HIS EXCELLENCY,
HON. UHURU KENYATTA C.G.H.
PRESIDENT OF THE REPUBLIC OF KENYA AND COMMANDER-IN-CHIEF OF THE DEFENCE FORCES

Your Excellency Sir,

LETTER OF TRANSMITTAL


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

Ms. Kagwiria Mbogori
Chairperson
Kenya National Commission on Human Rights

Cc.
Speaker of the Senate
Hon. Ken Lusaka E.G.H, E.B.S, MP

Speaker to the National Assembly
Hon. Justin Muturi E.G.H, E.B.S, MP
The Kenya National Commission on Human Rights is pleased to present its Annual Report for the period 2017/2018. The report documents the work of the National Commission during this period and provides recommendations for the further advancement of human rights.

The National Commission’s journey in the human rights sphere has seen it grow from strength to strength, chalking-up many achievements along the way and an equal measure of challenges. It is important to state that the partnership between the Government, our strategic stakeholders and partners has been able to enhance and sustain the human rights and fundamental freedoms in Kenya. Notably the assenting of the Prevention of Torture Act, 2017 by His Excellency the President gave the Commission the oversight mandate and buttresses Article 29(d) of the Constitution, which guarantees freedom from torture and cruel, inhuman or degrading treatment or punishment. Also, the structured debate on the removal of mandatory death penalty was a great milestone in the quest to preserve human life.

In the promotion of Human Rights Based Approach in the provision of services, the National Commission in partnership with the Council of Governors, the Office of the Attorney General and Kenya School of Government developed and published Human Rights Based Approach guidelines for policy and legislative processes for both National and County governments. The National Commission is pleased to state that the said guidelines have been infused in the teaching curriculum for public officers undergoing senior leadership development courses at the Kenya School of Government.

In the reporting period, the National Commission expressed its concern with regard to violation of human rights in favour of infrastructural development and conservation of forests in Kenya. Whereas the National Commission supports the Government’s development agenda, human rights are paramount and must be protected. The National Commission applauds the incorporation of eviction guidelines in the Land Act and therefore there should be no reason why Kenyans should be violently evicted from their habitual residences.
The National Commission is very concerned with the repeat cycle of election violence in Kenya. In the 2017 General Election many Kenyans especially women and children experienced high level of brutality meted upon them by security agents and political supporters. Some were killed, raped and defiled. The National Commission conducted an investigative inquiry on Sexual Gender Based Violence during the 2017 election period and published a report ‘silhouettes of brutality’ where victims expressed horrific accounts in the hands of perpetrators. The National Commission wishes to call upon the Government especially political parties and politicians to find a lasting solution so that the country experiences peaceful electoral process in future.

Despite the broadened mandate and very high expectations by Kenyans on the Commission to protect and promote human rights in Kenya, the National Commission operated under a constrained financial environment. The lack of adequate funding forced the Commission to scale down its activities thus compromising its role as a promoter and protector of human rights in Kenya. We therefore urge the Government of Kenya to allocate sufficient resources to the National Commission to enable it effectively execute its mandate.

Finally, we extend our appreciation to all stakeholders and partners who have supported us during the year and their invaluable contribution towards the realisation of human rights in Kenya.

Ms Kagwiria Mbogori
Chairperson
Kenya National Commission on Human Rights
The Kenya National Commission on Human Rights is an independent National Human Rights Institution established by the Constitution of Kenya under Article 59 (1) and the Kenya National Commission on Human Rights Act of 2011 (Revised 2012) with the mandate to promote and protect human rights in Kenya.

The National Commission implements two key broad mandates: first, it acts as an overseer of 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.

The reporting period of 2017/2018 marked the last implementation year of the National Commission’s fourth strategic plan (2015–2018) and thus utilised a targeted approach towards the consolidation of previous year achievements and addressing gaps in key priority and emerging areas. In addition to its standard activity areas of receiving complaints, investigations and redress of human rights violations and public education and awareness on human rights, the National Commission put in place a robust General Election monitoring team which culminated in publishing of its back-to-back serialised reports; The Fallacious Vote, Mirage at Dusk, Still a Mirage and Silhouettes of Brutality.

The National Commission also invoked its statutory powers to conduct inquiries on systemic human rights violations through gathering of evidence and developed possible redress solutions. Notably the Commission intervened in a number of human rights violations as a result of road construction works in the informal settlements areas of Kibra and Deep Sea and internal displacements of persons in Baringo Taveta Counties and forest conservation disputes between the forest dwelling communities such as the Sengwer, Ogiek and Kenya Forest Service.
In its quest to promote a culture of human rights in Kenya through public education, the National Commission developed and published guidelines on human rights based approach with regard to policy and legislative drafting at both National and County levels of government. These guidelines have been disseminated to various Counties under the aegis of the Council of Governors, Kenya School of Government and through public education forums.

The expansive mandate of the National Commission requires adequate resources to enable the Commission carry out its functions effectively. Unfortunately, during the reporting period, the Commission was operating at 51.7% of its authorised staff establishment at 106 in-post staff against the recommended 205 staff. Similarly, Government of Kenya funding to the Commission reduced by KShs 17,378,766 during the 2017/18 financial year; a significant budget cut which negatively impacted the Commission’s operations. The decline in the State’s funding was partially offset by earmarked grant support from development partners including the Royal Danish Embassy (DANIDA) through URAIA Trust; the European Union; Royal Netherlands Embassy; Royal Norwegian Embassy and GiZ amongst others. Consequently, despite the resource shortfalls, the Commission was able to deliver key achievements in the reporting period which are presented in the main report.

The National Commission is grateful for the continued support and collaboration from the Government of Kenya, Development Partners and Civil Society. We are particularly indebted to the People of Kenya who continue to support our work.

In the coming year, the Commission will commence implementation of its fifth strategic plan, with emphasis on promotion and deepening a culture of human rights among the public; entrenching and securing observance of human rights principles and standards by all public and private institutions; securing appropriate redress, accountability for human rights violations and respect for the rule of law and enhancing efficiency, effectiveness and sustainability of the National Commission.

Dr. Bernard Mogesa, PhD, CPM
Commission Secretary/Chief Executive Officer
Kenya National Commission on Human Rights
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<tr>
<td>ADR</td>
<td>Alternative Dispute Resolution</td>
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<tr>
<td>ACHRP</td>
<td>African Commission on Human &amp; Peoples’ Rights</td>
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<td>AG</td>
<td>Attorney General</td>
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<td>AJS</td>
<td>Alternative Justice System</td>
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<td>AU</td>
<td>African Union</td>
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<td>BHR</td>
<td>Business and Human Rights</td>
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<td>CAT</td>
<td>Convention Against Torture</td>
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<td>CMS</td>
<td>Complaints Management System</td>
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<td>CoK</td>
<td>Constitution of Kenya, 2010</td>
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<td>CRPD</td>
<td>Convention on the Rights of Persons with Disabilities</td>
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<td>CSOs</td>
<td>Civil Society Organisations</td>
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<td>CUC</td>
<td>Court Users Committee</td>
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<td>DoJ</td>
<td>Department of Justice</td>
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<td>GANHRI</td>
<td>Global Alliance of National Human Rights Institutions</td>
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<td>GIZ</td>
<td>The Deutsche Gesellschaft für Internationale Zusammenarbeit</td>
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<td>GoK</td>
<td>Government of Kenya</td>
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<tr>
<td>HRBA</td>
<td>Human Rights Based Approach</td>
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<td>HRDs</td>
<td>Human Rights Defenders</td>
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<td>ICT</td>
<td>Information and Communication Technology</td>
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<td>IDP</td>
<td>Internally Displaced Person</td>
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<td>IPOA</td>
<td>Independent Policing Oversight Authority</td>
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<td>JTI</td>
<td>Judiciary Training Institute</td>
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<td>KFS</td>
<td>Kenya Forest Services</td>
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<td>KNBS</td>
<td>Kenya National Bureau of Statistics</td>
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<td>KNCHR</td>
<td>Kenya National Commission on Human Rights</td>
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<td>KNH</td>
<td>Kenyatta National Hospital</td>
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<tr>
<td>M&amp;E</td>
<td>Monitoring and Evaluation</td>
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<td>MDAs</td>
<td>Ministries, Departments and Agencies</td>
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<td>MoU</td>
<td>Memorandum of Understanding</td>
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<td>MP</td>
<td>Member of Parliament</td>
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<td>NANHRI</td>
<td>Network of African National Human Rights Institutions</td>
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<td>NAP</td>
<td>National Action Plan</td>
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<td>NCAJ</td>
<td>National Council on the Administration of Justice</td>
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<td>NEMA</td>
<td>National Environment Management Authority</td>
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<td>NHRI</td>
<td>National Human Rights Institution</td>
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<td>NSC</td>
<td>National Steering Committee</td>
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<td>ODPP</td>
<td>Office of the Director of Public Prosecution</td>
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<td>OHCHR</td>
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<td>PIL</td>
<td>Public Interest Litigation</td>
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<td>POTA</td>
<td>Prevention of Torture Act</td>
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<td>SDGs</td>
<td>Sustainable Development Goals</td>
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<td>SESA</td>
<td>Strategic Environmental and Social Assessment</td>
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<td>SGBV</td>
<td>Sexual and Gender Based Violence</td>
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<td>SME</td>
<td>Small and Medium-sized Enterprises</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>United Nations Guiding Principles</td>
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<td>UPR</td>
<td>Universal Periodic Review</td>
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<td>WHO</td>
<td>World Health Organization</td>
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EXECUTIVE SUMMARY

The Kenya National Commission on Human Rights (KNCHR or The National Commission) is a Constitutional Commission established under Article 59 (1) and Chapter 15 of the Constitution of Kenya (CoK) and subsequently operationalised through the Kenya National Commission on Human Rights Act No. 14 of 2011, (Revised 2012).

The 2017/2018 financial year was the final year of implementation of KNCHR’s fourth (2015- 2018) strategic plan. Building on its past successes, the National Commission continued to address human rights issues both at county, national, regional and international spheres by using various strategies including but not limited to: processing complaints, conducting investigations, securing redress, undertaking audit, research, advisories, lobbying and advocacy, conducting human rights education and training and monitoring and partnership building.

During the 2017/2018 financial year, the National Commission received a total of 3,437 human rights violation complaints through its Complaints Management System (CMS). The violations ranged from economic, social, cultural, civic and political rights. The National Commission was involved in nineteen (19) Public Interest Litigation (PIL) cases. Further the National Commission resolved four (4) major and several minor cases on human rights violations through Alternative Dispute Resolution (ADR).

As an advisor on human rights, the National Commission worked towards Human Rights Based Approaches (HRBA) in policy and legislative making process through research and analysis. During the reporting period, the National Commission reviewed ten (10) bills, three (3) laws, six (6) policies and two (2) administrative decisions and submitted a similar number of advisories to relevant policy makers and focal points of legislation and policy. The aim of review was to promote and protect human rights in laws, policies and administrative processes as provided for under the Bill of Rights of the Constitution of Kenya, regional and international human rights instruments to which Kenya is a signatory.

In its quest to promote and to protect civil and political rights, the National Commission put in place a robust General Election monitoring team which culminated to publishing of reports titled; *The Fallacious Vote, Mirage at Dusk, Still a Mirage at Dusk* and *Silhouettes of Brutality*.

The National Commission used the Universal Periodic Review (UPR) reporting mechanisms in partnership with the Office of the Attorney General to report on State compliance by the Government with regard to human rights. This included monitoring treaties focused on: eliminating discrimination on the basis of race, gender and disability; children’s rights; torture; economic, social and cultural rights, group rights, civil and political rights among others.
Internationally, the National Commission championed the 2030 Agenda on Sustainable Development Goals (SDGs) which is informed by human rights principles and standards and present prospects for advancing the protection and promotion of human rights for all and the African Union (AU) reform Agenda 2063, a blueprint for the economic development of the Continent with aspirations for good governance, democracy and respect for human rights, justice and rule of law.

The National Commission was involved in strategic meetings and key reports were also prepared during the 2017/2018 period are listed below:

1. Published the guidelines for a human rights based approach to public policy and law making at the national and county levels
2. Prepared and submitted a draft report on convention against torture and other cruel, inhuman or degrading treatment or punishment
3. Prepared the Universal Periodic Review mid-term report
4. Participated in the 61st Ordinary Session of the African Commission on Human and Peoples Rights
5. Participated in the day of general discussions organized by the United Nations Committee on the Rights of Persons with Disabilities
6. Engaged with the state actors to prepare State Periodic Report on the implementation of the African Charter on the Rights and Welfare of the Child (ACRWC)
8. Prepared and presented the Annual address by the National Commission on the state of human rights in the country which was delivered in March 2018
9. Monitored compliance to human rights in the 2017 General Election and documented sexual and gender based violence

In accordance with its mandate, the National Commission carried out public education and training on human rights standards and principles where 326 public officers and 392 members from Civil Society Organizations (CSOs) and Human Rights Defenders (HRDs) were trained. Further, the National Commission conducted public sensitization forums on human rights where 10,700 members of the public and 2,000 students from institutions of higher learning were reached.

KNCHR also invoked its statutory powers to conduct inquiries on systemic human rights violations through gathering of evidence and developed possible redress solutions. Notably the National Commission intervened in a number of human rights violations as a result of road construction works in Kibra and Deep sea areas, displacement of persons in Baringo and Taveta Counties and
forest conservation disputes pitting the forest dwelling communities such as the Sengwer and Ogiek against Kenya Forest Service.

The National Commission maintained its standing as a regional leading National Human Rights Institution (NHRI) and participated in key global and regional meetings as well as receiving several high level delegations from the Zimbabwe Human Rights Commission and the Commission on Human Rights and Public Administration of the Kingdom of Eswatini (Swaziland). These provided an opportunity to share experiences and best practices. In addition, the Commission participated in key international meetings including the 11th Biennial Conference of the Network of African NHRI (NANRHI) held in Kigali in November 2017; the Global Alliance of National Human Rights Institutions (GANHRI) Annual Conference in Geneva in February 2018 and the Biennial Meeting of the Commonwealth Forum of National Human Rights Institutions in April 2018.

The National Commission improved on its strategic partnerships with other stakeholders through signing of memorandum of understanding namely: The Media Council of Kenya, the UN – International Organization for Migration, GIZ, Judicial Training Institute and NANRHI Secretariat. The aim of these partnerships is to enhance protection and promotion of Human Rights in the country.

Internally, KNCHR leveraged on Information and Communication Technology (ICT) in its programmes towards efficiency. As such, in the reporting period, the Commission developed its Election Management System, which improved monitoring of human violations during the electioneering process and thus assisted the citizens to register complaints to the Commission and where appropriate actions were recommended.

Operationally, Government of Kenya (GOK) funding to KNCHR reduced from the previous year by KShs 17million to KShs 398,766,234, which greatly impacted the National Commission’s operations resulting in pending bills of KShs 14million. However, with the contributed funds from development partners of KShs 190,659,198, the Commission was able to undertake select critical programme activities. As such, despite an overall increase in funding to KNCHR to KShs 589,425,432 it is noted that GOK funding constituted 68% of total receipts, a sharp drop from the 78% contribution in the previous year. The detailed analysis is provided in the financial statements.

Following this executive summary, the remainder of this 2017/18 annual report presents a broad introduction to the National Commission including its guiding legislation and institutional framework. This is followed by the activity report in Part I, which presents an overview of the strategic framework, key activities, achievements and challenges. Part II and Part III present the key recommendations and financial statements respectively.
1. INTRODUCTION

The Kenya National Commission on Human Rights (KNCHR or ‘the National Commission’) is a Constitutional Commission established under Article 59 (1) and Chapter 15 of the Constitution of Kenya (CoK) and subsequently operationalized through an Act of Parliament, the Kenya National Commission on Human Rights Act No. 14 of 2011, (Revised 2012).


The National Commission is in compliance with the Constitution of Kenya as well as relevant statutes such as the Public Finance Management Act 2012, The Public Procurement & Asset Disposal Act 2015, Employment Act 2007 and Occupational Safety & Health Act 2007. In addition, KNCHR is committed to high standards of ethics and is in compliance with relevant statutes such as the Leadership & Integrity Act, 2012 and Public Officers Ethics Act, 2003.

With the foregoing, this report is in compliance with Section 53 of the KNCHR Act which obligates the National Commission to provide a detailed report of activities and recommendations on policy, legal and administrative structures in Kenya.

1.1 Mandate, functions and powers of the national commission

The National Commission’s mandate as provided for in Article 59(2) and Article 249 of the CoK and operationalised by the KNCHR Act 2011 (Revised 2012) is broadly interpreted as follows:

1. To promote human rights, fundamental freedoms and Constitutionalism and
2. To protect and secure the observance of human rights and fundamental freedoms in all spheres of life.
1.2 Guiding principles

In fulfilling its mandate, the National Commission acts in accordance with the values and principles set out in the Constitution and the Laws of Kenya and shall observe and respect:

a) The diversity of the People of Kenya;

b) Impartiality and gender equity;

c) All treaties and conventions which have been ratified in Kenya and in particular the fact that human rights are indivisible, interdependent, interrelated and of equal importance for the dignity of all human beings and

d) The rules of natural justice.

Implementation of the National Commission’s mandate is pursued through various strategies including but not limited to: processing complaints, conducting investigations, securing redress, undertaking audits, research, advisories, lobbying and advocacy, conducting human rights education and training, monitoring and partnership building.

1.3 Affiliation to international and regional networks

The Commission is affiliated to the Global Association of National Human Rights Institutions (GANHRI), an international, independent body established to promote the establishment and strengthening of NHRIs in conformity with the Paris Principles; and, enjoys ‘A’ Status accreditation.

Consequently, the National Commission is an active and key full member of the 44 States regional umbrella body namely; Network of African National Human Rights Institutions (NANHRI). The National Commission hosts the NANHRI Secretariat at its head office in Nairobi. 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.

1.4 Collaboration with Article 59 and other commissions and independent offices

The Constitution of Kenya, Article 59 provided for the establishment of the Kenya National Human Rights and Equality Commission (KNHREC). However the operationalization of Article 59(4) the
National Assembly as constituted then split KNHREC to three Commissions, namely the Kenya National Commission on Human Rights (KNCHR), the Commission on Administrative Justice (CAJ) and the National Gender and Equality Commission (NGEC). The National Commission collaborates closely with other Article 59 commissions given their shared mandate on the protection and promotion of human rights. This is done through the Integrated Public Complaints and Referral Mechanism (IPCRM) which provides for the receipt and onward referrals of public complaints to participating institutions.

The National Commission also works closely with other Constitutional Commissions and Independent Offices, including participation in the annual conferences.

1.5 Strategic framework

The 2017/2018 financial year was the final year of implementation of the Commission’s fourth (2015-2018) strategic plan, which outlined the vision and mission statements respectively as, ‘A society that upholds human rights for all’ and, ‘To protect, promote and monitor the respect for human rights in Kenya through law, policy and practice.’

The achievements of its vision and mission were founded on the following core values: Accessibility, Integrity, Impartiality, Independence and Inclusiveness.

The four strategic objectives and attendant outcomes are listed as follows:

1. To promote the respect and observance of human rights standards by public and private actors.
   1.1 Public and private security agencies mainstream human rights protection in their processes, operations and practices.
   1.2 Empowered communities able to claim their rights.
   1.3 Enhanced State compliance with regional and international human rights obligations.

2. To increase the application of human rights principles and standards in institutions and alternative justice mechanisms.
   2.1 Improved penal conditions and synergy among the correctional services.
   2.2 Increased utilisation and strengthened alternative dispute resolution mechanisms.
   2.3 Increased human rights sensitivity in the administration of justice.
   2.4 Expeditious and fair delivery of service.

3. To enhance the realization of economic, social and cultural rights in Kenya.
   3.1 Enactment and implementation of laws and policies that promote the realization of economic, cultural and social rights.
3.2 Enhanced delivery of quality services and standards in health, water, education, food and housing.

3.3 Recognition and integration of human rights principles in various private entities and practices.

4. To enhance the efficiency and effectiveness of the National Commission.

4.1 An efficient, effective and accountable institution.

To deliver on the key strategic objectives, KNCHR employed various strategies including public education and training, advocacy for reforms through submission of advisories to Parliament, enhancing strategic partnerships with different stakeholders through referral partners forum, redress mechanisms through Alternative Dispute Resolution (ADR) and seeking judicial interventions as petitioners, co-petitioners, interested party or as an amicus curiae (friend of the court) to guarantee human rights and freedoms are enjoyed by all in Kenya.

The activity report highlighting key activities, achievements and challenges follows in the next chapter.
PART I - ACTIVITY REPORT
2. **TO PROMOTE THE RESPECT AND OBSERVANCE OF HUMAN RIGHTS STANDARDS BY PUBLIC AND PRIVATE ACTORS**

Under this strategic objective, the Commission worked to ensure that human rights principles are integrated in the processes of the Kenya Prison Services as well as other security organs, promotion of marginalised community rights versus conservation efforts by Kenya Forestry Service (KFS) and promotion of Business and Human Rights. This was achieved through public education and information to create awareness, understanding and general public responsibility on the value, role and importance of human rights within security processes and operations.

2.1 **Empowered communities that are able to claim their rights**

2.1.1 **Capacity building on human rights principles and standards**

Public Education and Awareness

The National Commission in accordance to its mandate under Section 8(g) of the KNCHR Act conducted civic/public education on human rights standards and principles. During the review period, the KNCHR trained a total of 12,930 members of the public; of which 2000 were university students from various public and private universities on targeted human rights issues. The trainings also benefited a total of 326 public officers and 392 members from Civil Society Organizations (CSOs). The National Commission also trained 230 prison inmates. This provided KNCHR with an opportunity to publicize its complaints lodging mechanism and to advice persons deprived of their liberty on the National Commission’s mandate and the nature of complaints handled by it. KNCHR offered legal advice to the inmates on several concerns that they brought forth.

In addition to this, the National commission conducted public lectures on human rights where over 1000 participants were reached.

County Governments

Kenya is a unitary State with two levels of Government; the National Government and 47 County Governments. Implementation of devolved system of government has continued to experience a myriad of challenges especially with regard to development of policies and legislations that do not reflect human rights. It is in this view that KNCHR engaged with various County governments such as Vihiga, Wajir, Bungoma, Kakamega, Murang’a, Meru, Nakuru, Nyeri, Tharaka Nithi, Makueni, Kericho and Uasin Gishu to entrench human rights based principles in policy and legislative
processes. The National Commission also sensitized the County governments on SDGs as a fundamental benchmark in the realization of human rights and economic development.

The National Commission has planned to roll out more of such capacity building to other Counties in Kenya as a means of enhancing respect for human rights especially right to clean and safe water, health and reasonable standards of sanitation.

Judiciary

The National Commission in partnership with the Judiciary Training Institute (JTI), conducted trainings for 131 magistrates. These trainings were in line with the MoU between the two institutions which seeks to promote and protect human rights defenders in Kenya. KNCHR’s aim was to empower judicial officers to understand the role that HRDs play in spectra of social justice.

Further the National Commission sought to promote ADR mechanisms in order to advance timely resolution of disputes among citizens, and the reduction of backlog in the judicial system. The National Commission believes that with such mechanisms in place justice and peace will prevail. To this end, KNCHR collaborated with various stakeholders such Kituo cha Sheria, FIDA Kenya, KELIN Kenya, Court User Committees (CuCs) and Councils of Elders to support the judiciary in the promotion and protection and human rights in Kenya.

KNCHR further trained medical officers on medico legal in respect to evidence gathering in cases of torture and Sexual and Gender Based Violence (SGBV) with focus on the 2017 General Election related violence.

2.2 Human rights protection mainstreamed in the processes, operations and practice of selected public and private actors

2.2.1 Complaints handling on human rights violations

Receiving complaints and investigations constitute one of the core functions of KNCHR. The National Commission processes complaints, conducts preliminary investigations on admitted cases and carries out field investigations into alleged human rights violations with a view to recommending redress. It also generates appropriate cases for Public Interest Litigation (PIL) and Alternative Dispute Resolution (ADR) and identifying appropriate redress mechanism.

The National Commission receives complaints through the Complaints Management System (CMS). To further improve service delivery to the public, KNCHR has leveraged on technology through another mode of complaint handling by installing a toll free Short Message Service (SMS)
platform (22359) to receive complaints on human rights violations. In the reporting period, KNCHR received a total of 3,437 complaints through its CMS as follows:

**Table 1: Complaints Admission Status Summary**

<table>
<thead>
<tr>
<th>Category</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Huduma Center Eastleigh</td>
<td>1</td>
<td>0.03%</td>
</tr>
<tr>
<td>Social Media</td>
<td>3</td>
<td>0.09%</td>
</tr>
<tr>
<td>Broadcast Media</td>
<td>6</td>
<td>0.17%</td>
</tr>
<tr>
<td>Referral</td>
<td>10</td>
<td>0.29%</td>
</tr>
<tr>
<td>Print Media</td>
<td>17</td>
<td>0.49%</td>
</tr>
<tr>
<td>Website</td>
<td>25</td>
<td>0.73%</td>
</tr>
<tr>
<td>Mail</td>
<td>41</td>
<td>1.19%</td>
</tr>
<tr>
<td>Email</td>
<td>64</td>
<td>1.86%</td>
</tr>
<tr>
<td>SMS (Short Message Service)</td>
<td>123</td>
<td>3.58%</td>
</tr>
<tr>
<td>Huduma Center Kiambu</td>
<td>144</td>
<td>4.19%</td>
</tr>
<tr>
<td>Telephone</td>
<td>283</td>
<td>8.23%</td>
</tr>
<tr>
<td>Public Forums</td>
<td>296</td>
<td>8.61%</td>
</tr>
<tr>
<td>Physical</td>
<td>2,424</td>
<td>70.53%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>3,437</td>
<td></td>
</tr>
</tbody>
</table>

Source: KNCHR Complaints Management System
94.21% of the complaints were lodged by individual petitioners, 2.94% by representatives of the petitioners and 1.03% by organizations while 1.82% were from joint petitioners.
2.2.2 Investigation into reported human rights violations

Pursuant to section 8 of the Kenya National Commission on Human Rights Act and section 12 of the Prevention of Torture Act 2017 which grants the National Commission powers and functions with regard to protection and promotion of Human Rights and prevention of torture against all persons in Kenya 123 investigations were conducted and subsequent reports with specific recommendations were referred and submitted to relevant institutions for action.

Notable investigations that were conducted during the reporting period 2017/2018 include:

(a) Reported use of excessive force by the police on the University of Nairobi students in September 2017;
(b) Reported violation of human rights during and after the August 2017 General Election;
(c) Violations of the rights of members of the Sengwer indigenous community in Embobut forest; and,
(d) Violations of the rights of Miguna Miguna by State agencies.
Investigations into alleged violation of group right (Right to a clean and healthy environment, pollution of Ruiru River) in Ruiru, Kiambu County

In May, a representative petition was lodged with KNCHR by a resident of Ruiru Sub-County against Devki Steel Mills, NEMA and KENHA for their role in the degradation of their farms and environment in the area. The petitioner alleged that during the construction of Thika Superhighway, there was a plan to construct a tunnel to ensure proper drainage systems were put in place. The petitioner and eleven others were to be affected by the construction as the water was to be channelled to their farms for some time after which a proper drainage system was to be constructed but this never happened. The National Commission carried out investigations which confirmed on-going pollution of environment whereby drainage and sewerage water as well as industrial effluent was being drained into River Ruiru through the petitioner’s farm thereby adversely affecting their right to health as well as right to clean and healthy environment. The National Commission has shared its findings and recommendations with KENHA, NEMA and the County Government of Kiambu who are the key duty bearers.

Fact finding mission on alleged human rights violations of the residents of Embobut

The National Commission has over time received reports of alleged human rights violations against the Sengwer indigenous community in Embobut forest. The violations include harassment, extra judicial killings, enforced disappearances, forceful and inhumane evictions, arbitrary arrest, extortion of money and sexual assault. The violations escalated in December 2017 when the Kenya Forest Service (KFS) was accused of carrying out a fresh wave of forced evictions upon members of the Sengwer community. KFS guards were alleged to have shot and killed a community member Robert Kirotich and seriously injured David Kosgei Kiptilkesi on 17th January 2018. The ensuing outrage of this killing caused the EU Delegation to immediately suspend the planned conservation funding of Euros 31 million. The KNCHR was requested to lead a high level fact-finding mission to Embobut and submit a report on the situation.

The National Commission compiled a report which was submitted to the Cabinet Secretary for Environment and Forestry. KNCHR will continue to follow up on the implementation of the report’s recommendations in the coming financial year.
Investigations on human rights on violations of human rights in the matter of Miguna Miguna

The National Commission received a complaint from one of Miguna Miguna’s lawyers that police had forcefully broken into his (Miguna’s) house, destroyed property and arrested Miguna for undisclosed reasons. The National Commission followed up the matter since the arrest and subsequent removal from the country of Miguna. The National Commission was directed by the court to observe Miguna’s return to the Country to ensure compliance with the law and his human rights. The National Commission held a meeting with the Director of Immigration on the matter and has compiled a report which has been submitted to Court, Parliament and Ministry of Interior and Coordination of National Government. This case brings to light the role of NHRI in the subject of migration and human rights.
Joint fact-finding mission on alleged enforced disappearance of persons, torture and cruel, inhuman or degrading treatment or punishment of street families and hawkers in Eldoret.

In April 2018, KNCHR’s North Rift Office received a report alleging violation of human rights of small scale traders and street families within Eldoret town. The KNCHR was informed that sometime in 2013, the County Government of Uasin Gishu made a decision, without proper consultations with stakeholders to relocate small-scale traders (popularly referred to as ‘hawkers’) to Eldoret West Market and other areas which were said to be congested and lacking essential facilities. However, Central Organization of Hawkers Association of Kenya (COHA) represented by the then Secretary General, opposed the Government’s decision and filed a case in Court, (Civil Suit No. 9 of 2013 in Eldoret High Court) to challenge its implementation. However, on 27th February 2018, the case was dismissed by the High Court for lack of substantial evidence. Following the dismissal of case, the County Government hastened the relocation of traders to the new designated places.

Previously, in 2016, the County’s security enforcement officials together with other law enforcement officers in the County were in the limelight for reportedly assaulting and killing more than six street children in Eldoret town. Further, In January 2018 there were violent confrontations between the County Enforcement officials and the traders which resulted in destruction of properties, assault and torture of the traders by County law enforcement officials. As a result over 25 hawkers and street children were reportedly admitted in various hospitals in Eldoret and one succumbed to the injuries. The reports further indicated that on diverse dates, the Uasin Gishu County Inspectorate officers with the backing of Administration Police officers violated the rights of the hawkers in Eldoret through arbitrary arrests, assault causing bodily injuries, loss of hawkers’ goods and loss of life from police shootings. The National Commission was also informed that at least nine bodies of traders and street persons had been recovered in Nandi Hills with serious injuries following the operation by Uasin Gishu County enforcement officials. The bodies were said to have been taken to Kapsabet Hospital Mortuary.

The National Commission conducted investigative mission which established that there were unresolved differences between certain sections of the hawking traders and the County government, a situation that has led to continued human rights violations. Further, the team established that three persons had been killed and their bodies dumped in Nandi Hills but could not immediately establish whether the deaths were linked to the security operations by Uasin Gishu County enforcement. Following the mission, KNCHR has commenced engagement with IPOA and the police on the criminal investigations into alleged enforced disappearances/unlawful killing of persons. Further, KNCHR agreed with the Uasin Gishu County government to help in formulation of a Training Curriculum for the County Inspectorate Officials in liaison with the Training Institute and Kenya Institute of Curriculum Development. Follow up actions will continue.
2.2.3 Promotion of human rights through public interest litigation

The National Commission through its monitoring of the judicial processes has positively influenced the development of human rights practices and jurisprudence especially through Public Interest Litigation (PIL). KNCHR has engaged in cases either as Petitioners, co-petitioner, Interested Party or as an amicus curiae (friend of the court) to ensure that there is enhanced promotion, fulfilment and protection of human rights and freedoms in the country. During this reporting period, the National Commission was involved in 19 PIL cases. Some of the successful cases include:

Supreme Court Petition No. 15 & 16 of 2015

The KNCHR was amicus curiae in this Petition that challenged the constitutionality of the mandatory death penalty. The matter was concluded on 14th December 2017 when the Supreme Court declared that the mandatory death penalty under section 204 of the Penal Code is unconstitutional. The Court clarified that the order does not affect the validity of the death penalty contemplated under Article 26(3) of the Constitution. The Court did not make a finding on indeterminate life sentences on grounds that there was insufficient material to determine this issue from the pleadings and submissions and further that it was not an issue for appeal in the High Court and the Court of Appeal.

The Court directed that the cases relating to the two Petitioners be submitted to the High Court for sentencing hearing on priority basis. The Court further directed that its Judgement be placed before the Speakers of the National Assembly and the Senate, the Attorney General (AG) and the Kenya Law Reform Commission for any necessary amendment or enactment to give effect to this judgment on mandatory death penalty and on parameters on life imprisonment.

The AG, Office of the Director of Public Prosecutions (ODPP) and other relevant stakeholders were requested to prepare a detailed professional review towards setting up sentencing hearings for cases similar to the two petitions that were before the Supreme Court. The AG shall present a progress report to the Supreme Court within 12 months. The AG has since appointed a Taskforce with the KNCHR as a member of the Taskforce.

Migori High Court Petition No. 2 of 2017

The Petition sought orders of habeas corpus against the OCS Kehancha Police Station. The Petition came to the fore following police officers from Kehancha Police Station and Kehancha AP Camp arrest of one, a Mr. Daniel Baru and forcibly had him disappear.

The Court issued a habeas corpus for the petitioner or his body to be produced on 31st of May 2018 and ordered the OCS Kehancha to produce him before the court by end of business on 4th June. The matter was mentioned on 5th June 2018 to confirm compliance during which the said OCS informed the Court that he could not comply and alleged that he had released the Petitioner. The Court gave a further mention date for the 7th of June 2018 when it directed the OCS to show-cause why he should not be cited for
contempt of court. The KNCHR made an application for the personal attendance of the Inspector General of Police (IGP).

The court scheduled the hearing of the contempt proceedings for the 27th of June and issued summons to the Inspector General of Police (IGP). On 27th June 2018, an Assistant IGP appeared on behalf of the IGP. The OCS requested the court to give him time up to 20th July 2018 to prepare for the hearing and to serve the petitioners with any documents and file within five days from June 27th June 2018.

Success story

The National Commission’s involvement in inquest No. 6 of 2017 where a child (Baby Samantha Pendo) was bludgeoned to death by the police during the PEV and Daniel Baru’s case involving enforced disappearance of a civilian by the police reminds the police that violations of human rights will not be ignored and perpetrators have to be held to account. The use of PIL as a tool for protecting human rights continues to warn duty bearers on the need to perform their duties within the confines of the law.

2.3 Enhanced state compliance with national regional and international human rights standards and obligations

2.3.1 Review of legislation, policies and administrative decisions

During the reporting period, the National Commission reviewed ten Bills of Parliament, three (3) laws, six (6) policies and two (2) administrative decisions and submitted a similar number of advisories to relevant policy makers and focal points of legislation and policy. The aim of review was to guarantee human rights based approach in the development of both policy and legislation were complied with. The Bills reviewed were:

a) The Constitution of Kenya (Amendment) (No.2) Bill, 2018;
b) The Constitution of Kenya (Amendment) Bill, 2018;
c) The Social Assistance Act, No 4 of 2013;
d) The Food Security Bill, 2017;
e) The Election Laws (Amendment) Bill, 2017;
f) The Children Bill, 2017;
g) The Statute Law Miscellaneous (Amendment) Bill, 2018;
h) The Tax Laws (Amendment) Bill, 2018;
i) Health Laws Amendment Bill with respect to the Counsellors and Psychologists Act No 14 of 2014 and

*The Policies reviewed include:* Gender and Equality Policy; East African Community Gender and Equality Policy; National Public Participation Policy; HIV Privacy Guidelines and Public Service Commission Disability Policy.

*The Administrative Decision reviewed include:* The Presidential Proclamation on Fresh Vetting of Public Officers and the Proposed Merger of Article 59 Commissions.

Other Key achievements include:

*(a) Enactment of the Prevention of Torture Act, 2017*

During the reporting period, the Prevention of Torture Act (POTA), 2017 was enacted into law. The Act is an important piece of legislation that promotes and protects the right to be free from torture espoused in Articles 25 (a) and 29 (d) of the Constitution of Kenya (CoK) and the Convention against Torture, Cruel, Inhuman or Degrading Treatment respectively. The Act further empowers the National Commission to receive and investigate complaints of torture; seek appropriate redress on behalf of victims of torture; monitor compliance by the State with Convention against Torture; and research and advise the Government on best practices towards preventing torture.

In the implementation of the National Commission’s mandate under the Act, the National Commission compiled an alternative report on the CAT. The report shall be published and submitted to the Committee Against Torture once the State has submitted its report.

*(b) Enactment of the National Coroners Service Act, 2017*

Before the enactment of the National Coroners Service Act (2017), Kenya did not have a comprehensive death investigations system. The Act will strengthen institutional frameworks towards securing the participation of the Coroner at inquests to advice on matters connected with reportable deaths.

*Published guidelines for a Human Rights-Based Approach to Public Policy and Law Making at the National and County Levels*

The National Commission published and launched the *‘Guidelines to the Human Rights Based Approach (HRBA) to Public Policy and Law Making at the National and County Level’.*
The purpose of the guideline is to enable public officers both at the National and County Government levels appreciate how public policy and law making in Kenya should be developed to reflect human rights standards and principles. The National Commission has further entered into a Memorandum of Understanding with the Kenya School of Government to infuse these guidelines in their curriculum of training public officers.

Preparation of Universal Periodic Review Mid-Term Report

The National Commission engaged in the Universal Periodic Review (UPR) mid-term reporting process. The National Commission with the participation of State and non-State actors has developed a UPR mid-term report which will be finalized and published in 2018/2019 financial year.

Engagement with International and Regional Human Rights Mechanisms

(a) General Discussion on Article 5 of the Convention on the Rights of Persons with Disabilities (CRPD)

The National Commission participated in various engagements with the United Nations Committee on the Rights of Persons with Disabilities to discuss Article 5 of the CRPD on the right to equality and non-discrimination. The National Commission is the focal point on disability rights for purposes of International Treaty reporting.

(b) 61st Ordinary Session of the African Commission on Human and Peoples Rights


Kenya ratified the ACRWC in 2000 creating an obligation to report on the implementation of the Charter every two years. In line with KNCHR’s mandate to ensure State’s compliance with regional and international instruments related to human rights, the National Commission provided advisories during to the State during the drafting of its 2nd periodic report on implementation of the African Charter on the Rights and Welfare of the Child.
During the period, the National Commission was able to finalise on the 2017 Report on National Values and Principles of Governance and Compliance with international obligations.

2.3.2 Monitoring compliance of human rights in the 2017 general election

The National Commission participated in the monitoring and documentation of the General and repeat Presidential Elections in the year 2017 with key lessons learnt and recommendations for electoral reforms.

As part of its advisory role, KNCHR held 10 regional consultative dialogue workshops through educational video and IEC materials, where 450 senior security personnel were empowered on how to uphold human rights and specifically the right to assembly.

The National Commission monitored the elections through 130 staff and 1,218 short term monitors deployed in 43 Counties.

During the electioneering period the National Commission actively provided remedial actions and interventions such as:

(a) Five (5) media advisories on the status of human rights in the campaign period;
(b) An advisory to the CS Education on the escalation of the rights of children in the campaign period;
(c) An advisory to the CS Interior on security and election preparedness from a HRBA with specific focus on use of force and firearms;
(d) Seven (7) rapid response and investigation mission to address complaints of human rights violations and the same informed the log of violations captured in the KNCHR series of reports;
(e) A court inquest on the killings of baby Pendo (Discussions on other 2 cases on police brutality are on-going);
(f) Contribution to the High Commissioner for Human Rights 2018 global statement on human rights concerns;
(g) National advocacy through numerous press statements including the Chairs 2018 statement on the status of human rights ahead of the President’s address to Parliament; and
(h) Regional advocacy through submission to the African Committee on the welfare of children on violations of children rights during elections.
As a direct output of the monitoring activities of the polls and the post-election scenario, the National Commission was able to release a series of three reports namely;

(a) *The Fallacious Vote*: A human Rights Account of the 2017 Political Party Primaries;
(b) *The Mirage at Dusk*: A human rights account of the 2017 General Election and
(c) *Still a Mirage*: A human rights account of the repeat Presidential polls.

Above: KNCHR staff led by the Chairperson, Ms Kagwiria Mbogori share with stakeholders the general election report findings titled - *The Mirage at Dusk: A human rights account of the 2017 General Election* which highlighted the key findings from human rights lenses and offered recommendations to sixteen key actors. (Photo courtesy: KNCHR)

**Documentation of Sexual Violence in Conflict Situations**

The National Commission observed that sexual and gender based violence in the context of elections was a key element of human rights violations.

KNCHR documented 201 cases on SGBV. This resulted to a publication of a report on trends and patterns of SGBV during the 2017 electioneering period as indicated below:
Figure 4: Nature of Sexual Offences

Nature of Sexual Offence

- Attempted Defilement: 0.8%
- Attempted Rape: 2.5%
- Defilement: 9.2%
- Gang Rape: 36.1%
- Indecent Act: 6.7%
- Rape: 35.3%
- Sexual Assault: 7.6%
- Sodomy: 1.7%
- Total: 100.0%

Figure 5: SGBV cases by Age

SGBV Cases by Age Bracket

- 10 - 15
- 16 - 20
- 21 - 25
- 26 - 30
- 31 - 35
- 36 - 40
- 41 - 45
- 46 - 50
- 51 - 55
- 56 - 60

Number of cases
The National Commission’s efforts in documenting and highlighting this prevalence of electoral related sexual violence elicited both national and international interests with the aim of forging partnerships to develop advocacy strategies to end the vice.
3. TO INCREASE THE APPLICATION OF HUMAN RIGHTS PRINCIPLES AND STANDARDS IN INSTITUTIONS AND ALTERNATIVE JUSTICE MECHANISMS

Under this strategic objective, the KNCHR identified monitoring of courts, prison conditions and sentencing as priority areas. The National Commission sought to generate recommendations on improvements of detention conditions and impact of custodial sentences in the various prisons in Kenya such as the review of Cap 90 and 92. Prison monitoring will be linked to the work of the Power of Mercy Committee and the National Council on the Administration of Justice (NCAJ) in order to generate comprehensive and actionable recommendations. The National Commission also strengthened the various ADR mechanisms to improve access to justice for Kenyans.

3.1 Increased utilization of strengthened alternative justice resolution mechanism

3.1.1 Resolution of human rights violations through Alternative Dispute Resolution (ADR)

The National Commission resolves human rights violations by initiating ADR. During this reporting period, the National Commission resolved 4 large and several minor cases through ADR mechanisms. Some of the successfully concluded cases include:

**Nanyuki Mediation between Mt. Kenya Fairmount Hotel Ltd and Likii Water Resources Users Association (WRUA)**

The complaint concerned Fairmount Hotel that had been accused by the local community of polluting river Lekiji within Laikipia County. The parties agreed to resolve the matter through mediation and requested the KNCHR to mediate the dispute. Initial sessions held with the parties facilitated the exchange of their different statements and supporting documents. The main mediation session was held between representatives of both parties between 14th and 17th of May 2018. The parties reached a settlement and signed a mediation agreement stipulating the way forward and ending the dispute amicably. The parties agreed that the local community would be involved in any de-siltation of the Hotel’s sludge reservoirs and should be allowed access to the Hotel to assess its waste management system.

**Mediation between Mazeras High School and Hakika Transporters, Mazeras - Kilifi**

This mediation was necessitated by the operations of a quarry in Mazeras area of Kwale County. As a consequence of blasting activities at the Quarry, Mazeras High School’s buildings developed cracks. A blast in June 2017 set in motion stones that damaged the roof of Mazeras High School. As a result of the mediation, the investor undertook to renovate the destroyed classrooms at his
expense. The school undertook to allow access for purposes of renovation and ensure that an officer from the State Department of Public Works supervises the repair and renovation works to ensure quality standards are met. KNCHR is following up on implementation of the mediation settlement agreement.

**Mediation of a Labour Dispute: Withheld Wages**

The National Commission received a complaint on alleged retention of a carpenters’ tools of trade and withheld wages after working for the respondent in the matter. The complaint was successfully resolved through mediation. The Petitioner was paid his dues and received back his tools of trade.

3.1.2 Engagement with the Alternative Justice Systems (AJS)

Alternative justice sector is undoubtedly easier for the public to navigate compared to the mainstream judicial system. The vast geographical nature of arid and semi-arid areas which host pastoral lifestyles coupled with extremely low literacy levels has had the net effect of creating a high level of dependency on the AJS among the citizens. However, AJS still face cultural imbalance where women are not adequately involved and informed of the processes. As a consequence, women and girls are disadvantaged compared to men.

The National Commission has enhanced its monitoring role to ensure that this system is human rights based approach compliant. This has been done through capacity building of community leaders of both gender, especially in the northern region of Kenya. It is envisioned that this will create a seamless and complementary structure between the AJS and the mainstream justice systems therefore creating a conducive landscape for access to justice.

3.2 Increased integration of human rights standards in the administration of justice

3.2.1 Operationalizing of the reparations fund

The National Commission has actively advocated for the implementation of reparations as envisaged in the Truth, Justice and Reconciliation Commission (TJRC) report. KNCHR has continued to engage the office of the AG with the aim of finding durable solutions for the victims and survivors of historical injustices. During the period under review, the National Commission together with key stakeholders developed regulations that shall operationalize the victims fund and the same has been forwarded to the AG.
3.3 Improved penal conditions and synergy among the correctional services

3.3.1 Monitoring of prisons, remand homes and borstal institutions

Based on the past trends and patterns of complaints and reports from places of detention, the National Commission identified the right to health as a critical component and subsequently embarked on an audit to demonstrate the extent of compliance as per both national and international standards. During the reporting period, KNCHR undertook a monitoring exercise in 72 out of 119 prisons to evaluate the adequacy of the Kenya Prisons Service (KPS) medical services and the effectiveness of its quality assurance program. The audit highlighted the following key findings that impact on the right to health of inmates:

(a) The need to have proper medical staff as opposed to having prison warders double up as medical staff;
(b) The management of terminally ill inmates is indeed dire as the prison has no capacity to take care of them;
(c) Inmates with chronic illness lack the proper care and medication;
(d) There is inadequate funding in all the detention facilities inspected which has resulted to inadequate and inconsistent supply of essential drugs and other medical equipment and
(e) The rights of the prison officers is also at stake as all prisons have no arrangements or mechanisms for the treatment of their officers.

The National Commission also noted that there is an urgent need to review the application of the Presidential Pleasure and release from places of detention and the continued incarceration of chronically ill inmates violates a multitude of rights.

3.3.2 Advocacy on abolition of the death penalty

The National Commission applauded the Supreme Court in 2017 landmark ruling which declared the mandatory nature of the death penalty unconstitutional. This culminated in the formation of a gazetted Taskforce to undertake among other things the assignment of establishing the process of removing the mandatory death penalty in alignment with the CoK.

The National Commission is a critical player in the Taskforce pursuant to its mandate in the promotion and protection of human rights. The National Commission will monitor implementation of the recommendations of the Taskforce.
4. TO ENHANCE THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN KENYA

The National Commission identified and prioritized the following five ECOSOC rights: the rights to housing, food, health (*mental and reproductive*), education, water and sanitation. These prioritized rights were also seen in light of the special interest groups including women, elderly, persons living with disabilities, children and minorities among others. Under this strategic objective, KNCHR identified the area of business and human rights as a priority area of focus. In addition, the National Commission identified specific economic, cultural and social rights at the planning stage and work to ensure enactment of the necessary laws and development of policies and standards to improve realization of those rights.

4.1 Enactment and implementation of laws and policies that promote the realization of ECOSOC rights

4.1.1 Review of county laws relating to health and water

The National Commission is committed to the promotion and protection of Article 43 rights under the CoK. During the reporting period, the National Commission sought to promote these rights by reviewing laws and policies on the right to health and the right to water and sanitation in 12 selected Counties across the country. The objective of the project was to review County laws, especially those touching on the right to health and water to ensure compliance with national and international human rights norms and standards. The National Commission reviewed 24 laws and policies related to water and sanitation.

The National Commission used the normative criteria related to *availability, accessibility, affordability* and *quality* of health and water service provision while the process criteria reviewed application of human rights principles on equality and non-discrimination, participation and inclusion, transparency and accountability.

The National Commission has embarked on actualization of Article 43 rights through awareness creation and capacity building for both executive and legislative arms of County governments with the aim of guaranteeing the infusion of human rights principles in the realization of socio-economic rights. It is evident that the capacity building will also improve human rights based approach in the content of County Integrated Development Plans (CIDPs).
4.1.2 Engagement with Nairobi County on development of county housing policy

The National Commission prepared and submitted an advisory for Nairobi City County to inform the aspect of human rights in the drafting of the housing policy. This was after it emerged that construction approvals by the County government of Nairobi were not disability compliant.

4.1.3 Advocacy dialogue for promotion of reproductive health rights

The National Commission coordinated two dialogue sessions to initiate discussions towards the realization of the right to reproductive health of women and girls. The dialogue focus is on advocating for the implementation of human rights obligations that Kenya has ratified although with reservation on selected Articles that seek to promote reproductive health. The National Commission engaged several stakeholders among them religious leaders and realized among other findings that SGBV against women and girls during the 2017 General Election provided a need basis for the State to lift the reservation to the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Maputo Protocol) by demonstrating that sexual violence has been used as a weapon of conflict and as general criminal acts.

![Religious leaders on the 2nd forum on SRHR](Photo courtesy: KNCHR)
4.1.4 Monitoring adherence to eviction and internal displacement laws and policies by state and non-state actors

Internal displacement of persons in Kibra, Kijiji, Njukuni-Taveta and Marigat

Human Rights and Development are synonymous. The Government of Kenya has targeted Infrastructure development as one of its key big four agenda to spur economic development. This includes road, rail and housing construction etc. However, this has at times come with a number of human rights violations by State agencies and private sector developers. The National Commission engaged in a number of redress mechanisms; through ADR mechanisms and also judicial remedies to protect fundamental human rights for the internally displaced persons in Kibra and Kijiji (deep sea) informal settlements in Nairobi who were victims of evictions to pave way for road construction namely; Kibera-Kun’gu Karumba-Langata link road and Westland’s deep sea slum area. These evictions caused the displacement and destruction of livelihoods of thousands of residents rendering them destitute with lack of basic amenities such as shelter, food, water, medical services.

**Above**: A demolished house structure that leads to internal displacement of persons. (Photo courtesy: KNCHR)

The National Commission also intervened in land disputes which led to evictions and wanton destruction of property against the residents of Baringo and Taita-Taveta Counties. The unhealthy contestation by private developers, State agencies and communities with regard to land ownership continues to violate human rights in Kenya. The evictees of Baringo and Taita-Taveta are just but a few with such serious problem.
KNCHR provided advice on the human rights based approach to be applied in the removal of persons from their habitual residences for purposes of development with specific emphasis on the use and respect of the law on internal displacement which calls for development of resettlement action plans before any eviction exercise is carried out. Such plans will guide on profiling of affected persons/communities and further provide for meaningful adequate compensation where necessary.

Above: The Internally Displaced Persons’ camp where the affected population prepare their food in open and dusty areas.

4.2 Recognition and integration of human rights in various business entities and practices

4.2.1 Development of national action plan and policy on business and human rights

The National Commission takes cognisant of economic development for economic and social rights to be realised by the Government of Kenya and its people.

Further to this the national commission in partnership with the Office of the AG and other stakeholders are in the process of developing the national action plan and policy on business and human rights. This plan and policy emphasises on the following five (5) themes: Land, Environment, Labour, Revenue transparency and Management and Access to remedy.
The development of these themes was a result of public participation through forums targeting Small and Medium Enterprises (SMEs) in manufacturing, extractive industries, traders and also consumers in selected parts of the country.

The development of the National Action Plan (NAP) will seek to protect and promote human rights in businesses hence accelerating economic growth which will in turn fast track the achievement of Kenya’s Vision 2030 and also be in line with the global SDGs. The NAP process has attracted both regional and international interests thus the National Commission was invited by the Office of the High Commissioner on Human Rights (OHCHR), the Government of Uganda and the UN to Kampala and Geneva to share practical and practise based recommendations in the development of the policy. These meetings benefited African countries especially NHRIs that seek to promote SDGs in the spirit of leaving no one behind.


The National Commission is also partnering with development agencies such as UNDP and the Swedish Environmental Protection Agency (SEPA) in the development of a Strategic Environmental & Social Assessment (SESA) which targets Mining companies, County government, CSOs and
members of the public to promote and protect Human Rights of host communities with an emphasis on promotion and protection with the inclusion of women, children, marginalised and minority communities in decision making on development agendas.
5. **TO ENHANCE THE EFFICIENCY AND EFFECTIVENESS OF KNCHR**

This strategic objective focuses mainly on activities and initiatives that the KNCHR undertook to help deliver its mandate in a more effective and efficient manner. It highlights the Commission’s roles and tasks as accomplished through various modes of engagement undertaken through partnerships and membership in the various taskforce and committees of which KNCHR is a member. This objective will also focus on; enabling skills as acquired through training of staff or partners, the innovations (survey and technological) that shaped service delivery during the reporting period.

5.1 **High international and national reputation**

During the reporting period, the National Commission received several delegations and mission visits for study visits and benchmarking tours. The key visits are listed below:

Table 2: Delegations and Mission Visits to Kenya National Commission on Human Rights

<table>
<thead>
<tr>
<th>No.</th>
<th>Delegation/Mission/Visits</th>
<th>Date</th>
<th>Financial Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Turkish Media Students visit to KNCHR</td>
<td>25th August, 2017</td>
<td>2017/2018</td>
</tr>
<tr>
<td>2.</td>
<td>Africa NHRI Monitoring &amp; Evaluation delegates courtesy visit and launch of the report “Reflections in the Mirror” at KNCHR</td>
<td>31st August 2017</td>
<td>2017/2018</td>
</tr>
<tr>
<td>3.</td>
<td>International Organization for Migration (IOM) visit to KNCHR for signing of MOU</td>
<td>14th December 2017</td>
<td>2017/2018</td>
</tr>
<tr>
<td>5.</td>
<td>Swaziland Commission on Human Rights &amp; Public Administration Study visit to KNCHR</td>
<td>26th to 29th June 2018</td>
<td>2017/2018</td>
</tr>
</tbody>
</table>

**Champions of Governance Award**

The National Commission was awarded the National 2017 Champions of Governance Award under the Constitutional Commissions category in Kenya. This award benchmarks organizations that pride themselves in upholding practices of good governance and recognize the value that good governance brings to their work.
5.2 Strategic partnerships

The National Commission continued to strengthen its existing partnership with human rights referral partners’ network at both national and regional offices through the Integrated Public Complaints Referral Mechanism, Ministry of Health and various Parliamentary Committees. The National Commission also enhanced its partnership base with both State and non-State actors. The National Commission established twenty (20) CSO platforms to leverage engagements between CSOs and State actors for greater human rights promotion at grass root level.

In addition, the National Commission entered into MOUs with the following organisations to enhance collaboration towards the protection and promotion of human rights.

<table>
<thead>
<tr>
<th>No.</th>
<th>Organization</th>
<th>Purpose</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Network of African National Human Rights Institutions (NANHRI)</td>
<td>Hosting of the NANRHI Secretariat</td>
<td>5 years</td>
</tr>
<tr>
<td>2.</td>
<td>Kenya National Bureau of Statistics (KNBS)</td>
<td>Data collection, Disaggregation, Dissemination and Analysis.</td>
<td>5 years</td>
</tr>
<tr>
<td>3.</td>
<td>Media Council of Kenya (MCK)</td>
<td>Development of a training manual and training for media practitioners on human rights and security.</td>
<td>2 years</td>
</tr>
<tr>
<td>4.</td>
<td>International Organization for Migration (IOM)</td>
<td>Cooperation in areas of common interest - youth Information. Counselling and referral services, employment opportunities.</td>
<td>Open</td>
</tr>
</tbody>
</table>

Success Story on Partnership

KNCHR and KNBS

The National Commission entered into a memorandum of understanding with the Kenya National Bureau of Statistics (KNBS) on 26th July 2017 which set out the framework of collaboration between the National Commission and KNBS on collection, disaggregation, dissemination and analysis in light of human rights and the 2030 sustainable development agenda. KNCHR and KNBS agreed to: Identify and compile contextually relevant indicators and development of associated metadata drawing from guidance on human rights indicators developed by the Office of the High Commissioner for Human Rights; collect, analyse, share and publish data disaggregated by grounds of discrimination prohibited by international human rights law; and publish joint reports or analysis on an agreed schedule presenting data on human rights.
5.3 Leveraging on technology

The National Commission continued to leverage on ICT through developing systems that enhance human rights protection and promotion processes. In the reporting period, KNCHR developed and deployed the Election Management System (EMS) whose overarching objective was to enhance credibility of the data collection process through capturing an accurate account of the events as they unfold through an auditable, transparent and secure manner. The EMS was to be deployed in all the three key election phases i.e. the party primaries, campaigns and the polling period with hindsight on the post-poll scenarios.

The EMS integrated various data collection and analysis tools that were tailor-made for the specific stages/phases of the electoral cycle. Data was captured in form of images, audios, videos and documents received from the field monitors and was uploaded onto the elections monitoring portal for verification, in-depth analysis and timely follow up on electoral malpractices and human rights incidences recorded. The team of 259 monitors comprising of 139 full-time field monitors and 120 personnel of the National Commission was taken through an intensive training on the EMS components and appraised them on the basic data collection requisite tools.

Further to augment the system, other technologies deployed included rolling out a Toll-free line 0800 720 627, SMS platform 22359, Social media; Twitter and Facebook, the Commission corporate website (www.knchr.org), a dedicated election email: elections2017@knchr.org and Signal App and GoAnywhere encryption software for sending and receiving highly sensitive information.
## 5.4 Resource Mobilisation

In the reporting year 2017/2018 the National Commission was funded by the Government of Kenya and Development partners; with GOK providing 68% of the total funds as presented below:

<table>
<thead>
<tr>
<th></th>
<th>2017/2018</th>
<th>2016/17</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>KSh</td>
<td>% contribution</td>
</tr>
<tr>
<td>Government of Kenya</td>
<td>398,766,234</td>
<td>68%</td>
</tr>
<tr>
<td>Development Partners</td>
<td>190,659,198</td>
<td>32%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>589,425,432</td>
<td>100%</td>
</tr>
</tbody>
</table>

In 2017/2018 the National Commission received grants earmarked for various programs from the following bilateral and multilateral development partners Royal Norwegian Embassy; German Embassy; Royal Netherlands Embassy, European Union; Open Society for Eastern Africa; Freedom House; UNDP and Royal Danish Embassy (DANIDA)/ URAIA.

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**Success Story on Technology and Elections Monitoring**

**Technology and Elections Monitoring**

The following list highlights some of the benefits accrued from deployment of the Election Management System (EMS) in election monitoring:

1. The ability of receive and analyse the status of each region (hotspot) through the hourly and daily filing of reports by monitors and staff.
2. The system ensured that the hub team verified information for accuracy and credibility.
3. The ability to provide timely interventions directly or through other Government agencies such as the security agents and IEBC.
4. Dissemination of information to the monitors was done centrally through the election monitoring system.
5. The ability to monitor the work of each monitor independently to ensure value for money.
6. Through election management system, the Commission documented over 2000 field events, collected over 3000 images, audio, videos as part of its evidence. Further, during the polling day KNCHR monitored about 11,000 polling stations out of the available 44,000.
7. Through the data collected KNCHR developed and published four major reports that include *Fallacious Vote, Mirage at Dusk, Still a Mirage at Dusk* and *Sexual and Gender Based Violence* Report.
8. Through the emerging trends from the election monitoring system the Commission developed several memorandums such as the memorandum to the Ministry of Education on the use on children in election related activities.
6. CHALLENGES

During the reporting period of 2017/2018 the National Commission faced numerous challenges with regard to implementation of its mandate. The main challenges can be summed up as follows:

1. Decreased consolidated funds: Despite the National Commission being a Constitutional body that should be adequately funded as provided by Article 249 of the Constitution of Kenya, it has continued to experience inadequate funding by the government exchequer thus unable to dispense on its core mandate as established by law. It continues to suffer low Human Resource with only 50% (106) of the recommended staff establishment of 205.

2. Limited regional presence/accessibility: KNCHR has only five (5) Regional Offices and its Headquarters in Nairobi. The Regional Offices are located in Kitale (North Rift Region), Wajir (North Eastern), Mombasa (Coast Region), Nyahururu (Central Region) and Kisumu (Western Kenya). This limits accessibility of the National Commission to other regions where the National Commission has no presence.

3. Highly charged political environment: In the period leading to and during the 2017 General Election, the National Commission operated in a highly politicized environment which made the implementation of the Commission’s mandate difficult due to insecurity. Due to this difficulty, many human rights violations were reported but with little or no redress by state agencies such as the National Police Service due to fear of political reprisals.

4. Non-responsiveness or limited response of duty bearers and other agencies: Despite constructive and positive engagement and providing evidence-based complaints of human rights violations, the National Commission experienced a high degree of non-responsiveness by duty bearers on their roles to promote human rights and holding individuals accountable for their omissions or commissions that violated human rights.

5. Implementation of economic cultural and social rights: The National Commission commends the Government for recognising Article 43 rights as a key driver to development through the introduction of the Big Four, free maternal health care, social assistance for the poor and most vulnerable. However, the National Commission is concerned with the increasing cost of living which has negatively affected families especially those in informal settlements in urban areas and rural areas.
6. Delayed resolution of complaints and obstruction of justice: Lack of cooperation from some public and private institutions made it very difficult for the National Commission to conduct its work, especially resolution of complaints.
PART II- RECOMMENDATIONS
7. **RECOMMENDATIONS**

Key recommendations are presented below:

1. The National Commission calls on Parliament to strictly enforce Article 249 (3) which obligates it to allocate adequate funds to enable the Commission to deliver on its Mandate as espoused by the Kenya National Commission Act 2011 (revised 2012); this is also in line with the Belgrade principles which requires that Parliament protects National human rights institutions by guaranteeing independence and adequate resources.

2. Parliament should secure the appointment of the remaining Commissioner as required under the KNCHR Act which provides for four (4) Commissioners and a Chairperson. Since 2014, the National Commission has had only three Commissioners and the Chairperson in place.

3. As a National Commission, we commend the State for ratifying key human rights treaties which impose upon Kenya the obligation to respect, protect, fulfil and promote human rights for all. The treaties create reporting obligations on Kenya with respect to steps taken to implement the provisions of the various regional and international instruments. The National Commission calls on the State to ratify the remaining several Treaties and Optional Protocols with regards to human rights which are under the purview of the AG.

4. The National Commission calls on Parliament to debate on and enforce reports on Human Rights violations committed during the 2017 General Elections period as submitted to it by the Commission. These include ‘Silhouettes of Brutality-AN ACCOUNT OF SEXUAL VIOLENCE DURING AND AFTER THE 2017 GENERAL ELECTIONS’ and ‘Mirage at Dusk - A HUMAN RIGHTS ACCOUNT OF THE 2017 GENERAL ELECTION’ reports.

5. The National Commission strongly recommends implementation of the Prevention of Torture Act and National Coroners Act that were recently enacted into law. The Independent Policing and Oversight Authority (IPOA) and the National Police Service must thoroughly investigate extrajudicial killings and enforced disappearances and those found culpable held accountable. The National Commission also strongly urges the State to ratify the *Convention for the Protection of All Persons from Enforced Disappearance*. 


6. Parliament should seek to enforce Article 43 rights to guarantee dignity of all Kenyans. This includes right to highest attainable standard of health, accessible and adequate housing and reasonable standards of sanitation, clean and safe water and to be free from hunger.

7. The National Commission notes that there is an urgent need to adopt the national Policy on Public Participation and enact legislation on the same. This will guarantee Article 10 of the Constitution of Kenya on the national values and principles of governance.

8. The National Commission recommends the development of a policy framework on comprehensive reparations as recommended for by the Truth, Justice and Reconciliation Commission (TJRC) Report including on the Restorative Justice Fund, restitution and rehabilitation.
PART III - FINANCIAL STATEMENTS
8. FINANCIAL STATEMENTS 2017/2018

8.1 Statement of compliance

The National Commission confirms that the institution ascribes to its obligations as a National Human Rights Institution in compliance with its statutory mandate. The National Commission is in compliance with CoK as well as relevant statutes such as the Public Finance Management Act 2012, The Public Procurement & Asset Disposal Act 2015, Employment Act 2007 and Occupational Safety & Health Act 2007.

The National Commission is committed to high standards of ethics and is in compliance with relevant statutes such as the Leadership & Integrity Act, 2012 and Public Officers Ethics Act, 2003.

8.2 Commission composition

The governing body of the National Commission comprises of a Chairperson and four other members appointed in accordance with the Constitution and the provisions of the Kenya National Commission on Human Rights Act No. 2011 (Revised 2012). During the financial year under review, four members and the secretary to the Commission were in office as indicated in the table below.

Table 3: Composition of the National Commission 2017/18

<table>
<thead>
<tr>
<th>Commission Member</th>
<th>Designation</th>
<th>Appointment Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kagwiria Mbogori</td>
<td>Chairperson</td>
<td>4 March 2014</td>
</tr>
<tr>
<td>George Morara Monyoncho</td>
<td>Commissioner &amp; Vice chairperson</td>
<td>4 March 2014</td>
</tr>
<tr>
<td>Suzanne Shatikha Chivusia</td>
<td>Commissioner</td>
<td>4 March 2014</td>
</tr>
<tr>
<td>Jedidah Wakonyo Waruhiu</td>
<td>Commissioner</td>
<td>4 March 2014</td>
</tr>
<tr>
<td>*Patricia Mande Nyaundi</td>
<td>Secretary to the National Commission/ Chief Executive Officer</td>
<td>15 December 2012 to 4 December 2017</td>
</tr>
<tr>
<td>*Dr Bernard M Mogesa</td>
<td>Secretary to the National Commission/ Chief Executive Officer</td>
<td>5 December 2017</td>
</tr>
</tbody>
</table>
9.1 Auditor General’s report on the financial statements for the year ended 30 June 2018
OFFICE OF THE AUDITOR-GENERAL

REPORT OF THE AUDITOR-GENERAL ON KENYA NATIONAL COMMISSION ON HUMAN RIGHTS FOR THE YEAR ENDED 30 JUNE 2018

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of Kenya National Commission on Human Rights set out on pages 25 to 54, which comprise the statement of assets and liabilities as at 30 June 2018, and the statement of receipts and payments, statement of cash flows and summary statements of appropriation – recurrent, development and combined for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. 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.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Kenya National Commission on Human Rights as at 30 June 2018, 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 the Kenya National Commission on Human Rights Act, 2011 and the Public Finance Management Act, 2012.

Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Kenya National Commission on Human Rights in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no Key Audit Matters to communicate in my report.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7 (1) (a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 1315 and ISSAI 1330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and governance were maintained in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and Those Charged with Governance

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 maintaining effective 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 and for its assessment of the effectiveness of internal control, risk management and governance.

In preparing the financial statements, management is responsible for assessing the Commission’s ability to sustain services, disclosing, as applicable, matters related to


2
sustainability of services and using the applicable basis of accounting unless the management either intends to cease operations, or have no realistic alternative but to do so.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective manner.

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how the entity monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

**Auditor-General's Responsibilities for the Audit**

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor’s report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective manner, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7 (1) (a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or
operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISAs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.

- Conclude on the appropriateness of the management’s use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission’s ability to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor’s report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Commission to cease to continue as a going concern or to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Commission to express an opinion on the financial statements.

- Perform such other procedures as I consider necessary in the circumstances.
I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.

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

Nairobi

22 January 2019
**STATEMENT OF RECEIPTS AND PAYMENTS**

<table>
<thead>
<tr>
<th>Note</th>
<th>Description</th>
<th>2017-2018</th>
<th>2016-2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Ksh</td>
<td>Ksh</td>
</tr>
<tr>
<td>1</td>
<td>Proceeds from Domestic and Foreign Grants</td>
<td>190,659,198</td>
<td>116,485,764</td>
</tr>
<tr>
<td>2</td>
<td>Exchequer releases</td>
<td>398,766,234</td>
<td>416,145,000</td>
</tr>
<tr>
<td>3</td>
<td>Other Receipts</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL RECEIPTS</strong></td>
<td><strong>589,425,432</strong></td>
<td><strong>532,630,764</strong></td>
</tr>
<tr>
<td>4</td>
<td>Compensation of Employees</td>
<td>223,400,538</td>
<td>204,019,793</td>
</tr>
<tr>
<td>5</td>
<td>Use of goods and services</td>
<td>128,377,737</td>
<td>164,906,382</td>
</tr>
<tr>
<td>6</td>
<td>Transfers to Other Government Units</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>7</td>
<td>Other grants and transfers</td>
<td>28,440,825</td>
<td>1,526,407</td>
</tr>
<tr>
<td>8</td>
<td>Social Security Benefits</td>
<td>9,753,714</td>
<td>7,151,476</td>
</tr>
<tr>
<td>9</td>
<td>Acquisition of Assets</td>
<td>11,655,944</td>
<td>7,337,200</td>
</tr>
<tr>
<td></td>
<td>Contribution in Kind</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>10</td>
<td>Other Payments- Donors</td>
<td>187,751,704</td>
<td>95,321,632</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL PAYMENTS</strong></td>
<td><strong>589,380,462</strong></td>
<td><strong>480,262,890</strong></td>
</tr>
<tr>
<td></td>
<td><strong>SURPLUS/DEFICIT</strong></td>
<td><strong>44,970</strong></td>
<td><strong>52,367,874</strong></td>
</tr>
</tbody>
</table>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved by the Commission on 17th September 2018 and signed by:

______________________________  ________________________________
Commission Secretary                      Ag. Finance Manager
Dr. Bernard Mogesa                                          Doris Alomba Mundia
   I ICPAK Member Number: 8073
## STATEMENT OF ASSETS AND LIABILITIES

<table>
<thead>
<tr>
<th>Note</th>
<th>2017-2018</th>
<th>2016-2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ksh</td>
<td>Ksh</td>
</tr>
</tbody>
</table>

### FINANCIAL ASSETS

#### Cash and Cash Equivalents

<table>
<thead>
<tr>
<th>Description</th>
<th>Note</th>
<th>2017-2018</th>
<th>2016-2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank Balances</td>
<td>11A</td>
<td>115,942,974</td>
<td>116,197,965</td>
</tr>
<tr>
<td>Cash Balances</td>
<td>11B</td>
<td>200,000</td>
<td></td>
</tr>
<tr>
<td>Cash Equivalent</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Cash and cash equivalent</strong></td>
<td></td>
<td>115,942,974</td>
<td>116,397,965</td>
</tr>
<tr>
<td>Deposits</td>
<td>17.4</td>
<td>7,940,608</td>
<td>7,940,608</td>
</tr>
<tr>
<td>Accounts receivables – Outstanding</td>
<td></td>
<td>1,471,969</td>
<td>1,145,134</td>
</tr>
<tr>
<td>Imprests</td>
<td>13</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Staff Debtors</td>
<td></td>
<td>147,272</td>
<td></td>
</tr>
<tr>
<td><strong>Total Financial Assets</strong></td>
<td></td>
<td>125,502,823</td>
<td>125,483,707</td>
</tr>
</tbody>
</table>

### FINANCIAL LIABILITIES

#### Accounts Payables – Deposits and retentions

<table>
<thead>
<tr>
<th>Description</th>
<th>Note</th>
<th>2017-2018</th>
<th>2016-2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>14</td>
<td>565,443</td>
<td>591,297</td>
</tr>
<tr>
<td><strong>NET FINANCIAL ASSETS</strong></td>
<td></td>
<td>124,937,380</td>
<td>124,892,410</td>
</tr>
</tbody>
</table>

### REPRESENTED BY

#### Fund balance b/fwd

<table>
<thead>
<tr>
<th>Description</th>
<th>2017-2018</th>
<th>2016-2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund balance b/fwd</td>
<td>124,892,410</td>
<td>72,524,535</td>
</tr>
</tbody>
</table>

#### Surplus/Deficit for the year

<table>
<thead>
<tr>
<th>Description</th>
<th>2017-2018</th>
<th>2016-2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surplus/Deficit for the year</td>
<td>44,970</td>
<td>52,367,874</td>
</tr>
</tbody>
</table>

**NET FINANCIAL POSITION**

<table>
<thead>
<tr>
<th>Description</th>
<th>2017-2018</th>
<th>2016-2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>NET FINANCIAL POSITION</td>
<td>124,937,380</td>
<td>124,892,410</td>
</tr>
</tbody>
</table>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved by the Commission on 17th September 2018 and signed by:

__________________________  __________________________
Commission Secretary        Ag. Finance Manager
Dr. Bernard Mogesa          Doris Alomba Mundia

ICPAK Member Number: 8073
## STATEMENT OF CASH FLOWS

<table>
<thead>
<tr>
<th></th>
<th>2017-2018 (Ksh)</th>
<th>2016-2017 (Ksh)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Receipts for operating income</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proceeds from Domestic and Foreign Grants</td>
<td>190,659,198</td>
<td>116,485,764</td>
</tr>
<tr>
<td>Exchequer Releases</td>
<td>398,766,234</td>
<td>416,145,000</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td><strong>Payments for operating expenses</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compensation of Employees</td>
<td>(223,400,538)</td>
<td>(204,019,793)</td>
</tr>
<tr>
<td>Use of goods and services</td>
<td>(128,377,737)</td>
<td>(164,906,382)</td>
</tr>
<tr>
<td>Transfers to Other Government Units</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Other grants and transfers</td>
<td>(28,440,825)</td>
<td>(1,526,407)</td>
</tr>
<tr>
<td>Social Security Benefits</td>
<td>(9,753,714)</td>
<td>(7,151,476)</td>
</tr>
<tr>
<td>Other Expenses- Donors</td>
<td>(187,751,704)</td>
<td>(95,321,632)</td>
</tr>
<tr>
<td><strong>Adjusted for:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Changes in receivables</td>
<td>(474,107)</td>
<td>-9,085,742</td>
</tr>
<tr>
<td>Changes in payables</td>
<td>(25,854)</td>
<td>591,297</td>
</tr>
<tr>
<td><strong>Net cash flow from operating activities</strong></td>
<td>11,200,953</td>
<td>51,210,629</td>
</tr>
</tbody>
</table>

**CASHFLOW FROM INVESTING ACTIVITIES**

|                         |                |                |
| Acquisition of Assets   | (11,655,944)   | (7,337,200)    |
| **Net cash flows from Investing Activities** | (11,655,944) | (7,337,200) |

**CASHFLOW FROM BORROWING ACTIVITIES**

|                         |                |                |
| Net cash flow from financing activities | 0        | 0              |

**NET INCREASE IN CASH AND CASH EQUIVALENT**

|                         |                |                |
| Cash and cash equivalent at BEGINNING of the year | 116,397,965 | 72,524,535 |
| **Cash and cash equivalent at END of the year** | 115,942,974 | 116,397,965 |

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved by the Commission on 17th September 2018 and signed by:

__________________________  ____________________________
Commission Secretary        Ag. Finance Manager
Dr. Bernard Mogesa           Doris Alomba Mundia | ICPAK Member Number: 8073