a similar one-week forum in Meru, 200 girls were trained on alternative rites of passage. In...
addition to this, the Njuri Ncheke Council or Elders, the Catholic Church, the community and KNCHR signed an MOU to collaborate on joint efforts to fight FGM and promote the rights of the girl child. The MOU therefore brings the convergence of culture and Human Rights with the common purpose of enhancing the realization of human rights for the girl child by eliminating harmful cultural practices. The MOU further entrenches a strong partnership that would act as a point of reference when accountabilities are necessary and further widens the outreach to the girl child to end the old human right violations practice.

The Endorois Case

September 2014 marked a major milestone for the Endorois community in their quest for historical justice. It is the month that the president gazetted a task force to look into the implementation of the decision by the African Commission on Human and Peoples Rights in which the Endorois were granted several remedies against the government of Kenya. KNCHR is the principal constitutional organ entrusted with the protection and promotion of human rights of all people in Kenya and is also the chief advisor to the government on its international obligations. In fulfilment of this mandate, KNCHR has engaged the government continuously and given the necessary advisories to facilitate implementation of the decision. In realization of this mandate, the President included the KNCHR in the task force on the implementation of the ruling. The task force’s work has been delayed by lack of funds.

Partnerships & collaborations on dispensation of justice

During the reporting period, KNCHR strengthened partnerships with the following organizations in the following ways:

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East Africa Center for Human Rights (EachRights)

The KNCHR has partnered with East Africa Center for Human Rights and have prepared a Compendium of PIL cases in Kenya. The compendium, once published, will be a great resource to human rights organizations as it will enhance access to precedence. It is therefore envisaged that the Case Digest/Compendium will also add to the discourse on the justifiability of economic and social rights by not only bringing out the cases that have so far been adjudicated on in the Kenyan Courts but by providing commentaries and critical analyses based on international human rights standards; jurisprudence from other progressive jurisdictions; and the failures on the part of the litigants, the Bar and the Bench.

Public interest litigation leader’s network

The KNCHR and Public International Law and Policy Group in conjunction with Keeping Peace through Truth and Justice (KPTJ) have set up a network of organizations that undertake PIL dubbed “PIL Leaders Network”. The network has enhanced collaboration between partners in strategic litigation.

Judicial training institute

The Judicial Training Institute continues to partner with the KNCHR on various matters touching on human rights such as ADR and Intersex issues. During the reporting period, Redress participated in a JTI workshop that was charged with exploring ways ADR mechanisms can be utilized in the judiciary.

Recommendation

1. The President extends the term of the taskforce on implementation of the decision of the African Commission on the Endorois Case.

2. KNCHR formalizes referral mechanism with the judiciary so that the judiciary can recommend to KNCHR cases relating to violation of Human Rights for mediation.

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Centre for Minority Rights Development (Kenya) and Minority Rights Group International (on behalf of Endorois Welfare Council) v. the Republic of Kenya
Giving effect to Article 43 of the Constitution of Kenya 2010

One of the most celebrated gains in the Constitution of Kenya 2010 was the expanded bill of rights which, under Article 43, recognized and guaranteed economic and social rights. In order to give meaning to this important provision, there is need to develop policies and laws that compel the national and county governments to comprehensively meet their obligations to respect, protect and fulfill economic and social rights. While recognizing that some of the existing laws do cover some aspects of some rights, the Commission view is that in the absence of such a comprehensive legal framework, the rights guaranteed in Article 43 are unlikely to be realized in a holistic way.

To address this lacunae and pursuant of Article 21 of the Constitution of Kenya 2010 which provides that the State shall enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms, the Commission reached out to the legislature and other likeminded actors to develop a framework law that would enable the operationalization of Article 43 in the counties.

Following extensive consultations with key stakeholders in the social justice sector under the able leadership of Senator Hassan Omar Hassan, The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No. 8 of 2015) was drafted by the Senate’s Legal Department on behalf of Senate’s Standing Committee on Legal Affairs and Human Rights, forwarded to the Speaker of the Senate for approval and subsequently tabled for the first reading on Thursday, June 18, 2015.

The Bill, popularly known as the Dignity Bill seeks to establish for framework for monitoring and enforcement of economic and social rights to ensure county governments adhere to Article 43 of the Constitution of Kenya. It requires county governments to undertake baseline surveys, prepare strategic plans and periodically report on progress made in the realization of economic and social rights.

The Bill confers on the Commission the role of overseeing the implementation of the Act. It requires that the Commission play a watchdog as well as an advisory role in ensuring national and county operationalize Article 43 of the Constitution of Kenya.

Engagement with special rapporteur on clean drinking water & sanitation

The Commission engaged with the special rapporteur on clean drinking water and sanitation during her visit in country; discussions with the rapporteur revolved around accessibility, affordability, quality and taste of drinking water in Kenya. KNCHR shared with the expert work and findings by the commission in respect to the right to clean drinking water and sanitation.
special rapporteur has already compiled and shared an advanced copy of the in country visit, the rapporteur will officially present her in country report with the Human Rights council during the 28th ordinary session setting out the status of the right to clean drinking water and sanitation in Kenya.

Delivery of ESR to Kenyans by state in a manner consistent to human rights standards.

Monitoring and reporting on the right to Health

During the previous reporting period, the Commission conducted an assessment of provision of health services in Busia County designed on the basis of the provisions of Article 43(1) (a) & (2) of the Constitution of Kenya (right to the highest attainable standard of health). The study aimed at assessing both component and functional areas of health in order to determine county governments’ status and/or preparedness in delivering the right to health.

During the 2014/2015 financial year the Commission, after publishing and launching the report, worked closely with Busia County Government’s Department of Health and Sanitation to ensure implementation of the recommendations made in the assessment report. In this regard, several interventions are underway. For example, the county government reported to have used the findings and recommendations of the assessment to plan, prioritize and allocate resources for the health sector in the 2015/2016 financial year. Further, the county government’s health and sanitation department also requested KNCHR to support it in the development of a manual for training health facility management committees and management boards, a move aimed at quality improvement and public participation in health service delivery.

Dissemination of this assessment has, during the year, continued to profile KNCHR as a key stakeholder in regard to the right to health. Consequently, KNCHR has established partnerships with various stakeholders in the health sector. For example, the Commission has, since the said assessment, been able to hold fruitful consultations with numerous stakeholders, among them the Cabinet Secretary for Health, the Council of Governors (Health Committee), the Senate Committee on Health, health workers unions and the Council of Health CECs. Further, KNCHR was invited to make a presentation on the right to health during the Kenya Health and Leadership Congress of 2015. Additionally, as a result of its work on the right to health, KNCHR was appointed a member of the national steering committee of a project, “Integrating the Values and Principles of the Constitution and the Rights-Based Approach (RBA) Into Health Service Delivery in Counties”, spearheaded by CIC.

Advocacy for the Implementation of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012

Following sustained lobbying, advocacy and targeted sensitization work on internal displacement and forced evictions by the Commission in partnership with the Protection Working Groups on Internal Displacement (PWGID); saw the first phase on implementation of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012, that outlines institutional frameworks, roles and responsibilities for state and non-state parties in all phases of displacement through establishment of the National Coordination and Consultative Committee on Internal Displacement (NCCC) during the period under review. The Commission being a member of the NCCC, worked closely with the Committee in several initiatives- including one which resulted in the repatriation of 246 families who sought refuge in Uganda as a result of the 2007/8 post-election violence.

During the period under review the Commission in partnership with Internal Displacement Monitoring Centre (IDMC), Norwegian Refugee Council (NRC) and members of the PWGID conducted analysis of the normative system for internal displacement response of Kenya that led to the policy paper
titled “Towards a comprehensive response to internal displacement in Kenya: a roadmap for action” that looks at the actions required to ensure the full implementation of the the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012 and proposes measures that could guarantee the effective working of the overall IDP response system for Kenya.

**Handbook on forced evictions**

The country experienced increased cases of forced evictions occasioned by violation of human rights, with those at risk being the vulnerable and marginalized groups from both urban poor and slum dwellers. In 2012 alone, the commission received 31 petitions on forced evictions. Further to this, wastage of public funds continue to be witnessed through court cases on forced evictions that can be prevented; The commission continued to monitor such cases and one gap identified is a comprehensive policy governing forced evictions, although there exist Evictions and Resettlement Bill of 2013, which is yet to be enacted. Based on this gap, the commission produced a handbook on forced evictions which addresses the roles and responsibilities of state and non-state actors in preventing forced evictions. The handbook points out the causes of forced evictions, facts and figures, impacts, laws regulating evictions in Kenya, and highlights of the prevention, protection and assistance to displaced persons and affected communities Act of 2012. It also provides the minimum procedural protection available during evictions to include issuance of adequate notice, genuine consultations with affected individuals, access to adequate information, the need to explore alternatives, discourages the use of force, ensuring protection of property and possession, most vulnerable, legal redress among other before carrying out evictions.

The handbook was disseminated targeting strategic actors that resulted to increased application of human rights standards in the conduct of evictions. In one particular case, the Commission monitored evictions carried out in Kibera by the Kenya Railways Corporation as ordered by the Nairobi High Court under petition number 239 of 2014. The Commission found that Kenya Railways Corporation followed the required guidelines on forced evictions such as involving affected communities, availing of adequate information and issuing adequate notices. Further, the evictions were carried out during the day, in the presence of all affected parties and neutral observers, were not conducted in incremental weather and were carried out during school holidays.

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9 one such case is that of Ibrahim Sangor Osman and 1,123 others v the then Minister of states for Provincial Administration and Internal Security and ten others, Constitutional petition No. 2 of 2011, in the ruling it was decided that each of the 1,123 petitioners to get a global figure of Kshs 200,000, translating to KES 22,600,000 in damages from the respondents.
Assessment of IDP settlements sites

Historically, Kenya has been affected by periodic internal displacement for several years, but in the major challenges has been lack of official, segregated and up-to-date information. Displacements resulted from the 2007 post-election violence was of the largest magnitude that led to nearly 664,000 families internally displaced. To address the matter, the government of Kenya initiated various programmes aimed to address displacement-related needs and to facilitate durable solutions for the affected persons and communities. These saw several families return to various areas of displacement, while others received monetary support and alternative government procured land. The IDP Act 2012 gave effect to the National Coordination and Consultative Committee on Internal Displacement, responsible for internal displacement. KNCHR jointly with Committee carried out familiarization tour to various IDP settlement sites in the Rift Valley and Central regions to assess the level of durable solutions realized. The mission pointed out various unresolved issues of displaced and resettled families to include IDPs at satellite camps, integrated and un-profiled group, inadequate access to basic services such like health, food and education, court cases on government procured land, unoccupied houses constructed for the displaced families while others fallen apart.

Greater respect for human rights in trade and business

KNCHR stepped up its efforts to respond to the possible human rights violations that may result from the activities of mining and exploration of the various natural resources. During Kenya’s review under the Universal Periodic Review (UPR) process, the Commission made a case on the need for the State to develop the National Action Plan on Business and Human rights which is a prerequisite for implementation of the United Nations Guiding Principles on Business and Human Rights (UNGPs). Subsequent to this the panel raised the same matter to the State Party and Kenya made a commitment to develop this important action.
plan. In fulfilment of this commitment, the Office of the Attorney General extended an invitation to KNCHR to partner in the development of the NAP, an invitation the Commission has accepted and will commence the process this financial year 2015/16.

With regard to policy and legislation, KNCHR continued to offer support to the state and parliament on infusion of human rights principles and standards in the bills and policies. In the period under review, the Commission was able to review several bills and policies related to business. The Mining bill, the Energy bill and policy came under review and the commission made comprehensive recommendations. After meeting the relevant committees of parliament and auditing the subsequent revisions of the bills, KNCHR noted that up to 75% of its proposals were taken on board.

The Commission engaged Turkana, Kitui and Baringo county governments in efforts to ensure that human rights violations within their counties are eliminated in the business processes. The Commission for example partnered with the County Government of Kitui to streamline legislation and policies on the extractives and other business activities so as to inculcate human rights principles in their laws and policies. In one such initiative, the Commission provided assistance in developing legislation on Sand Harvesting - a major source of business activities in the county. The bill is pending presentation to the County Assembly of Kitui.

Some notable results of the Commission's efforts over the years to promote greater respect for human rights among business enterprises were observed during the year. This was evident at Unilever Kenya, a company which KNCHR has engaged with in the past, through training of its senior managers. The company demonstrated its commitment to respect human rights through 16 days of activism on human rights culminating in the marking of the human rights in December 2014, an event at which the Commission participated. In June 2015 Unilever Global became the first company in the world to report on its progress in the implementation of United Nations Guiding Principles on Business and Human Rights. The report cites progress in its tea plantations in Kericho, where the Commission’s trainings of its managers took place.

**Recommendations**

The Commission urges:

1. The Senate to enact The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No. 8 of 2015) to pave way for operationalization of Article 43 of the Constitution of Kenya 2010.

2. The Ministry of Devolution and Planning to fast track the adoption and implementation of the draft National IDP policy for effective implementation of the IDP Act.

3. The Judiciary, where they find it necessary to issue eviction orders to also order that such evictions be conducted in accordance with recognized human rights standards and guidelines.

4. The Office of Attorney Generals and Department of Justice to honour its commitment during the Universal Periodic Review to develop a national action plan on business and human rights in line with the UNGP.

5. The ministry of devolution and planning should undertake a comprehensive audit on all government implemented programmes to ascertain the level of durable solution realized on internal displacement and also collect high-quality data on the number of IDPs and their situation as a prerequisite for promoting a common understanding of displacement and effective responses.
Public affairs & communication

Tapping strength and authority in specific areas of our work has been key to revamped media strategies employed by the Commission in this financial year. More than ever, this year saw the Public Affairs and Communications department reach out to the media both at the headquarter and regional office respectively. Notable are social events specifically organized for the media such as dinner with Mombasa journalists and a breakfast meeting with editors in Nairobi. Both were feedback session where KNCHR sought the opinion of the other side of the newsroom; what we are doing right, where we go wrong, how can we tap into media reporting and much more. Specific feedback was there is need for the Commission to be aware of specific writer and enhance their capacities to report on their lines of specialization from a human rights based point of view. Also, that there is need to profile our leadership for familiarization with the newsrooms.

Social media is an influential platform for news and shaping opinion for both political and other leadership as well as the general citizenry. It is now one of the greatest branding and visibility platforms albeit the speed to which information changes by the second. It also has its risks as it offers multiple interpretations with little room for damage mitigation, yet many have used this to their advantage with the application of good public relations and audience management skills. In remaining alive to this fact KNCHR optimized the use of social media in this financial year to increase awareness of the vast projects it was engaging with. We optimally used our Facebook to engage with specific information updated on a weekly basis to give time to feedback and also used this channel to collect complaints because of its ability to carry more information than its sister Twitter. Talking of twitter, KNCHR mapped relevant stakeholders to follow who can influence the human rights agenda and took advantage of partnerships within a core area to send forth a common message. One of these great partnerships resulted in the chosen hashtag landing on the trends column, with KNCHR’s participation ranked as the highest.

During the financial year, we also optimized visual visibility through uploading video content on the KNCHR YouTube channel. Sound cloud, which is an online audio distribution platform which was used to upload, record, promote, and share our originally-created sound. Since social media optimization, the numbers of followers in twitter grew considerably and likes on Facebook rose. Also the views on our videos on you tube have increased.

Recruitment, training and capacity building

In the year the staff establishment grew from 89 staff to 93 by end of the financial year 2014/2015. Through this, the commission acquired human resources and specialized skills and competencies that enhanced its capacity to deliver on its mandate. The recruitment translated to 47% on new hires and 95% on the intern hires.

The Commission in the year also endeavoured to improve its staff implementation capacity by enhancing knowledge and skills through continuous training and development for its staff. 95 trainings were done locally and internationally on, inter alia,
security awareness, legislative drafting, regional gender and peace building workshop, monitoring the promotion and protection of the rights of persons with disabilities. This was fastened with continuous professional development seminars that kept staff abreast with trends in the

**Performance management**

KNCHR ensured that performance for all staff was managed by all managers/supervisors and ensured that timely feedback was given to staff members. From the last appraisal exercise, issues were raised over the effectiveness of the assessment tool therefore the HR department came up with new appraisal tools, different for the job grades and trained staff on them. 8 probation appraisals were done in the period and 4 staff members were put on performance improvement plans following the successful completion of the performance cycle. The Commission consulted widely with the Ethics and Anti-Corruption commission to come up with a code of ethics for State and Public Officers. The process involved presentation to staff and commissioners and it has at now gone through public validation by key stake holders, awaiting final implementation and way forward from the EACC.

**Internal audit operations**

The KNCHR’s Internal Audit department is responsible for the enhancement and protection of organizational value by providing risk based and objective assurance, advice and insight.

The internal audit function is organised under Audit Committee of the Commission, and it reports on its findings and recommendations to the Audit Committee, the Secretary to the Commission and, the respective heads of the audited operations. The function covers all the Commission’s offices and functions. An internal audit plan, subject to approval by the Audit Committee, is prepared annually and is modified on a risk basis, if necessary.

The key target of the Internal Audit department in the review period was to facilitate the convening of audit committee meetings as well as carry out audits within the Commission. The Audit committee held two meetings in which it approved the internal audit work plan and also amended its terms of reference. In relation to audit activities, two audit reviews and two audit follow ups on previous audits were undertaken during the period under review in accordance with the approved work plan.

**M&E support**

The M&E department contributes to institutional strengthening using a diversity of strategies which include; M&E support supervision to regional offices; Field based support; Staff capacity building; Need based technical assistance.

The following are highlights of the extent to which these strategies were applied;

**Support supervision to regional offices**

The strategy of support supervision has had three objectives namely; 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 support is important because the regional Officers do not have a day today interaction with the M&E unit of the commission like the officers at the head office. Hence this ensures consistency in conducting M&E related activities and that quality of deliverables meets the required standards.

The regional offices have demonstrated an improvement in reporting, planning, monitoring and evaluation. These improvements have been demonstrated in the BTOs and quarterly reports submitted during the year. Through the knowledge gained in reporting through pictures, North Rift office has been able to back up their narrative report with pictures. This being the first time that the Western office was conducting outcome monitoring, the team made use of the M&E training in quarter 1 which touched on outcome monitoring to develop tools, collect data and report.
Field based support

Field based support is a follow up strategy by which the M&E department monitors the application of programme management skills by staff. During the session, the M&E staff provides additional practical application of the knowledge that have previously being introduced during trainings. This enables more efficient translation of knowledge into practical solutions. During the year, the department aimed at conducting two field based support per quarter. A total of 8 departments were supported during the year; 3 outcome monitoring exercises with PET, Pre-testing of CRPD monitoring tools with Research and Compliance, human rights clinic at the North Rift, support to Kisumu office (on Police Training) and ECOSOC (Baseline Survey on Corruption in Busia and Kakamega counties).

Owing to the support provided by M&E, a number of departments have improved their project strategies, data collection as well as result tracking and reporting processes. There was significant improvement in outcome monitoring activities conducted by PET; the quality of data collection tools and data collection process as well as documentation of results in the outcome journal had improved as compared to previous year.

Staff trainings

During the year, 1 internal and 1 annual/external trainings were conducted. A total of 53 participants (41 programme officers, 2 new interns and 10 interns) enhanced their skills on program management and participatory M&E; Outcome Monitoring and target setting. Both trainings were informed by capacity gap assessment conducted by M&E department.

The quarterly training which focused on participatory M&E; Outcome Monitoring and target setting enabled 4 departments at head office and 3 regional offices to formulate output targets and outcome progress markers which were used in outcome monitoring process. The annual training was on project cycle management, and M&E. The Project Management Training also introduced a computer application-MS-Project to most of the staff who had not interacted with this before. 23 out of the 25 staff who were trained were encountering MS Project application for the first time (Representing 92% new knowledge gain) as a tool for planning and implementing projects. Participants reported that they found MS project a very important tool in managing projects, particularly balancing time/deadlines vs. the number of activities and project resourcing/costing while at the same time tracking progress periodically.

In the post training feedback, all the 25 participants expressed improved skills on project management, particularly on logical framework approach and its application in planning, implementing, monitoring management, results based reporting, monitoring and evaluation. There was better understanding and evaluating of projects. A number of participants noted that they were empowered to objectively make decisions that are evidence based. It is expected that this training will lead to improved project design, project planning, and project reporting among different cadres of the programme staff. A second training will be done next programme year for another batch of 25-30 staff as well as an evaluation on the outcome of this training.

Need based technical assistance

The department also offered technical assistance to programme officers based on their specific needs from time to time. During the period under review, the department developed and operationalized an in-house M&E database. The database contains activity approval template; BTOR and KPI tracking table and M&E technical assistance. This has enabled M&E to track the nature of M&E support offered to individual staff and departments.

At least 85 technical assistance sessions were provided on general planning, monitoring and evaluation and 5 departmental meetings attended for M&E capacity strengthening (documented sessions). This process has improved performance of departments in terms of planning, result tracking, reporting and completion of planned activities.
This is evidenced by the analysis done by the M&E department on annual performance of programme departments where there were an average of 7 out of 10 programme departments have demonstrated improvement in planning, result tracking, reporting and completion of planned activities as compared to 5 out of 10 in 2013/14 financial year.

Facilitation of organizational learning

Programmatic learning for adaptive management is another core mandate of an M&E unit within an organization. The M&E department does this through coordinating internal reviews and reflections on quarterly and annual basis. During the year under review, the frequency of the review meetings was changed. Midyear and annual review meeting were combined with Q2 and Q4 review meetings respectively and cumulative reports be produced at half year and annual basis. However, departments are required to develop quarterly narrative reports.

There were also changes in the manner in which the review was conducted as well as the substance i.e. performance rate. Keynote difference was the introduction of Indicator based reporting. Previously, departments were required to submit and present a narrative report but this will henceforth be reinforced by indicator based reporting; at quarterly and cumulative levels. This reporting process has so far proved to be the best, since it is easy to generate certain reports without seeking the help of HODs. However, there were such challenges as lack of pre-set targets on some indicators. M&E department managed to support a number of departments set targets but was difficult to schedule meetings with the remaining departments.

Increased use of feedback from various reviews has improved quality of reporting among staff and departments. An analysis done by the M&E department indicated a 10% increase in proportion of departments whose reports had clear articulation of results, use of indicators and clear use of comparator matrix as compared to the previous financial year.

Recommendations

In order to ensure that the Commission is fully facilitated to fulfil its mandate the Commission recommends that Parliament:

1. Secure the appointment of the remaining Commissioner as required under the Constitution and the KNCHR Act.

2. Sufficient allocation of resources to the Commission in accordance with article 249(3) of the Constitution of Kenya and also in line with the Paris Principle that states that, ‘The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding.'
REPORT

OF

THE AUDITOR-GENERAL

ON

THE FINANCIAL STATEMENTS OF
KENYA NATIONAL COMMISSION ON
HUMAN RIGHTS

FOR THE YEAR ENDED
30 JUNE 2015
OFFICE OF THE AUDITOR-GENERAL

REPORT OF THE AUDITOR-GENERAL ON KENYA NATIONAL COMMISSION ON HUMAN RIGHTS FOR THE YEAR ENDED 30 JUNE 2015

REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of Kenya National Commission on Human Rights set out on pages 7 to 38, which comprises of statement of assets as at 30 June 2015, and the statement of receipts and payments, statement of cash flows, summary statement of appropriation, recurrent and development combined, summary statement of appropriation; recurrent, summary statement of appropriation; development, summary statement of provisioning for the year then ended, and summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 8 of the Public Audit Act, 2003. 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.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) 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 management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 4 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 9 of the Public Audit Act, 2003 and submit the audit report in compliance with Article 229(7) of the Constitution of Kenya. The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). 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.

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 judgement, including the assessment of the risks of material misstatement of the financial statements.
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.

Basis for Qualified Opinion

Pending Bills

Records maintained by the Commission reflect pending bills totalling Kshs.7,871,000.00 relating to financial year 2014/2015 that were not settled during the year but were instead carried forward to year 2015/2016. Information available indicates that this situation arose due to non-release of exchequer by the National Treasury. Had the bills been paid and expenditure charged to the accounts for 2014/2015, the statement of receipts and payments would have reflected a net deficit of Kshs.10,733,000.00 instead of Net deficit of Kshs.2,862,000.00 now shown.

Qualified Opinion

In my opinion, except for the effects of the matter described in the Basis for Qualified Opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Kenya National Commission on Human Rights as at 30 June 2015, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with Public Finance Management Act, 2012 and Kenya National Commission on Human Rights Act, 2011.

[Signature]

FCPA Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

17 March 2016
## V. STATEMENT OF RECEIPTS AND PAYMENTS

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<td>Proceeds from Foreign Borrowings</td>
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<td>Proceeds from Sale of Assets</td>
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<td>Finance Costs, including Loan Interest</td>
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<td>Repayment of principal on Domestic and Foreign borrowing</td>
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<td>DEFICIT</td>
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<td>(2,862)</td>
<td>(18,389)</td>
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The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 22nd March 2016 and signed by:

Commission Secretary

Finance Manager
# VI. STATEMENT OF ASSETS

<table>
<thead>
<tr>
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<tbody>
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<td><strong>Cash and Cash Equivalents</strong></td>
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<td><strong>TOTAL FINANCIAL ASSETS</strong></td>
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<td>47,325</td>
<td>65,715</td>
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<td>Accounts Payables- Deposits and Retensions 24</td>
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<td><strong>NET FINANCIAL ASSETS</strong></td>
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<td>47,325</td>
<td>65,715</td>
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<td>Fund balance b/fwd 25</td>
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<td>Surplus/Deficit for the year</td>
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<td>(18,389)</td>
<td>(3,110)</td>
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<td><strong>NET FINANCIAL POSITION</strong></td>
<td>44,464</td>
<td>47,325</td>
<td>65,715</td>
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</tbody>
</table>

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Finance Manager