



CONSTITUTIONAL COMMISSIONS
AND INDEPENDENT OFFICES

CC1  TH
Anniversary

**TAKING
STOCK**

Celebrating a Decade of Promoting Constitutionalism and Observance of Democratic Values
and Principles by Constitutional Commissions and Independent Offices

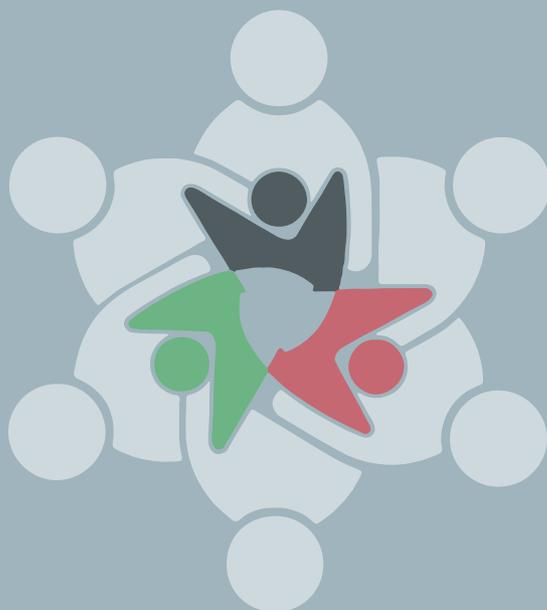


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LIST OF ACRONYMS

| | |
|------------------|---------------------------------------------------------------------|
| AAEA | Association of African Election Authorities |
| ADR | Alternative Dispute Resolution Mechanism |
| ADR | Alternative Dispute Resolution |
| AFROSAI-E | African Organisation of English-speaking Supreme Audit Institutions |
| AMS | Audit Management System |
| AOMA | African Ombudsman and Mediators Association |
| APS | Administration Police Service |
| APSD | Africa Public Service Day |
| ATI | Access to Information |
| AUC | African Union Commission |
| BROP | Boundaries Review Operation Plan |
| BVR | Biometric Voter Registration |
| CAJ | Commission on Administrative Justice |
| CBA | Collective Bargaining Agreement |
| CBAs | Collective Bargaining Agreements |
| CBEFs | County Budget Economic Forums |
| CCI | County Creditworthiness Initiative |
| CCIO | Constitutional Commissions and Independent Offices |
| CDMRS | Central Data Management and Referral System |
| CEM | County Election Manager |
| CIC | Commission for the Implementation of the Constitution |
| COBMIS | Controller of Budget Management Information System |
| CPA | Certified Public Accountant |
| CPST | Center for Parliamentary Studies |
| CRA | Commission on Revenue Allocation |
| CRMS | Candidate Registration Management System |
| DCI | Directorate of Criminal Service |
| DPA | Department of Political Affairs |
| EACC | Ethics and Anti-Corruption Commission |
| EDMS | Electronic Document Management System |
| EMB | Election Management Bodies |
| FiRe | Financial Reporting |
| FPE | Free Primary Education |
| GoK | Government of Kenya |

| | |
|----------------|---------------------------------------------------------|
| GRB | Gender Responsive Budgeting |
| HLIs | Historical Land Injustices |
| ICRMS | Integrated County Revenue Management System |
| ICT | Information & Communication Technologies |
| IEBC | Independent Electoral and Boundaries Commission |
| IEC | Information, Education and Communication |
| IOI | International Ombudsman Institute |
| ISSAIs | International Standards of Supreme Audit Institutions |
| JSC | Judicial Service Commission |
| KEGOSES | Kenya Governors Strategic Execution Support |
| KICC | Kenyatta International Convention Center |
| KIEMS | Kenya Integrated Election Management System |
| KIPPRA | Kenya Institute for Public Policy Research and Analysis |
| KLRC | Kenya Law Reform Commission |
| KNBS | Kenya National Bureau of Statistics |
| KNUT | Kenya National Union of Teachers |
| KPS | Kenya Police Service |
| KSG | Kenya School of Government |
| LAPSSET | Lamu Port, South Sudan, Ethiopia Transport Corridor |
| LSK | Law Society of Kenya |
| M&E | Monitoring and Evaluation |
| MCA | Member of County Assembly |
| MDAs | Ministries Departments and Agencies |
| MTP | Medium Term Plan |
| NCIC | National Cohesion and Integration Commission |
| NGEC | National Gender and Equality Commission |
| NLC | National Land Commission |
| NLUP | National Land Use Policy |
| NPS | National Police Service |
| NSP | National Spatial Plan |
| OAG | Office of the Attorney General |
| OAG | Office of the Auditor General |
| ODPP | Office of the Director of Public Prosecutions |
| PAC | Public Accounts Committee |
| PAPs | Project Affected Persons |
| PC | Performance Contracting |



| | |
|---------------|--------------------------------------------------------------|
| PEV | Post Election Violence |
| PFM | Public Finance Management |
| PFMR | Public Finance Management Reforms |
| PSEA | Public Service Excellence Awards |
| PSELF | Public Service Emerging Leaders Fellowship Programme |
| PSIP | Public Service Internship Programme |
| SAIPMF | Supreme Audit Institutions Performance Measurement Framework |
| SIGs | Special Interest Groups |
| SPAS | Staff Performance Appraisal System |
| SRC | Salaries and Remuneration Commission |
| TDR | Traditional Dispute Resolution |
| TPAD | Teacher Performance, Appraisal and Development |
| TPD | Teacher Professional Development |
| TSC | Teachers Service Commission |
| UK | United Kingdom |
| UNDAF | United Nations Development Assistance Framework |
| UNDP | United Nations Development Programme |
| UNICEF | United Nations International Children's Emergency Fund |
| UPR | Universal Periodic Review |
| USA | United States of America |
| USAID | United States Agency for International Development |
| WBG | World Bank Group |
| WWF | World Wildlife Fund |

MESSAGE FROM THE CHAIRPERSON

The Constitutional Commissions and Independent Offices (CCIOs) were established by the Constitution of Kenya, 2010, to not only discharge their specific individual mandates as stipulated under Article 249(1) of the Constitution, but to also meet the common objective of protecting the sovereignty of the people of Kenya, securing observance by all State organs of democratic values and principles and promoting constitutionalism.

Under this common objective as defined under Chapter 15 of the Constitution, the chairpersons of CCIOs decided to establish a collaborative and consultative forum to provide an avenue for collaboration and consultation without compromising the independence of each of the institutions.

Established under Chapter 15 of the Constitution, the CCIOs include, the Kenya National Human Rights and Equality Commission; the National Land Commission (NLC); the Independent Electoral and Boundaries Commission (IEBC); the Parliamentary Service Commission (PARLSCOM); the Judicial Service Commission (JSC); the Commission on Revenue Allocation (CRA); the Public Service Commission (PSC); the Salaries and Remuneration Commission (SRC); the Teachers Service Commission (TSC); and the National Police Service Commission (NPSC). The independent offices are, the Auditor-General and the Controller of Budget.

There are other statutory commissions and independent offices whose work is crucial and complementary to the CCIOs. They include, the Ethics and Anti-Corruption Commission (EACC); the National Cohesion and Integration Commission (NCIC); Kenya Law Reform Commission (KLRC); Independent Policing Oversight Authority (IPOA); Inspector General of Police (IG); and Office of the Attorney General and Department of Justice (OAG-DoJ).

To fulfil their individual and collective mandates, this forum needed to hold regular consultative meetings to discuss how best to discharge their responsibilities and to explore ways and means of strengthening their partnerships to enhance their oversight roles. Every year the forum holds a congress to take stock of progress made in policy, legal and regulatory reforms, in addition to reviewing the development of related institutional frameworks.

The congress provides an opportunity to enhance a better understanding of the roles of these offices, as they deliver services at the national and county government levels. Further, the CCIOs discuss ways of handling challenges they are facing in carrying out their respective mandates.

The forum has held eight congresses in different parts of the country in line with the spirit of devolution, with Kwale hosting the first congress in 2012. Mombasa hosted the second congress in 2013, Kisumu in 2014, Uasin Gishu in 2015, Nairobi in 2016, Nyeri in 2017 and Meru in 2018. The 8th Annual Congress was held in Kericho County in October 2019.

To celebrate 10 years since the establishment of the forum, all CCIOs evaluated their performance as conferred to them by the Constitution and other statutes, and as highlighted in this compendium, themed 'Taking stock'. This compendium also highlights the CCIOs strategic direction for the next 10 years and aligning them to the governments' blueprints.

As the Chairman of the forum of CCIOs, I am pleased to note the tremendous effort that all CCIOs have contributed to this forum. I also laud the many achievements made over the past decade despite the challenges. To enhance the delivery of our mandates, we call on partners and stakeholders to continue providing support that will enable citizens reap maximum benefits from our services.

We thank His Excellency the President, Hon. Uhuru Kenyatta, all arms of Government and Kenyans for entrusting the CCIOs with the role of protecting the sovereignty, democratic values and principles, and promoting constitutionalism.



**Gershom Otachi
Bw'Omanwa**

*Chairman, National Land
Commission and
Chairperson, Constitutional
Commissions and Independent
Offices Forum*

FOREWORD

The country is witnessing a historic moment as Constitutional Commissions and Independent Offices (CCIOs) commemorate the tenth anniversary of the establishment of their forum. These institutions, created by Chapter 15 of the Constitution, have been instrumental in championing, among other things, the protection of the sovereignty of the Kenyan people, securing the observance by all State organs of democratic values and principles, and promoting constitutionalism.

The 10th Anniversary of the forum of Chairpersons of CCIOs, therefore, is a reflection of the splendid service that the institutions have selflessly rendered to the citizens amid a myriad of challenges. Indeed, the theme of 'Celebrating a Decade of Promoting Constitutionalism and Observance of Democratic Values and Principles', aptly captures the collective agenda that the CCIOs have been constantly promoting.

Taking Stock

This Anniversary should not only be a celebratory moment; but also an opportunity to jointly reflect and take stock on the journey travelled so far, milestones reached and possible lessons learnt along the way.

The Government is aware of some of the challenges that CCIOs experience and is continuing provide possible interventions. This includes putting in place mechanisms to address financial shortfalls as well as ensuring that there is a conducive environment for the CCIOs to operate in.

My clarion call is for all CCIOs to aspire to positively impact and improve the lives of the Kenyan people. Let each one of you be an ambassador of good governance, human rights and justice to all citizens. I call upon you to focus on safeguarding the sovereignty of Kenyans by championing democracy and upholding good values and principles.

Indeed, as you commemorate these 10 remarkable years since the creation of the forum, the Government urges you to continue protecting not just the sovereignty but also advocating for equality and equity in Kenya. As a Government, we pledge to continue walking hand-in-hand through this journey with you for the good of the citizens.

Congratulations once again and happy 10th Anniversary!



Dr. Joseph Kinyua, EGH

*Head of Public Service,
Executive Office of the President,
Cabinet Affairs Office*

ACKNOWLEDGMENT

I wish to extend deep appreciation to the Chairpersons of Constitutional Commissions and Independent Offices (CCIOs) for the exemplary services rendered in the past decade. Public service embodies the spirit of patriotism, dedication, and commitment to serve our great nation, while upholding the spirit of the Constitution.

We recognise and appreciate the pioneer chairpersons and commissioners for laying the foundation for the forum. The positive trajectory on which you have set the forum reflects your legacy. This has enhanced partnerships and collaborations in delivering effective and efficient services to the people of Kenya.

We appreciate the second generation chairpersons for sustaining and collectively raising the bar in their respective institutions. The Executive, Parliament and Judiciary have a special place in the history and success of CCIOs. We recognise and salute their invaluable contribution in the establishment and support to our institutions. We extend similar gratitude to the national and county governments for their role in facilitating the implementation of our mandates.

We owe immense gratitude to our development partners for their friendship and support during the formative stages and for continuing to walk and work with us in our journey. We also appreciate Kenyans for ensuring we uphold transparency and accountability in exercising our duties. We thank and encourage you to continue playing the critical civilian oversight role that is essential to

entrenching the rule of law, constitutionalism and good governance. We promise to continue reaching out to and listening to you.

The forum thanks the secretariats of all CCIOs for their invaluable service to the citizens and their support to the Chairpersons. Special mention goes to the Technical Committee of the Forum for the great sacrifice, diligence, professionalism towards the Chairpersons' Forum and the tenth anniversary commemoration of the CCIOs forum.

May justice be our shield and defender!



Hon. Florence Kajuju, MBS,
Chairperson, Commission on Administrative Justice (Office of the Ombudsman) and Vice-Chairperson, Constitutional Commissions and Independent Offices Forum



Hata Mnyonge ana Haki



Hon. Florence Kajuju, MBS

Chairperson,
Commission on Administrative Justice

About the Commission on Administrative Justice (Office of the Ombudsman)

The Commission on Administrative Justice (CAJ) also known as the Office of the Ombudsman is anchored on Article 59(4) and Chapter Fifteen of the Constitution and established vide the Commission on Administrative Justice Act, 2011. The Mandate of the Commission is two-fold and entails the enforcement of administrative justice in the public sector under the constitutive Act and promotion of the right to information, where it oversees and enforces the implementation of the Access to Information Act, 2016.



H.E. President Uhuru Kenyatta awards Ms. Hellen Nechesa Machuka, Principal, Kombeni Girls' during the first Huduma Ombudsman Award ceremony in 2014



The pioneer Commissioners were appointed in September 2011 and exited in 2017, while second-generation Commissioners assumed office on 2nd August 2018 and comprises: Hon. Florence Kajuju, Chairperson; Mr. Washington Opiyo Sati, Vice-Chairperson; Mrs. Lucy Ndungu, Commissioner, Access to Information.

The Secretariat is headed by Ms. Mercy Kalondu Wambua, who is the Commission Secretary/CEO of the Commission.

The Commission is based at Headquarters in Nairobi and has five branch offices in Mombasa, Kisumu, Eldoret, Isiolo, and Nyahururu. It also has Ombudsman Service Desks in 12 Huduma Centres.

The Vision, Mission and Core Values of the Commission are: -

Vision: A society that upholds administrative justice and access to information.

Mission: To enforce administrative justice and access to information through complaints resolution and public education for efficient and effective service delivery.

Core Values: Responsiveness, Independence, Fairness, Transparency, Integrity.

Critical Milestones for the last 10 years

Since its inception, the Commission as an oversight body has achieved notable milestones towards the promotion of administrative justice and the right to information as follows: -

1. Dispensed and upheld administrative justice through timely resolution of complaints against public institutions on maladministration and determination of the application for review on access to information. In this regard, the Commission has handled over 800,000 complaints and 300 Access to Information (ATI) applications for review. Some of the success stories on resolved complaints include:



- a. Release of DNA results on the Pumwani stolen baby by the Government Chemist after one and half years confirmed that Mr. and Mrs. Karue were not the parents of the stillborn baby that they had been deceived was theirs;
- b. Issuance of delayed passports for a caregiver and kidney donor by the Department of Immigration enabling a kidney transplant patient to go for treatment in India;
- c. Reversion of title deeds of two plots to a widow whose land had been grabbed by a Senior Kiambu County official who had abused his office and unduly influenced the transfer of the plots to his relative.
- d. Investigation into the abuse of power and disregard of procurement laws by the National Social Security Fund (NSSF) concerning the Tassia II Infrastructure Development Project;
- e. Investigation into an accident involving a school bus belonging to Rioma Secondary School;
- f. Investigation into grabbed land earmarked for Eastleigh market; and
- g. Investigation into allegations of encroachment of land belonging to Machakos GK Prison and other related matters.
- h. Strengthened oversight on service delivery at the Counties, through decentralisation of the Ombudsman services, where the Commission established six regional offices in Mombasa,

Kisumu, Eldoret, Isiolo and Nyahururu. In addition, it established Twelve Ombudsman Service Desks in twelve Huduma (Service) Centres in Nairobi, Kajiado, Embu, Nyeri, Nakuru, Meru, Kakamega, Bungoma, Kisii, Kwale, Makeni, and Taita Taveta). The Commission is also in the process of establishing an office in Garissa.

2. Contributed towards public policy formulation and reforms through the issuance of over 45 advisory opinions on public administration, key among them being the following: -
 - a. the presidential directive on the co-ordination and delivery of comprehensive HIV/AIDS services to counties;
 - b. Public service delivery during the Covid-19 pandemic;
 - c. Unfair dismissal of county staff following the first transition of county governments in 2017; and
 - d. Circular 1/2019 about the Presidential Executive Order No. 2 of 2018 on procurement particularly on the 30% allocation to youth, women and people with disabilities (PWDs)
3. Promoted quality public service delivery, where public servants and institutions with excellent performance were recognized and feted, through the Huduma Ombudsman Award scheme organized by the Commission.
4. Participated in over 40 public interest court matters to advance administrative justice and constitutionalism.



5. Inculcated a culture of responsiveness in the public service, as the lead agent on the Resolution of Public Complaints indicator under the public sector's performance contract indicator. This was achieved through the training of over 20,000 public officers, from Government Ministries, Counties, Departments, and Agencies (MCDAs) on complaints management.
6. Promoted and mainstreamed Alternative Dispute Resolution (ADR) methods, where even the Judiciary has referred cases to the Commission for mediation and conciliation. This has contributed to the decongestion of the Courts of Law.
7. Enhanced transparency and accountability through the promotion and enforcement of Article 35 of the Constitution and the Access to Information Act, 2016. To this end, the Commission has developed Draft ATI Regulations which once enacted will go a long way towards the operationalization of the ATI Act. The implementation of the Act has also bolstered public participation in policy decisions, as they can access the necessary information that enables them to hold policy-makers and managers of public affairs to account. In this regard, the Commission issued circulars on various policy matters, key among them the publication of information on the utilization of public funds allocated for interventions meant to combat the Covid-19 pandemic.
8. Created public awareness on administrative justice and the right to information through county visits (Huduma mashinani programmes), public engagements and media engagements. In addition, the Commission developed and disseminated various policy documents and IEC publications, for public education and awareness creation. These include Simplified Version of the Access to Information Act, Handbook on Best Practices on Implementation of Access to Information in Kenya, 2018, A Guide on Proactive Disclosure for Public Entities at National and County Government Level in Kenya, 2018, Model Law on Access to Information for County Governments-to ensure compliance with Section 96(3) of the County Governments Act, No. 17 of 2012 on the domestication of the ATI law at the County Governments level, Access to Information in Kenya: A Journalists Handbook- to enhance awareness and utilization of the right to ATI in journalism work in Kenya, Complaints Handling Guidelines for the Public Sector; and Effective public service caricature booklet.
9. Forged partnerships and linkages with local and international bodies to advance good governance, which has positioned the Commission and the Country regionally and internationally including:
 - a. African Ombudsman and Mediators Association (AOMA) where the Chairperson serves as the Secretary-General since 2018;
 - b. International Ombudsman Institute (IOI) where the Chairperson serves as the President of the African Region;
 - c. GIZ Strengthening Good Governance Programme;
 - d. The Media Council of Kenya for structured engagement with the media in shaping and informing public discourse on the implementation of the right of access to information;
 - e. The Kenya School of Government; and
 - f. The Council of Governors.



Commission Chairperson and Commissioners when they paid a courtesy call on Nakuru County Governor, H.E. Lee Kinyanjui, March 1, 2022



Challenges

The Commission has encountered the following challenges:

1. Budgetary constraints that have negatively affected programmatic work, staffing and decentralisation to counties, especially with the expanded mandate;
2. Insufficient legal framework for the enforcement of the Commission's decisions. The Commission on Administrative Justice Act is silent and ambiguous on this issue. Further, the Supreme Court in Kenya Vision 2030 Delivery Board vs Commission on Administrative Justice and 2 others [2021] eKLR held that the decisions and recommendations of the Commission are not binding on public institutions. The regulatory framework under the Access to Information Act, 2016, has not been operationalised;
3. Unresponsiveness and lack of cooperation by public institutions and officers affect the turnaround time for the resolution of complaints. This has been exacerbated by poor records management and the manual systems in the public service;
4. ADR has not been widely accepted as an effective means of resolving complaints. Some parties to a dispute including non-justiciable disputes, still resort to seeking judicial interventions even when ADR is readily available;
5. The culture of secrecy in the public service-Some public officers are yet to appreciate the requirements of access to information particularly on proactively disclosing information as required by the law. This was confirmed by a survey conducted by the Commission in January 2019 which established a high level of non-compliance with the proactive disclosure requirements.

Beyond 10 Years

In line with its slogan 'Hata Mnyonge ana Haki', the Commission in its Second Strategic Plan (2019-2023) aspires to create a society that upholds administrative justice and access to information through timely resolution of complaints by embracing the use of alternative dispute resolution mechanisms; oversight and enforcement of the right of access to information; public education and awareness on the commission's mandate and institutional capacity strengthening. Flowing from this, the Commission will:

1. Scale-up public education and advocacy on administrative justice, access to information and ADR. This will empower members of the public and make the duty bearers responsive and accountable for their actions;
2. Strengthen the legal framework through amendment of the Commission on Administrative Justice Act, 2011, and implementation of Regulations to the Access to Information Act, 2016;
3. Leverage technology to enhance the resolution of complaints in the public sector;
4. Enhance mobilisation of resources beyond the allocation by the National Treasury to facilitate full implementation of programmes and decentralisation of services;
5. Further decentralise the Commission's services to additional counties to enhance accessibility to the public, and
6. Foster partnerships and linkages with national and international stakeholders to enhance capacity and effectively deliver on the Commission's mandate.



The Commission, in August 2021, signed a Memorandum of Understanding (MOU) with the Council of Governors.





Dr. Jane Kiringai, PhD, EBS

Chairperson

Commission on Revenue Allocation

About the Commission on Revenue Allocation

The Commission on Revenue Allocation (CRA) is an independent Commission set up under Article 215 of the Constitution of Kenya, 2010. The principal mandate of the Commission is to make recommendations on the basis for the equitable sharing of revenue raised by the national government between the national and county governments, and among county governments, as stipulated in Article 216(1)(a) and (b). Article 216 (2) further mandates the Commission to make recommendations on other matters concerning the financing of, and financial management by, county governments. In making these recommendations, the Commission is required to promote and give effect to the criteria set out in Article 203(1); when appropriate, to define and enhance the revenue sources of the national and county governments; and to encourage fiscal responsibility.

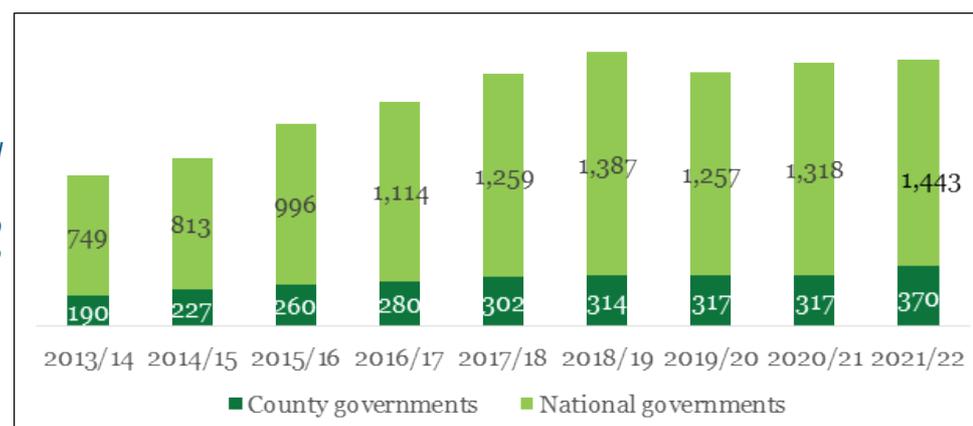
The Commission is also mandated by Article 216 (4) to determine, publish and regularly review a policy in which it sets out the criteria by which to identify marginalised areas for purposes of the Equalisation Fund. The Equalisation Fund is a twenty years Fund set up to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of services in those areas to the level generally enjoyed by the rest of the nation, so far as possible.

Critical Milestones over the Last 10 Years

1. Sharing of Nationally-Raised Revenue between National and County Governments

The Constitution provides that revenues raised nationally be shared equitably between the national and county governments. Figure 1 summarises the allocations for the first nine years of devolution.

Figure 1: Vertical Equity (Ksh billion), 2013/14 to 2021/22



The sharing of revenue has taken into account the national fiscal framework, functional assignment between the two levels of government and the requirements of Article 203.

2. Sharing of Revenue among County Governments

Three bases have been approved by Parliament for revenue-sharing among county governments. Whilst the first two bases were transitional and therefore meant to share revenues for three financial years each, the third basis and future bases are to be used to share revenues for five years in line with Article 217. The First Basis was approved by Parliament in 2012 and used to share revenue for financial years 2013/14 to 2016/17. The Second Basis was approved by Parliament in 2016 and used to share revenue for financial years 2017/18, 2018/2019 and 2019/2020. The Third Basis was approved in 2020. It will be used for financial years 2020/21 to 2024/25. Table 2 summarises the bases.

Table 1: First, Second and Third Revenue Sharing Bases

| No. | Parameter | First Basis Weight (%) | Second Basis Weight (%) | Third Basis Weight (%) |
|-----|--------------------|---------------------------|----------------------------|---------------------------|
| 1. | Population | 45 | 45 | 18 |
| 2. | Basic Share Index | 25 | 26 | 20 |
| 3. | Poverty Index | 20 | 18 | 14 |
| 4. | Land Area Index | 8 | 8 | 8 |
| 5. | Health index | | | 17 |
| 6. | Agricultural Index | | | 10 |
| 7. | Urban Index | | | 5 |
| 8. | Rural Access Index | | | 8 |
| 9. | Fiscal Effort | 2 | 2 | |
| 10. | Development Factor | | 1 | |
| | Total | 100 | 100 | 100 |

Source: CRA, 2020

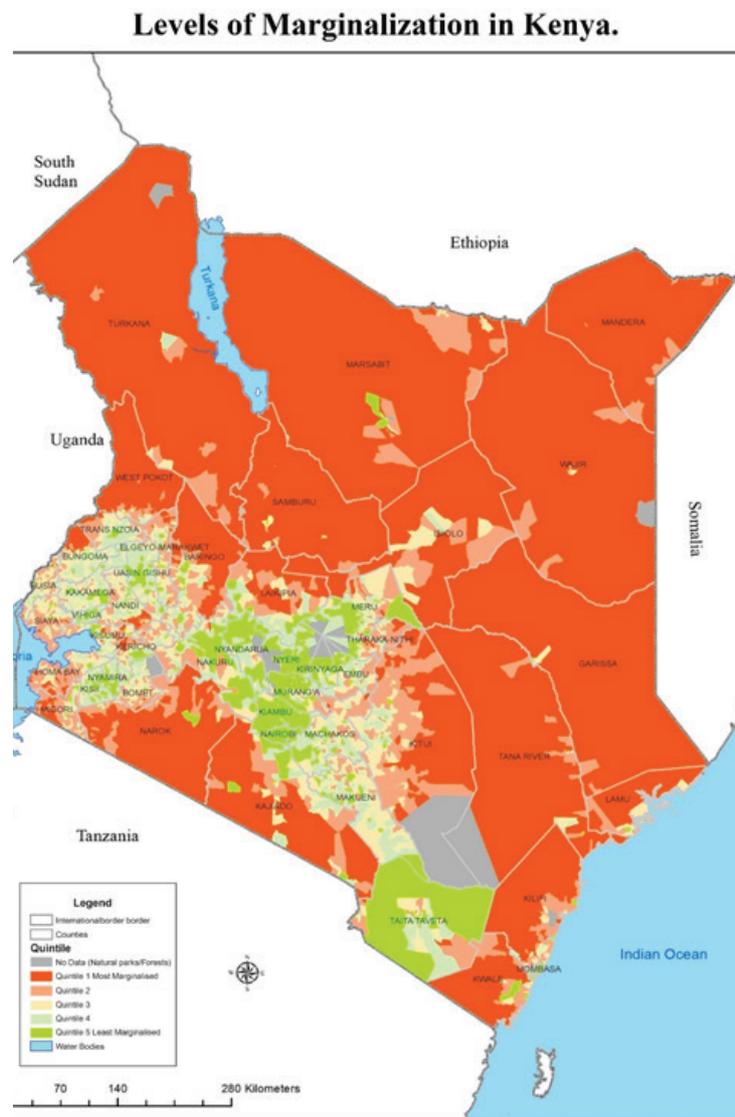
The departure of the Third revenue sharing basis from the First and Second Bases was informed by the need to closely align funding to functions assigned to county governments.

3. Formulation of Policies to address Marginalisation

The Constitution established the Equalisation Fund. This is a national government fund to be used to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible.

The Commission has prepared two policies, which set out the criteria for identifying marginalised areas and share revenue from the Equalisation Fund. The First Policy, prepared in 2013, used the county as the unit of analysis and identified 14 marginalised counties. The policy informed the sharing of revenues for financial years 2014/15, 2015/16 and 2016/17. The Second Policy, prepared in 2018 used a sub-location as the unit of analysis and identified 1,424 areas as marginalised. The Second Policy determined specific areas in which marginalised communities live. This approach aimed at ensuring that resources meant to improve services in lagging areas, were properly targeted for the realisation of maximum impact. The Second Policy also identified four marginalised minority communities that needed to be targeted for service provision, namely; Elmolo, Makonde, Watta and Dorobo-Saleita. The policy will share revenue from the Equalisation Fund for financial years 2011/12; 2012/13, 2013/14, 2017/18; 2018/19; 2019/20 and 2020/21.

The Locations of marginalised areas are as shown in Figure 2.



4. Promoting Adherence to Fiscal Responsibility Principles

a. Development of County Recurrent Expenditure Budget Ceiling Recommendations

The Commission has continuously developed budget ceilings for county governments in line with Section 216 of the Constitution of Kenya (2010) and the Public Finance Management Act (Section 107). The ceiling limits the amount of money a county can spend in its recurrent expenditure budget.

In determining these ceilings, the Commission considers the Salaries Remuneration Commission (SRC) Circulars and Gazette Notices among other documents, the consolidation stance taken by the government as a result of the contracting fiscal space, the proposed recommendations on the Division on Revenue and feedback from stakeholders' engagements

The Commission has successfully made recommendations on the County Governments' Recurrent Expenditure Budget Ceilings from FY 2014/15 to 2021/22. Over the years, the recommendations have been approved by the Senate with or without amendments. For the last 4 years, the allocation towards the county recurrent expenditure budget ceilings have been affected by the country's fiscal consolidation policies which have led to the contraction of the fiscal space.

b. Recommendation on county non-core Infrastructures

The Commission in collaboration with the Senate, Ministry of Public Works, Office of the Controller of Budgets and Salaries and Remuneration Commission developed a recommendation on county non-core infrastructure projects. The Non-core infrastructure projects include the residencies of the governor, deputy governor and the county assembly speaker, the county offices and headquarters. The recommendation set construction cost limits for these non-core infrastructures projects. The recommendation was adopted by the Senate on 14th May 2019 and most counties are adhering to the limits set.

c. County Fiscal Strategy Paper Report

The Public Finance Management Act (PFM), 2012 Section 117 provides for the preparation of the County Fiscal Strategy Paper (CFSP). The County Treasury should submit the CFSP to the county assembly, by the 28th February of each year. In preparing the CFSP, the County Treasury should seek and take into account the views of CRA before submission of the Paper to the County Assembly. Pursuant to the PFMA 2012 Section 117. The Commission receives and reviews on annual basis these CFSPs from county governments. The Commission makes recommendations to Counties that submit their CFSP reports and subsequently develop Commission County Fiscal Strategy Paper Report This report provides areas of compliance to fiscal responsibility principles.

d. County Creditworthiness Initiative

The Commission conceived the County Creditworthiness Initiative (CCI) for Kenya as a way of providing technical assistance to county governments to bridge the creditworthiness gap and access market finance for infrastructure and other development projects. The initiative attracted the attention of the World Bank Group (WBG) which financed it.

CCI achieves its objectives by coordinating and integrating existing efforts, instruments, knowledge and resources in identifying the most effective financing solutions and implementation arrangements for County Governments in Kenya.

Nine county governments were shortlisted for the first cohort of the initiative. These were Meru, Laikipia, Bungoma, Nandi, Mombasa, Kisumu, Lamu, Makueni, Nyandarua and Samburu. Nyandarua was added to the cohort later after it recorded an impressive audit opinion for the fiscal year 2018/2019 financial report. The shortlisted county governments underwent a rigorous process of enhancing fiscal responsibility. The process was christened the CCI methodology.

Six of the nine county governments in the first cohort have since shown great promise and have been rated. These are Kisumu, Makueni, Laikipia, Mombasa, Nyandarua and Bungoma. Four counties i.e Kisumu, Makueni, Laikipia and Bungoma have made their ratings public while Mombasa and Nyandarua have retained shadow ratings.

Table 1 below summarizes the rating scores

| Name of the County | Rating Score |
|--------------------|----------------------|
| Laikipia County | BB+ (KE) |
| Bungoma County | BBB (KE) |
| Makueni County | BBB (KE) |
| Kisumu County | BB (KE) |
| Mombasa County | Shadow Credit Rating |
| Nyandarua County | Shadow Credit Rating |

Public credit rating of county governments within ten years of their existence coupled with the encouraging scores achieved remains a great milestone in fiscal decentralization not just for Kenya but throughout the world. The commission will continue to shatter glass ceilings by helping additional county governments to get rated, attain impeccable ratings and issue sub-sovereign bonds.

In the near term, the commission seeks to enlist additional cohorts into the programme, while shepherding the pilot cohort towards market borrowing and overall fiscal responsibility. The programme will remain a going concern. The pipeline of activities still includes (i) modified advisory to select county governments (ii) enlisting more cohorts into the programme (ii) addressing access issues for sub-sovereign market finance and (iv) documenting processes.

e. County Budget and Economic Forum Training

The Commission on Revenue Allocation (CRA) through the support of United Nations Development Programme (UNDP) Kenya embarked on the process of encouraging all the 47 counties governments to establish County Budget and Economic Forum (CBEF) as per Section 137 of Public Financial Management Act (PFMA, 2012). During this current regime, 46 counties had established the forums by February 2022. In addition, CRA has inducted and trained members to enable them to undertake their roles effectively.

To give effect to Section 137 of PFMA, 2012 CRA developed guidelines for the establishment of CBEFs in 2015, reviewed in 2017. Further, CRA 2019 developed a CBEF Effectiveness Tool to aid in monitoring and evaluating the performance of the CBEFs. Further in 2020 CRA in collaboration developed a CBEF Training gender tool to ensure gender mainstreaming in the budget process.

5. Revenue Enhancement

The Commission has developed several analytical reports to track county government's Own Source Revenue growth since the onset of devolution. These reports have enabled county governments to develop sustainable mechanisms for collecting and managing their own-source revenue.

These include:

a. Counties' Efforts Towards Revenue Mobilization: A stock of the first 6 Years

The report provides an analysis of county governments' revenue performance from devolution.

b. Counties' Own-Source Revenue (OSR) Training Guidelines

One of the key goals in the Commission's 2017-2022 Strategic Plan was to develop a training curriculum for county governments on the subject of Own Sources Revenue (OSR). The development of the Counties' Own Sources Revenue Training Guidelines was a consultative and collaborative effort through a Multi-Agency task force that was set up to enable

The OSR training guidelines document was finalized and officially launched by the Commission on 26 May 2021. These training guidelines envisage strengthening the technical capacity of the Own Sources Revenue Administration at the county level with the aim of improving OSR performance.

d. Revenue Administration and Enforcement Framework Assessments

The Commission on Revenue has conducted revenue administration framework assessments for eleven county governments: Nyeri, Kwale, Migori, Wajir and Nairobi, Samburu, Lamu, Turkana, Isiolo, Kajiado and Tana River.

e. Training on Revenue Administration

The training on revenue administration has been done with the support of the European Union and UNDP and counties sponsored training. The training seeks to strengthen the capacity of counties in revenue administration matters.

f. Comprehensive Own Source Revenue Potential and Tax Gap Study

The Commission in a bid to build upon the 2018 study on own-source revenue potential and tax gap study conducted a comprehensive own source revenue potential and tax gap study. The study was conducted by Alma Economics and supported by the World Bank. The study used the additional information available which include; population census data for 2019, and Gross County Product 2017. The study included revenue streams that constitute 80 per cent of the counties own source revenue.

g. OSR forecasting

The Commission developed a revenue analysis and forecasting tool to support counties in their revenue analysis and target setting with the support of the World Bank.

h. National Policy to Support Enhancement of County Governments Own Source Revenue policy

The Commission is a member of the interagency committee that developed the National Policy to Support County Governments' Enhancement of Own Source Revenue in 2018. The Commission continues to participate in the implementation of the policy including the review of the rating bill which is in parliament for enactment.

i. County Assemblies' Own Source Revenue Training

The Commission partnered with National Treasury to conduct regional capacity-building forums on own-source revenue. These forums were supported by the Public Financial Management Reform Secretariat.



CRA Commissioners at launch of 3rd Formula, 18th Dec 2018

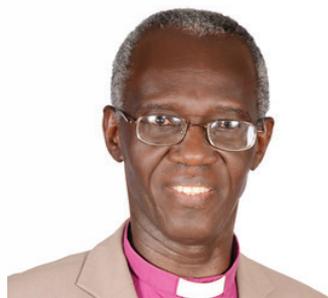


Integrated County Revenue Management System (ICRMS) Taskforce

On 7th February 2019, the President of the Republic of Kenya directed the formation of a multi-agency task force to deliver a single integrated county revenue management system (ICRMS) to be used across all 47 County Governments. The Commission on Revenue Allocation is the secretariat of the taskforce.

The joint taskforce technical sub-committee is expected to: develop an implementation framework, business case, and detail minimum specification; conduct peer review on integrated revenue management system in other devolved systems of governance, and make a recommendation on the mode of acquisition.

So far, the taskforce has developed an implementation framework, business case, and detailed minimum specification. It has also carried out a comparative analysis of 3 revenue systems: KRA, Bungoma and Kwale, to appreciate their development and functionality. This process will result in the Taskforce providing recommendations on the Revenue Management system to be adopted for implementation to the ICRMS Steering Committee.



Archbishop (Emeritus) Dr. Eliud Wabukala, EBS

Chairperson

Ethics and Anti-Corruption Commission

About the Ethics and Anti-Corruption Commission

The Ethics and Anti-Corruption Commission (EACC) is a Constitutional Commission established under the requirements of Article 79 of the Constitution of Kenya. The mandate of the Commission is to combat and prevent corruption, economic crime and unethical conduct in Kenya through law enforcement, prevention, public education and promotion of standards and practices of integrity, ethics and anti-corruption.

The mandate is derived from Articles 79 and 252 of the Constitution; the Ethics and Anti-Corruption Commission Act, No. 22 of 2011; the Leadership and Integrity Act, No. 19 of 2012; the Public Officer Ethics Act, No 4 of 2003; the Anti-Corruption and Economic Crimes Act, No. 3 of 2003; and the Bribery Act, No. 47 of 2016 among others.

EACC has a presence at the Headquarters based at the Integrity Center, Nairobi; eleven (11) Regional Offices and Service desks in over fifty (50) Huduma Centers across the country.

Critical Milestones for the Last 10 Years

Currently, EACC is implementing its Strategic Plan for the Period 2018-2023. During this period, the Commission has rationalized its strategies to focus on the following:

1. High Impact Investigation; by prioritizing cases of great impact based on factors such as public interest, value and personalities involved.
2. In asset Recovery; the objective being to extinguish the benefit obtained from corrupt conduct and create deterrence. The strategy is implemented through robust tracing, preservation, confiscation and forfeiture of unexplained wealth/assets.
3. Corruption Prevention; is aimed at strengthening systems, policies and practices of public bodies to prevent corruption, as well as, to disrupt corrupt networks to avert possible loss of public funds.
4. Partnership Approach; to enlist and foster the support of both state and non-state actors to strengthen inter-agency cooperation and active participation in the fight against corruption.

Some of the milestones realized in the last 10 years include:

1. Law Enforcement:

- a. Finalized investigation and submitted to the Director of Public Prosecutions 1,545 reports containing various recommendations.
- b. Supported prosecution of corruption cases out of which 325 cases were finalized in court with a conviction rate of 80%.

- c. Recovered corruptly acquired assets (cash, moveable and immovable) valued at approximately KES. 41.8 Billion.
- d. Actively pursuing 801 asset recovery civil cases worth approximately KES. 12 Billion which are pending in various courts in the country.



*EACC
Chairperson,
Archbishop
Eliud
Wabukala
handing
over title
deeds of
recovered
UON land
to Vice
Chancellor.*



2. Corruption Prevention:

- a. Averted loss of approximately KES. 38.4 Billion through proactive investigation and disruption of corruption networks
- b. Conducted 43 examinations in Ministries, Departments and Agencies (MDAs) including Parliamentary Service Commission, Kenya Ports of Entry, Ministries of Lands, Housing, Health, Transport, Infrastructure, Housing and Urban Development State Department and ICT, National Youth Service (NYS), Kenyatta National Hospital, Affordable Housing Programme, among others.
- c. Undertook 151 Corruption Risk Assessments at the national and county levels to identify and profile corruption risks in public institutions and advise on the strategies to mitigate the identified risks.
- d. Issued 659 advisories to MDAs on corruption prevention under the Performance Contracting Framework.
- e. Established a National Integrity Academy to provide specialized knowledge and skills on ethics, integrity, leadership, good governance and anti-corruption to both the public and private sector institutions.



*Embu Governor
Hon. Martin
Wambora
receiving the
Systems Review
Report from
Commissioner
Rose Mghoi.*



3. Ethics Promotion:

- a. Approved 135 Leadership and Integrity Codes out of the possible 136 public entities with state officers.
- b. Processed 308,057 Self-Declaration Forms for persons seeking appointive and elective positions.
- c. Conducted integrity suitability verification for 40,629 candidates for public appointments.
- d. Approved 979 applications by public officers seeking to operate foreign bank accounts.

4. Partnership Approach:

- a. Through a Framework for the Return of Assets from Corruption and Crime in Kenya (FRACCK) signed between Kenya and the United Kingdom, the Commission facilitated the repatriation of approx. KES 45 Million from the UK and the same was utilized to purchase 11 ambulances to support the Health Sector.
- b. EACC is a member of various regional and international bodies to create and maintain strategic linkages to strengthen capacity and expedite mutual legal assistance in investigation and asset recovery. Some of the anti-corruption bodies include the International Association of Anti-Corruption Authorities (IAACA); and the Eastern Africa Association of Anti-Corruption Authorities (EAAACA).
- c. EACC is a member of the Multi-Agency Taskforce (MAT), a collaborative framework of oversight, law enforcement and regulatory agencies to enhance synergy in the fight against corruption.

- d. Provided secretariat services to the Kenya Leadership Integrity Forum (KLIF), a multi-sector forum bringing together stakeholders from 20 sectors for a unified and integrated fight against corruption.



His Excellency Shadrack Rotich, signing General Leadership and Integrity Code at Bomet Green Stadium, during his swearing-in ceremony as the Bomet County Deputy Governor.





Turkish Ambassador to Kenya Ahmet Cemil Miroglu (Centre), hands over production equipment to EACC Chairman Archbishop (Rtd.) Eliud Wabukala (Right).



Challenges

In the discharge of EACC's mandate, the following challenges were encountered:

1. Politicization/ethnicization of the war against corruption.
2. Slow judicial process due to inadequate capacity in the criminal justice sector hence backlog of cases.
3. A weak legal framework to provide a comprehensive framework to prevent, investigate and enforce Chapter 6 of the Constitution.
4. Inadequate resources to effectively implement anti-corruption programmes and activities.

Beyond 10 Years

Moving forward, the following are some of the opportunities that can be considered to strengthen the fight against corruption and promotion of good governance:

1. Strengthening Multi-Agency Approach; to facilitate collaboration, cooperation and coordination by actors in the law enforcement chain to create synergy in the fight against corruption and economic crimes.
2. Automation of Government Services; to eradicate physical human interface which is prone to abuse and infiltration by the corrupt elements.

3. Strengthening Inter-State Cooperation; to facilitate sharing of information and building capacity of Anti-Corruption Agencies.
4. Strengthening anti-corruption Legal, Institutional & Policy Frameworks; to provide an effective framework to prevent, combat and deter corruption such as the enactment of the Conflict of Interest Bill.
5. Integration of processes in the Criminal Justice Sector; to enhance efficiency in the investigation, prosecution and adjudication of corruption cases.



*EACC Wins
Diversity and
Inclusivity
Award*





Wafula W. Chebukati

Chairperson

Independent Electoral and Boundaries Commission

About the Independent Electoral and Boundaries Commission

The Independent Electoral and Boundaries Commission (IEBC) is a constitutional Commission established under Article 88 of the Constitution of Kenya 2010. Its mandate is provided for under Article 88(4) of the Constitution and functions in Section 4 of the IEBC Act, 2011. It is responsible for conducting or supervising referenda and elections to any elective body or office established by the Constitution, and any other elections as prescribed by an Act of Parliament and, in particular, for: -

- a. Continuous voter registration
- b. Revision of the voters' roll
- c. Delimitation of Boundaries and Wards
- d. Regulation of the process by which parties nominate candidates for elections
- e. The settlement of electoral disputes including those arising from nominations but excluding election petitions and disputes arising after the declaration of election petitions
- f. Registration candidates for election
- g. Voter Education
- h. Facilitate election observation, monitoring and evaluation
- i. Develop a Code of Conduct for candidates and parties contesting elections
- j. Regulation of election campaign financing
- k. Monitor compliance with legislation relating to the nomination of candidates by parties (party-list members)
- l. The use of appropriate technology and approaches in the performance of its functions.

Critical Milestones for the Last 10 Years

Since its establishment in 2011, the IEBC has made substantial progress in the management of elections which has contributed to enhanced democracy in the country. Some of the notable achievements are:

1. Conducted and supervised the 2013 and 2017 General Elections and the 2017 Fresh Presidential Election. Continuously conducted by-elections nationally, and other elections for organizations

such as the Law Society of Kenya (LSK), Kenya Red Cross Society, and LSK member to the Judicial Service Commission. As part of its social responsibility, the Commission offers professional and technical support in conducting elections for schools and colleges to inculcate a culture of democracy.



At the National Tallying Centre during the 2017 Repeat Presidential Election



2. Established a professional and permanent secretariat with relevant competencies, knowledge and skills over the years in election management through capacity building in international best practices.
3. Devolved Commission operations before the 2017 General Election by establishing County Election Manager (CEM) offices in all 47 counties. Each of the County offices has the requisite staff and infrastructure ready to undertake elections at any given time.
4. Established and deployed electoral management infrastructure in the country including the Kenya Integrated Election Management System (KIEMS), Biometric Voter Registration (BVR) and Candidate Registration Management System (CRMS) in compliance with Section 44(1) of the Elections Act, 2011.
5. Undertook voter registration and generated a Register of Voters (complete with biometric data) which is maintained and updated through continuous voter registration.



A voter being registered using the Biometric Voter Registration (BVR) Kit.



6. Strengthened governance, risk and control systems through the development and regular update of operational guidelines, policies and procedures to facilitate the conduct of elections and guided the administrative functions of the Commission.
7. Elevated the Commission on the continental and global platform as a reputable election management body. The height of this achievement was realized when the Commission successfully hosted the Association of African Election Authorities (AAEA) General Assembly and the 6th Annual Continental Forum of Election Management Bodies (EMB) from 27th to 29th November 2019. The event was attended by Chairpersons, Commissioners and Chief Executive Officers drawn from forty (40) member states, and the Department of Political Affairs (DPA) of the African Union Commission (AUC). During the forum, the Chairman of the IEBC was elected President of the General Assembly for a two-year term.



8. Spearheaded electoral legal reforms over the years which led to parliament enacting/amending such laws. Recently (October 2020), IEBC released its proposed electoral reforms in a report titled 'Electoral Law Reform in Kenya: The IEBC Experience'. In addition, the Commission developed and submitted to the Justice and Legal Affairs Committee of the National Assembly Referendum bill, 2020, IEBC (Amendment) Bill, 2020 and Election Campaign Financing (Amendment) Bill, 2019 for Parliament's consideration.
9. Formulated and implemented the 2015-2020 and 2020-2024 strategic plans and together with their respective operation plans, and the Boundaries Review Operations Plan (BROP) to guide the Commission's implementation of its five-year electoral cycle programs.



Launch of the 2020-2024 Strategic Plan, Boundaries Review Operations Plan (BROP), Elections Operations Plan.



10. Successfully defended 290 election petitions out of 301 filed in various courts against the Commission after the declaration of the results for the 2017 general elections, representing a success rate of 96.3%.
11. Developed Standard Operating Procedures across all Directorates to strengthen internal controls and improve service delivery. It is also in the process of finalizing the implementation of the digitizing of its administrative and management processes.
12. The Constitutional provisions mapped out countries for voting outside the country. These are Uganda, Tanzania, Uganda, Rwanda Burundi, South Sudan, USA, UK, Canada, UAE, Germany, and Qatar among others.



Diaspora Voter Registration at the Kenya High Commission in Ottawa, Canada



Challenges

The Commission, in the course of achieving the foregoing milestones, encounter a myriad of challenges that slowed the achievement of the projected growth of election Management in Kenya. The Supreme Court Presidential Election Petition No. 1 of 2017 also cited systemic institutional problems. The Commission on its part addressed the internal systemic challenges through the development and implementation of policies, procedures and operational guidelines. However, some of the key external systemic challenges that remain unaddressed include:

1. High Turnover of Commissioners and staff

Since the advent of multi-party democracy in 1992, there has been incessant demand for the disbandment of the Electoral Management Body (EMB) and/or its leadership (Commissioners) following disputed elections, instead of identifying the real issues affecting the management of elections in Kenya.

2. Highly Ethnicized and Divisive Politics

In Kenya, the combination of highly competitive elections and negative ethnicity always leads to divisive elections which often results in political violence. Such divisiveness has always led to enormous political pressure being applied on the EMB as it is judged as a failure by losing sides in the political contest. Moreover, during election season, staff and Commissioners of IEBC are always subject to ethnic profiling making them insecure and susceptible to attacks.

3. Late Enactment of Electoral Laws

The persistent late enactment or amendment of electoral laws too close to elections undermines the planning and implementation of electoral activities within the set electoral timelines. The international best practice is to cease the enactment of electoral laws at least two years before a General Election. This is also one of the key recommendations made by the Kriegler Commission.

4. Incessant court cases

During election season, some political players have a habit of filing numerous cases in courts to influence Commission decisions/operations. Unfortunately, pronouncements of some of the court decisions are made too close to the election date thereby affecting Commission's preparedness.

5. Inadequate and Untimely Disbursement of Funding

Over the years, the Commission's funding has not been adequate and in tandem with the electoral cycle activities. The decision to allocate the budget and release the exchequer to IEBC is at the discretion of the National Treasury. This exposes the Commission to the risk of State capture. Funding is usually provided by the National Treasury during the election year. However, after the General Elections funding of the Commission's programs is curtailed thereby constraining activities in subsequent phases.

Delayed disbursements of funding for elections are responsible for rushed procurement of goods and services, often at inflated costs as vendors take advantage of the Commission's urgency to catch up with the electoral cycle activities. Such delayed procurements also negatively impact on training and deployment of electoral technologies.

6. High Cost of Elections

The high cost of elections is attributed to over legislation aimed at dealing with lack of trust amongst political players and suspicions of electoral fraud. The main drivers of the high cost of elections in Kenya

include electoral technology prescribed by statutory laws, the high number of polling stations occasioned by capping of the number of voters per station, use of satellite technology for results transmission due to inadequate 3G network coverage nationwide; the high number of security features on ballot papers; hire of transport and logistics; and high wage bill of temporary poll officials.

7. Erosion of Commission's Independence through Political Interference

The Constitution of Kenya, 2010 in its Article 88 as read together with Article 249 (2)(b) lays great emphasis on the independence of the Commission, both in decision making as well as operations. The International Convention on Civil and Political Rights (ICCPR) Treaty, which has been ratified by Kenya, provides for a framework on election management that demands State parties ensure that their EMBs act independently and free from the influence of government, political parties or candidates. Despite these clear legal provisions, politicians and political parties always attempt to undermine the independence of the Commission during elections. They also engage in false accusations against the Commission and its staff of political bias thereby denting the image of the IEBC well before elections are held.

Beyond 10 Years

Moving forward, the Independent Electoral and Boundaries Commission (IEBC) desires to move Kenya towards a stronger democracy. To enhance this, the Commission has committed itself to laying down strategies that not only promote credible elections but also ensure the participation of all the stakeholders in the electoral process. To this end, the Commission aspires to continuously engage stakeholders in all the stages of the electoral cycle.

Further, the Commission endeavours to restore the eroded public confidence in electoral bodies since independence. This lack of public confidence at times makes it difficult for the Commission to roll out new and innovative programs as the perception is that the said programs and activities are either meant to benefit a certain person or are a ploy to 'steal' elections. The Commission endeavours to build mutual and beneficial collaborations with other relevant institutions in the execution of its core mandate of delivering a free, fair and credible election that meets the democratic aspirations.



Anne Makori EBS

*Chairperson
Independent Policing Oversight Authority*

About the Independent Policing Oversight Authority

The Independent Policing Oversight Authority (IPOA) was established to safeguard the policing rights of Kenyans by holding the police accountable for their conduct in line with the constitutional expectation of a professional, transparent and disciplined National Police Service (NPS) through independent oversight. To actualise this, the constituting Act of Parliament gave IPOA power to investigate police misconduct based on complaints received from members of the public, police officers or through its motion.

In Africa, Kenya is second after South Africa to establish a police oversight organisation. However, unlike the South African agency, IPOA is independent. To safeguard this independence and ensure benefit for Kenyans, IPOA ensures that institutional capacity, management frameworks, operational tools, procedures and regulations are developed in a systematic and consultative manner.

The NPS and the Kenyan public have responded positively to IPOA's establishment and have high expectations of the Authority to deliver on its mandate.

The complaints IPOA has received, demonstrate a strong desire from the public and police themselves to end impunity and increase accountability. Towards this, the Authority is establishing robust mechanisms for effective complaints reception, analysis, case management and investigations, where applicable.

Since its inception, IPOA has received a total of 20,979 complaints and completed 3,437 investigations. The completion of investigations has gradually grown over time due to sustained capacity growth in staffing, training and financial allocation from the Treasury. Today, the Authority has 141 cases before the court.

IPOA approaches all investigations impartially to result in fair and unbiased recommendations. Consequently, the Authority has absolved many wrongly accused police officers after investigations absolved them.

The Authority has also conducted 2,808 inspections of police premises countrywide towards the realization of improved detention facilities and police premises.

For efficiency, the Authority operates a toll-free call centre and an electronic system for expanding complaints lodging channels besides automation and management of all the Authority's processes. This system tracks how the Authority works to ensure effectiveness in service delivery to Kenyans.

Going forward, IPOA encourages reporting of complaints without fear since the organisation has mechanisms in place to guarantee confidentiality for complainants.

Critical Milestones for the Last 10 years

Since its constitution, the Authority has managed to achieve the following milestones.

1. Strategic Plan

The Authority has so far developed and operationalised two strategic plans, in 2014 and 2018 respectively. The plans were based on a performance-management approach that committed the institution to sustained service delivery improvement.

2. Decentralisation

To be more effective and easily accessible to its clients, the Authority operates eight offices in Mombasa, Kisumu, Garissa, Nakuru, Eldoret, Meru, Nyeri and Kakamega. Two other offices are envisioned in Nairobi and Machakos. This was informed by the volume of complaints received from these regions together with the IPOA Act requirement for grassroots presence. The opening of the offices has significantly reduced the cost of complaint lodging for Kenyans and drastically reduced the rapid response time to complaints.

3. Partnerships

IPOA strategically partnered with institutions that enrich and help to actualise its mandate within reasonable timeframes. For instance, APCOF (Africa Policing Civilian Oversight Forum - South Africa) and the Federal Bureau of Investigations for international training and capacity building.



Hon. JM Waiganjo, a Commissioner at IPOA sensitising University of Nairobi students on the Authority's mandate



4. Technical Capacity

The Authority has sustained the procurement of specialised skills, tools and equipment to facilitate its work. Through specialised training conducted by specialist organisations such as the FBI, technical staff continue to benefit from expert training. Further, IPOA launched the Enterprise Content Management System (ECM) and a Call Center for complaints lodging and automation of services.

5. Outreach

To understand existing policing standards and gaps, the Authority carried out two surveys which established the need for increased mass sensitisation outreach on the Authority's mandate. The Authority consequently embarked on undertaking outreach activities for police officers and members of the public across the country. To date, IPOA has conducted outreach in over 35 counties. It has also undertaken brand building activities on all the major print and electronic media stations in the country and beyond.



Hon. JM Waiganjo, a Commissioner at IPOA sensitising University of Nairobi students on the Authority's mandate



6. Rewarding Outstanding Police Service Officers

To identify and commend outstanding police service, the Authority organised a nationwide public-led programme where outstanding police officers and facilities were recognised. This award programme aimed to motivate police officers and improve professional police service to Kenyans. IPOA feted 250 police officers and 30 police facilities for exemplary work.

7. Use of Force by Police Officers

Schedule Six of the NPS Act is clear on the use of firearms and lethal force to engage armed criminals. The last ten years have markedly seen a reduction in the misuse of official firearms by police officers. Largely, this can be attributed to the accountability IPOA demands from individual officers when they undertake their duties.

8. Vindication for wrongly accused officers

Every so often, IPOA receives malicious complaints against police officers. After rigorous investigation exposure and the establishment that the officers acted lawfully, IPOA recommends their exoneration of blame. To date, IPOA has vindicated over a hundred police officers of unfair blame.

9. Recognition for Service Excellence

The Authority was nominated and emerged as, the winner of, the Institution Category in the third edition of the Huduma Ombudsman Award. During the awards, IPOA was cited for its professionalism that resulted in the promotion of police accountability to the public by accelerating justice for victims of police misconduct, vindicating those wrongfully accused to ensure fair administrative justice and thus enhancing trust in the police service. Further, the Authority was also cited for advocacy for police welfare for enhancement of morale and consequently, improvement of policing.

In 2016, 2018, 2019, 2020 and 2021, IPOA also emerged winner in various categories in the Fire Awards. These independently run recognition mechanisms are a depiction of a dedicated and strategic plan-led institution that is committed to the realisation of its mandate within the financial law provisions.



*IPOA Chairperson
Anne Makori during
a sensitisation of
cadet Inspectors at
NPS Police Training
College Kiganjo*



10. Uptake of IPOA's recommendations by the National Police Service

Towards professionalising the NPS, the Authority periodically makes recommendations. Some of the recommendations that have been implemented by the NPS include:

- a. A Functional Internal Affairs Unit (IAU). IPOA's lobbying efforts led to the establishment of an independent office for the IAU, implementation of an Integrated Information Management System for complaints and investigations management, an increased number of officers serving IAU and a dedicated budget provision
- b. Implementation of the research report on the Police Housing Crisis in Kenya. This report's implementation has seen police officers live within communities thereby reducing crime and increasing officer mental wellness
- c. Harmonization of the NPS command structure. Due to IPOA's recommendations, the NPS harmonised its command structure, particularly at the County level
- d. Efficient police operations transport logistics. Based on IPOA recommendations, the Government introduced the motor vehicle leasing programme to ease operation logistics. Further, Armoured Personnel Carriers were also purchased to protect officers during security operations
- e. Provision of AIEs to Station Commanders. This budget has greatly assisted in ensuring petty expenditure is available to support expenses to uphold human rights standards.
- f. Kitting of police officers. This includes the purchase of specialised gear to protect police officers; and
- g. Counselling and psychological support for traumatized officers. This was illustrated by the "Mwamko Mpya-Healing the Uniformed" wellness programme and later the full establishment of specialized psychosocial support units across the country by the National Police Service Commission.



IPOA Chairperson Anne Makori posing with State and Non-State Actors after stakeholder discussions on police reforms



11. Conviction of culpable officers found afoul of the law:

Towards professionalising the NPS and promoting the rule of law, the Authority periodically recommends the prosecution of culpable police officers. Since its inception, the Authority has achieved seventeen convictions. A further 141 cases are before various courts across the country.

12. Improvement of Human Rights Standards for Kenyans coming in contact with the police:

Due to IPOA's oversight work, there has been a gradual improvement in the observance of human rights by police officers. Police detention facilities and premises are particular areas that the Authority has through inspections ensured the improvement of human rights standards.

Challenges

1. The Pandemic.

The spread of COVID-19 led to an operational scaling down that partially hampered service delivery including inspection of police facilities and investigations. Response to cases in high-infection areas was a challenge.

2. Limited Resources.

Austerity measures by the National Treasury following the COVID-19 outbreak led to considerable budget reductions due to available funds reassignment to manage the pandemic. Resource shortages have also frustrated IPOA's regional office expansion. The Authority also suffers a human resource shortage.

3. Non-cooperation with IPOA.

Some complainants become non-responsive and uncooperative after reporting complaints to the Authority. This hampers investigations and defeats the purpose of undertaking full investigations.

Beyond Ten Years

IPOA is an important vehicle in the restoration of legitimacy and the building of public confidence in the NPS. Based on the strides and achievements the Authority has made so far, there is confidence that a foundation of a robust institution with strong integrity, ethics, competent staff who are well-grounded and willing to execute their technical responsibilities to enable the delivery of services for the benefit of Kenyans have been made. More so, IPOA continues to infuse professionalism in work processes to ensure that Kenyans enjoy professional policing services.

The police are gradually accepting the role of IPOA, engaging it and even addressing their grievances to the Authority. With a synergised approach between the NPS and IPOA, Kenyans will enjoy professional and efficient policing services. IPOA will also ensure it builds a committed and highly skilled workforce to provide oversight with the overall objective of realising global standards of policing.

Henceforth, IPOA will also strive to be more visible through the expansion of its regional offices to enhance service delivery and police accountability at the grassroots.

Further, the Authority is preparing the IPOA Regulations that once enacted into a regulatory framework will guide its technical functions.

IPOA remains committed to being independent, impartial and fair.





Hon. Justice Martha Koome, EGH

*Chairperson
Judicial Service Commission*

About the Judicial Service Commission

The Judicial Service Commission is a Constitutional Commission established under Article 171 of the Constitution. The operational procedures of the Commission are laid down in the Judicial Service Act 2011.

History

Unlike some Commissions and Independent Offices which were established for the first time under the Constitution of Kenya 2010, the origins of the JSC can be traced to pre-independence days when the Governor-General appointed a Judicial Council comprising of the Chief Justice and four (4) members (two from the Supreme Court recommended by the Chief Justice and two on recommendations of the Public Service Commission).

In 1963, the Council transited to the Judicial Service Commission established under Section 68 (1) of the 1963 Independence Constitution to advise on the appointment of Judges and to appoint and discipline the Registrar of the High Court, Magistrates, Kadhis, and other employees of the Judiciary.

Membership of the Commission comprised the Chief Justice as the Chairperson, two Judges designated by the President from the Court of Appeal and High Court, the Attorney General, and the Chairperson of the Public Service Commission. The Service Commissions Act, Cap 185 of the Laws of Kenya provided that the Secretary of the JSC and the staff necessary to discharge the functions of JSC be appointed by the Public Service Commission.

However, the Commission faced several challenges, including interference with judicial independence by the Executive. The Commission membership was drawn entirely from the Government, and the appointment of the Chief Justice did not require the recommendation of the Commission. Further, the Commission did not have its independent Secretariat.

Establishment under the 2010 Constitution

Article 171 of the 2010 Constitution established JSC as an independent body subject only to the Constitution and the law and not to the direction and control of any person or authority. The Constitution addressed the shortcomings concerning the functions, independence, and composition of the previous JSC.

Functions

Under Article 172 of the Constitution, the JSC is charged with promoting and facilitating the independence and accountability of the Judiciary and the efficient, effective and transparent administration of justice, through;

1. Recommending to the President persons for appointment as Judges.

2. Reviewing and making recommendations on the conditions of service of:
 - a. Judges and judicial officers, other than their remuneration
 - b. The staff of the Judiciary.
3. Appointing, receiving complaints against, investigating and removing from office or otherwise disciplining Registrars, Magistrates, other Judicial Officers and other staff of the Judiciary.
4. Preparing and implementing programmes for the continuing education and training of judges and Judicial Officers.
5. Advising the National Government on improving the efficiency of the administration of justice.
6. Receiving and considering petitions for the removal from office of Judges.



Composition

Even though Article 250 of the Constitution limits the membership of Chapter 15 Commissions to between 3 and 9 Members, the JSC has 11 Members under Article 171 of the Constitution. These are:

1. The Chief Justice, who is the Chairperson of the Commission;
2. One Supreme Court Judge elected by the Judges of the Supreme Court;
3. One Court of Appeal Judge elected by the Judges of the Court of Appeal;
4. One High Court Judge and one Magistrate, one a woman and one a man, elected by the members of the association of Judges and Magistrates;
5. The Attorney General;
6. Two advocates, one a woman and one a man, each of whom has at least 15 years of experience, are elected by the members of the statutory body responsible for the professional regulation of advocates;
7. One person nominated by the Public Service Commission; and
8. One woman and one man to represent the public, not being lawyers, appointed by the President with the approval of the National Assembly.

The unique composition considers the inclusivity of crucial stakeholders in the justice system. The expanded membership allows for broader participation by all Commissioners while pooling their specialized expertise and knowledge towards the achievement of the objectives of the Commission.

Article 171(3) of the Constitution provides that the Chief Registrar shall be the Secretary to the Commission.

Strategic Priorities

The Vision of the Commission is to be “A Commission of excellence in promoting an independent, transparent, and accountable Judiciary” while its mission is “To facilitate an independent and accountable Judiciary that is competent, efficient, effective, and transparent in the administration of justice through capacity development and strategic partnerships.” Its workings are guided by the core values of Responsiveness, Independence, Fairness, Transparency and Integrity.



Hon. Chief Justice Willy Mutunga accompanied by JSC members in a photo moment with Senate Speaker Ekwee Ethuro and Senators after addressing the House in 2016.



Critical Milestones over the Last 10 Years

Since the promulgation of the Constitution of Kenya in 2010, the JSC has made a significant contribution to promoting constitutionalism and the observance of democratic values and principles in Kenya. It has registered tremendous progress in discharging its core functions of safeguarding the independence of the Judiciary, thereby enabling the Judiciary to protect and uphold the Constitution during an unprecedented transitional moment. It achieved this by recruiting judicial staff, managing disciplinary complaints, strengthening the capacity, and providing advice on the efficient administration of justice as detailed below.

1. Enhancing the Human Resource Capacity of the Judiciary

The JSC has made continual and sustained efforts in the recruitment and appointment of judges, judicial officers and staff. In 2016, the number of Judges increased from 53 to 136, representing a total increase of 150per cent. As of 2021, the number of Judges sits at 174, a 27per cent increase from 2016. As of 2021, the number of Kadhis is 56, representing a 273per cent increase from 15 in 2011. Between 2011 and 2016, the Commission recruited an additional 1,155 Judiciary staff from various cadres. As of 2021, the Judiciary has 5,277 employees out of an approved optimal establishment of 9,417.



Honourable Judicial Service Commission commissioners Engage candidates as they check over interviews for Court Assistants II at the Kenya School of Monetary Studies.



2. Facilitating Leadership Transition

The JSC has also facilitated smooth leadership transition in the Judiciary, overseeing the recruitment and transition between the first 3 Chief Justices to serve under the Constitution of Kenya 2010. The JSC has also provided the necessary support to the Chief Justices to ensure their vision and strategic priorities for the transformation of the Judiciary are achieved.



Chief Justice Martha Karambu Koome receives instruments of power and the state of the Judiciary report from Deputy Chief Justice Philomena Mbete Mwilu.



3. Promoting Diversity in the Judiciary Workforce

The Commission ensured compliance with Article 10 of the Constitution by achieving a 52 per cent to 48 per cent male to female ratio within the Judiciary. Magistrates within the same period have a 53 per cent to 47 per cent male to female ratio. In 2019, judges' male to female ratio was 61 per cent to 39 per cent and 50.2 per cent. Also, ninety-one members of staff were Persons with Disabilities (PWD). The JSC also recruited the first woman Chief Justice in Kenya's history.

4. Capacity Building in the Judiciary

A key mandate of the Commission is to enhance the capacity of the Judiciary through continuous learning and development. Despite budget cuts, training and development remained a strategic priority. The Commission has worked closely with the Judiciary Training Institute, now rebranded as the Kenya Judiciary Academy, and other learning institutions to explore training and capacity development opportunities for Judges, Magistrates, Kadhis, and Judicial Staff.

Kenya Judiciary Academy Director Justice Smokin Wanjala (1st row, Middle) and IDLO's Country Manager Teresa Mugadza (1st row, 2nd L) during the conclusion of a workshop on mediation in Mombasa for judges of the superior courts.



Kenya Judiciary Academy Director Justice Smokin Wanjala (1st row, Middle) and IDLO's Country Manager Teresa Mugadza (1st row, 2nd L) during the conclusion of a workshop on mediation in Mombasa for judges of the superior courts.



5. Improving Terms of Service & Employee Welfare

Implementing various employee welfare programs is an important achievement of the JSC and the Judiciary. Welfare programs include the medical scheme for Judicial personnel, Group Life Insurance for all Judges, and personal accident insurance for all Judiciary employees.

6. Improving Access to Justice

There has also been significant improvement in access to justice for Kenyans by establishing mobile court stations and increasing the number of High Courts, Magistrates' Courts Court of Appeal Stations, and the establishment of Small Claims Courts.

7. Promoting Accountability of the Judiciary - Resolution of Complaints touching on Judges, Judicial Officers & Staff

The transparency and accountability of the Kenyan Judiciary is an essential part of the Constitution of Kenya 2010. Achieving this involves effectively and efficiently handling disciplinary cases against Judges, Registrars, Magistrates, Kadhis, Judicial Officers and Staff. The JSC receives and considers disciplinary matters for judicial staff while delegating disciplinary issues for staff in PLS 8 and below to the Human Resource Management Advisory Committee of the Judiciary.

The Commission made significant achievements in handling disciplinary cases. For example, during the 2018/2019 period, the JSC received 162 complaints and petitions against Judges. Of these, 124 complaints were concluded, while 38 were pending at the end of the reporting period, compared to the previous year 2017/18, when the JSC received 74 complaints and petitions against Judges, concluding 71. By carrying out this mandated function, the Commission focused on facilitating and ensuring the integrity, accountability, and transparency of the Judiciary.

8. Mainstreaming Technology in the Delivery of Justice

The JSC also provided support in adapting information and communication technologies (ICT) and handling the COVID-19 pandemic, allowing for continual operations in justice delivery.

9. Reduction of Case Backlog

The result of the above strategies, policies and interventions has been the reduction of case backlog which stood at 1 million in 2011 to just over 375,671 in June 2021.

Other achievements included:

- a. Establishment of Courts and tribunals (new High Court stations, Magistrates' Courts in counties; Kadhis courts; transfer of Tribunals to Judiciary).

- b. A strengthened legal framework through the enactment of statutes.
- c. Mainstreaming ICT as an enabler of justice.
- d. Development and review of policies and guidelines.
- e. Strengthening stakeholders' engagement through NCAJ committees and Task Forces.

Challenges

The Commission has faced the following challenges over the past 10 years:

1. Delayed operationalization of the Judiciary Fund to ensure adequate financial resources for the continuous and sustainable funding of the Judiciary.
2. Inadequate separation, clarification, and understanding of the roles, functions, and responsibilities of the JSC and the Judiciary.
3. Inadequate capacity in terms of facilities, infrastructure, equipment, and technical and functional skills at the Secretariat and among the Commissioners.
4. Inadequate communication systems, policies, practices, and procedures and poor brand image with stakeholders inside and outside the Judiciary with some stakeholders not fully understanding the role and functions of the JSC.
5. Inadequate human resource management and administrative systems, policies, procedures, and practices.
6. Inadequate operational and administrative support for Commissioners
7. Insufficient focus on JSC's role in providing strategic direction in the delivery of justice.
8. Lack of a clear policy on the role of Commissioners as policymakers and not implementers.

Beyond 10 Years

The Commission has prioritized the following issues over the next 10 years:

1. Improving the overall effectiveness and efficiency in the administration of justice
2. Ensuring that the Judiciary has qualified and experienced staff.
3. Demanding the highest levels of integrity, accountability, and performance in the delivery of justice.
4. Protecting and promoting judicial independence and improving the standing of the Judiciary with all stakeholders to guard the Rule of Law and Constitutionalism.
5. Ensuring that the Judiciary and the JSC remain responsive to the needs and expectations of staff, external clients, stakeholders, and Kenyans at large.
6. Promoting a culture of continuous improvement, learning, innovation, and excellence within the Judiciary and the JSC.
7. Improving communication with internal and external stakeholders, including Kenyans, specific constituents that elect Commissioners, the other two arms of Government, other commissions, media, civil society, academic institutions, and the private sector.

The facilitative deeper cooperation with other institutions with a shared mandate in promoting constitutionalism and the observance of democratic values and principles in Kenya.



Mr. Joash Dache, MBS

*Secretary/CEO
Kenya Law Reform Commission*

About the Kenya Law Reform Commission

The Kenya Law Reform Commission (KLRC) is a body corporate with perpetual succession established by the Kenya Law Reform Commission Act, No. 19 of 2013 as a successor to the Law Reform Commission. KLRC is the primary law reform agency in Kenya and serves both the national and county governments among other stakeholders.

Clause 5 (6) (b) of the Sixth Schedule to the Constitution requires the Commission to work with the Office of the Attorney General (OAG) in preparing for tabling in Parliament the legislation required to implement the Constitution. The Kenya Law Reform Commission has operational and financial autonomy. Its governance structure is composed of a board of eight Commissioners; one full-time Commissioner and a Chairperson for policy direction in addition to a secretariat headed by a Chief Executive Officer.

Under the Act and the County Governments Act, 2012, KLRC is required to provide technical assistance and capacity building to county governments in the review of their legislation and undertake public education on law reform.

Critical milestones for the last 10 years

In the last ten years, the KLRC has attained the following achievements.

1. Development of Model Laws for County Governments

The County Model Laws initiative by the KLRC in collaboration with other devolution stakeholders was first rolled out in 2014 in furtherance of its role to assist county governments in the development of their legislation. The transitional period to a system of devolved government saw many county governments benefit from this initiative by which the entire spectrum of county government functions as set out in the Fourth Schedule to the Constitution was systematically documented and model laws developed to provide for their operationalization.

Over fifty County Model Laws were developed, each taking into account the changed realities of the new constitutional dispensation, including a greater need for meaningful public participation, expanded democratic space and accelerated reforms across all sectors.

The Model Laws feature summaries of all the key areas of county legislative and policy functions and powers, including County Rating Transition; Early Childhood Education; Economic Development Corporation; Investment and Social Development; Fire and Rescue Services; Livestock Sales Yard; Maternal Health Rights; County Public Service and County Public Service Board; Reproductive Health Rights; Trade and Markets; Trade Licensing; Access to Information; Agriculture Development; Maternal Health Rights Bill; County Agricultural Machinery Services Model Law; Promotion of Primary Health Care; County Planning; County Funds; Affirmative Action; Anti-Pornography; Bursaries Fund; Citizen Participation; Finance; County Health Services; County Planning; Storm Water Management and Water Services; County Transport; Disaster Management; and Social Protection.



Presentation of the Guide to the Legislative Process to Nakuru County Deputy Governor



2. Technical legislative support and training for County Governments

In pursuance of its statutory function under the County Governments Act, the Commission:

- a. Developed policy and legislative frameworks for Disaster Risk Management, Climate Change and Agriculture for Baringo, Turkana, Samburu, Laikipia, Marsabit, Makueni and Tana River counties.
- b. Trained forty-seven county attorneys in collaboration with UNDP on the drafting of county legislation and policies leading to enhanced capacity in policy formulation and legislation drafting at the county level.
- c. Conducted capacity building of newly sworn-in Members of the forty-seven County Assemblies on Constitutional knowledge and Governance, County Assembly Committee Systems, and Inter- and Intra-Governmental Relations in collaboration with the Centre for Parliamentary Studies following the elections in 2017.



KLRC offering capacity building and technical assistance to Kisumu County Government





KLRC submitting its memorandum on the Political Parties (amendment) Bill to the Senate standing Committee on Justice, Legal affairs and Human rights



3. Constitutional Implementation During MTP II

The Commission is a key player in the development of policy and legislation to improve the ease of doing business in Kenya under the Medium Term Plan II (MTP II). Specifically, the Commission:

- a. Developed the Movable Properties Security Rights Bill, Companies Bill, and Insolvency Bill. The enactment of these bills helped to facilitate enterprise development and investment and advanced economic empowerment of youth, women and persons with disabilities as a result of improved ease of access to documentation required for undertaking business ventures.
- b. Developed the Elections Laws (Amendment) Bill and the Elections Campaign Financing Bill. The enactment of the bills led to increased public awareness of citizen rights and responsibilities and the electoral process and ensured that sources of election financing are regulated
- c. Developed the Bribery Bill and the Proceeds of Crime and Anti-Money Laundering Bill in collaboration with other agencies thereby helping in strengthening the anti-corruption framework and enforcement of stringent anti-corruption measures.
- d. Helped to review the implementation of the United Nations Convention against Corruption and the Kenya Integrity Action Plans for the 2015/2016 Financial Year as a member of the National Steering Committee and the Judicial Sector Committee respectively. These initiatives led to improved accountability in budget implementation by national and county governments, efficient service delivery to the public and reduced loss of public funds through the recovery of proceeds of crime and corruption.
- e. Developed the National Legal Aid Bill whose enactment helped to improve access to justice for all especially the vulnerable members of society including the poor and persons with disabilities.
- f. Developed sixteen sets of Draft Mining Regulations to align laws in the extractives sector to the Constitution.

4. Alignment of Existing Laws to the Constitution

In 2016, the Commission conducted an audit of 150 laws to facilitate the full implementation of the Constitution and to ensure that the laws of Kenya are responsive to social, economic and political developments. Amendments proposed following the audit were incorporated in the Statute Law (Miscellaneous Amendment) Bill, 2018 and enacted.

5. Legal Audit with Council of Governors of National and County Legislation in Seven Thematic Areas

The Commission conducted an audit of national and county policies and legislation in collaboration with the Council of Governors and analyzed their compliance with the Constitution and the extent to which they conformed to the devolved system of governance. Arising from the audit was the need for the systematic capacity building of national government sectoral bodies and county departments to develop laws and policies that facilitate the pursuit of their respective mandates.

6. Public Education

In 2015, the Commission launched its publication A Guide to the Legislative Process in Kenya and disseminated it countywide. The Guide is also used in academic institutions such as the Kenya School of Law.

7. Report on the Taskforce on Policy, Legal, Institutional and Administrative Reforms regarding Intersex Persons in Kenya

Kenya Law Reform Commission chaired the Taskforce on Policy, Legal, Institutional and Administrative Reforms regarding Intersex Persons in Kenya which was constituted by the Hon. Attorney-General in May 2017. The task force comprised members from State and non-State institutions in the governance, medical and religious sectors as well as the Intersex community.

The findings and recommendations in the task force report informed the decision to include Intersex Persons in the 2019 Kenya National Census. The data released by the Kenya National Bureau of Statistics (KNBS) showed that there are 1,524 intersex persons in the country.



Challenges

In the course of execution of its mandate during the past ten years, the Commission has faced various challenges namely:

1. Inadequate Human Resource Capacity

The Commission has not been able to decentralize its services within the country as required due to inadequate human resource capacity with consequences for its outreach programs.

2. Delay in Reconstitution of the Board

The Commission has operated without a full board following the expiry of the term of its former Board Members. The delay in the reconstitution of the Board has affected the Commission's ability to operate at optimal capacity and the exercise of its mandate.

3. External Challenges

The political environment dictates responses to law reform which may hamper the Commission's mandate of ensuring harmonized, just and simplified laws. There is generally an uncoordinated consultative and civic education approach to legislative matters in the country.

4. Low Capacity in the Counties

Despite efforts to address the capacity needs of the counties, there still exist skills gaps in the county public service. There is inadequate capacity at the county level of government to comprehend and implement their mandate and functions. However, KLRC strives to reach all 47 counties and offer both technical assistance and training in legislative drafting.

Beyond 10 Years

The Commission intends to pursue the following policy priorities in the future:

1. Enhance the development of laws aligned to the national development agenda;
2. development of legislation responsive to the existing social, economic and political framework;
3. strengthen the use of ICT and embrace technology;
4. engagement with relevant stakeholders in the national, regional and international sphere;
5. simplification of laws by developing popular versions and translating them into Kiswahili and Braille;
6. building of human resource capital and infrastructure capacity for effective and efficient delivery of programs;
7. strengthening internal systems for transparency and accountability; and
8. Enhance research into and on laws that require reform and new areas for legal regulation while advocating for prompt enactment of laws.



*Partnership
and
collaboration
between
KLRC, The
Judiciary
and the
Rwanda Law
Commission*





Roseline Odede, HSC

Chairperson

Kenya National Commission on Human Rights

About the Kenya National Commission on Human Rights

The Kenya National Commission on Human Rights (KNCHR) is an independent Constitutional Commission established by the Constitution of Kenya 2010 under Article 59 (4) and subsequently operationalized through an Act of Kenya Parliament (the Kenya National Commission on Human Rights Act No. 14 of 2011 and revised in 2020).

The National Commission's broad mandate is to enhance the promotion and protection of human rights and fundamental freedoms for all in Kenya. On the International front, the National Commission enjoys an affiliate status with the African Commission on Human and Peoples' Rights. The Commission is also a member of the Network of African National Human Rights Institutions (NANHRI), the regional umbrella body that brings together 44 National Human Rights Institutions in Africa. Since conferment of 'A' status in 2005 on its compliance with the Paris Principles, the Commission was subsequently been re-accredited with 'A' status by the Global Alliance of National Human Rights Institutions (GANHRI) in 2020.

Critical Milestones in the last 10 years:

KNCHR Institutional Accountability

The Commission is accountable to the people of Kenya for the finances it receives and the programmatic work it undertakes. Section 48 of the Kenya National Commission on Human Rights Act requires the Commission to submit its accounts to the Auditor-General at the end of every financial year. The Commission has received an unqualified opinion on its financial statements since financial years 2016 to date from the Auditor-General indicating that the finances allocated to Commission were applied lawfully and effectively.

The National Commission has submitted itself for a peer assessment under the Champions of Governance Award organized by the Institute for Certified Public Secretaries of Kenya. The peer assessment is meant to gauge the practice and application of good corporate governance by the governing body. The Commission emerged the winner in the category of Constitutional Commissions and was commended for its efforts in the areas of accountability, risk management, internal controls, transparency and disclosures, compliance with laws and regulations and sustainability in performance management.

At one point, the National Treasury has recognized the Kenya National Commission on Human Rights as the only Commission (out of 12 Commissions) that awarded at least 30 per cent of its total procurement spent to the disadvantaged group (Youth, Women and Persons with Disabilities) under the Access to Government Procurement Opportunities - AGPO) program.

KNCHR Milestones Defined:

1. Public inquiries on thematic human rights violations

In the last 10 years, KNCHR held public inquiry hearings on identified alleged human rights violations and undertook site visits, held interviews and focus group discussions with petitioners, witnesses and other stakeholders. KNCHR then compiled specific reports with findings and actionable recommendations, published the same and disseminated them to relevant stakeholders for action. Through research and mini-public inquiries, the KNCHR can gain a deeper understanding of recurrent human rights violations and abuses. In the 10 years under review, the Commission held the following groundbreaking public inquiries:

- a. In 2016, a Public Inquiry on Insecurity and its Impact on the Enjoyment of Fundamental Human Rights in the North Rift Region of Kenya (Mending the Rift);
- b. In 2017, a Public Inquiry on Mining and its Impact on Human Rights in Taita Taveta County; and
- c. In 2017, a Public Inquiry Report on Insecurity and its Impact on the Enjoyment of Human Rights in the Coastal Region of Kenya (Guarding the Coast).



A session in Lamu during the 2016 Public Inquiry on Insecurity



2. ICT for Human Rights

Over the last 10 years, the Commission has established and continued to improve on its integrated Complaints Management System (CMS) that allows for real-time complaints collection from all parts of the country. The system is established in a way that it can receive complaints and referrals between the 5 KNCHR regional offices which serve assigned counties to cover the whole 47 counties. We have managed to integrate our SMS number as a component of the system, further enhancing real-time reach with members of the public. This integration enhances complaints resolution and informs further investigations in cases where matters require further inquiry.

Additionally, our investigations have shaped national conversation and influenced policy for the enjoyment of human rights. Specifically, the Commission continuously engages the National Assembly for law review and drafting on pertinent human rights issues.

3. Recognition, Protection and Inclusion of Intersex Persons in Kenya

For the first time in Kenya and the world, Intersex persons are recognised as the third sex. Following a study by KNCHR on the plight of Intersex persons in Kenya, the Commission wrote an advisory to the Kenya

National Bureau of Statistics for the inclusion of the third sex marker during the 2019 National Census. The aim was to gather actual data on the number of Intersex persons who had shared concerns over their inclusion in varied policies that would enhance the enjoyment of their rights.

Post their enumeration, the Office of the Attorney General established a Taskforce On Intersex Persons in Kenya where KNCHR was the Secretariat whose report established an Implementation Committee to oversee the uptake of recommendations and push for further reforms. Again, KNCHR plays the role of Secretariat with a KNCHR Commissioner as its Chairperson. The Committee will sit until 2023.



Former KNCHR Commissioner who was the Chairperson of Intersex Persons Implementation Committee during the launch of the Intersex Taskforce Committee report in 2019

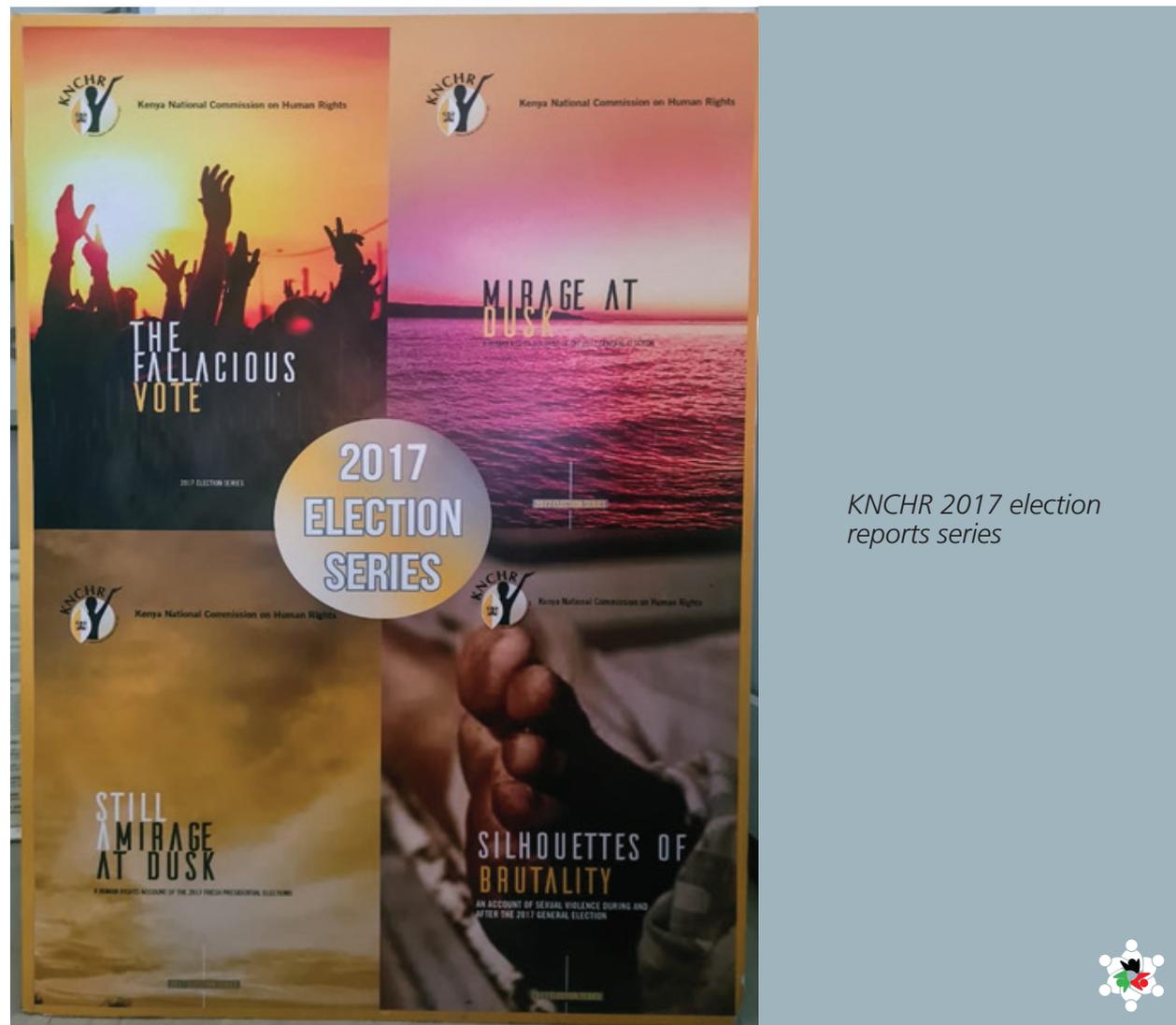
4. Promotion of the rights of human rights defenders

As the Commission charged with the protection and promotion of human rights in Kenya, the Commission has implemented its role of protection and promotion of the rights of Human Rights Defenders (HRDs) through various initiatives such as; complaints processing and investigations on human rights violations against Human Rights Defenders; collaborating with the National Coalition of Human Rights Defenders to develop a Model Human Rights Defenders Policy and Action Plan as a tool for advocacy to promote greater protection of Human Rights Defenders and training of Magistrates and Judicial officers on rights of Human Rights Defenders.

5. Elections and Human Rights

The Right to Vote is critical in enhancing the realization of human rights as it allows citizens to choose leaders who will facilitate efficient service delivery. Thus, the electoral process should be safeguarded to ensure the public can cast their vote and hence KNCHR's heavy investment in electoral processes over the years. We employ the use of grass-root monitors to complement staff efforts in sharing real-time information for efficient human rights intervention.

Since 2017, the Commission prides itself on being one of the premier African Human Rights Institutions to establish a virtual Elections Management System (EMS) which allows for monitors and staff to share information as it happens and for instant data analysis and outreach to relevant institutions for effective remedy.



KNCHR 2017 election reports series

6. Monitoring the realization of economic, social and cultural rights

One of the major wins under the Constitution of Kenya, 2010 was the entrenchment of socio-economic rights under Article 43 including the right to securing the right of every person to, 'clean and safe water in adequate quantities, highest attainable standards of health and reasonable standards of sanitation.' The Commission in partnership with stakeholders in the water and health sectors developed standards for monitoring the realization of the right to water and sanitation. The Commission has further worked with the Ministry of Health to develop the Health Infrastructure Norms and Standards and the Human Resources for Health Norms and Standards comprising of set standards and indicators for monitoring the right to health.

7. Engagement with Devolved Governments'

During the last 10 years, KNCHR embarked on a project to review laws and policies on the right to health and the right to water and sanitation in counties across the country. The objective of the project was to enhance compliance with county laws, especially those touching on the right to health and water with

national and international human rights norms and standards. Under the project, at least 24 laws and policies on health and water were assessed on their conformity or otherwise with the Constitution and International and Regional treaties ratified by Kenya.



KNCHR Senior Officer Ms. Stella Wangechi takes stakeholders through the NAP in Kitui Town in 2018



8. Human Rights and Business practice in Kenya

As a National Human Rights Institution, Kenya National Commission on Human Rights has affiliate status to the United Nations Human Rights Council where we actively engage in the Universal Periodic Review on the status of Human Rights in Kenya. On the same platform, the Government is normally given recommendations on areas that need legislative and policy reform and implementation.

In the review process of 2015, a recommendation was made to the Government of Kenya to develop A National Action Plan on Business and Human Rights. The plan was to domesticate the United Nations Guiding Principles on Business and Human Rights to ensure compliance with human rights standards within business operations in Kenya. Kenya accepted this proposal and commenced the process in Feb 2016.

KNCHR as the principal government advisor on Human Rights together with the Department of Justice drafted a National Action plan which was approved by the Cabinet (Sessional Paper No. 3 of 2021) in February 2021 and it now awaits adoption by Parliament. KNCHR is currently part of the Steering Committee that is tasked with overseeing the implementation of the plan. This is a big milestone in inculcating human rights principles and standards in business transactions in Kenya

Challenges:

We appreciate efforts by the various government actors in engaging the Commission on the human rights agenda, including the National Assembly which continue to engage us in conversation on policy and legal reforms.

However, for the full realisation of the KNCHR mandate, resources play a fundamental role as they facilitate the full establishment in terms of staff and actualising programme work. The Commission not only reports

nationally on its work but also has international reporting obligations and thus our work as a class A NHRI calls for requisite funding for the secretariat to be effective. There is a need to expand our regional presence from the current five regional offices to present in all counties to enhance the enjoyment of human rights for all.

Beyond 10 Years:

Our Country has made notable and commendable strides in the fulfilment of its human rights obligations as set out under the national, regional and international laws and treaties. Kenya National Commission on Human Rights remains optimistic that the Constitution offers the best safeguard for the enjoyment of human rights. The Commission commits to building on the existing partnerships both with State and non-State actors, all strategic partners, stakeholders and agencies to move our country towards a human rights compliant State.



*KNCHR
Chairperson
and
Commissioners
during a site
visit at the
Taita Taveta
Public Inquiry
on Human
Rights and
mining in
2016*



Human Rights for All, All the time!

Haki Kwa Wote, Kila Wakati



Rev. Dr. Samuel Kobia, CBS

Chairperson

National Cohesion and Integration Commission

About the National Cohesion and Integration Commission

The National Cohesion and Integration Commission (NCIC) was established through the National Cohesion and Integration (NCI) Act, No. 12 of 2008, enacted after the unfortunate events of the 2007-2008 Post-Election Violence (PEV) and amendment NCI Act No. 6 of 2019 to enhance its operations. The establishment of the Commission followed the signing of the National Accord that established the Agenda 4 Commissions. The objective for which the Commission was established was to create a national institution that could rally Kenyans towards a common national identity through the elimination of ethnic, racial and religious discrimination thereby achieving national unity.

NCIC exists to facilitate and promote equality of opportunity, good relations, harmony and peaceful co-existence between persons of the different ethnic, religious and racial communities of Kenya, and to advise the Government on all aspects thereof. The Commission is composed of both the Commissioners and the Secretariat. NCIC Commissioners include the Chairperson and six (6) Commissioners appointed by the National Assembly. The Secretariat is composed of the Commission Secretary/Chief Executive Officer, and other members of staff who serve in two broad directorates namely; Programmes and Technical Services, as well as Corporate Services.

Critical Milestones for the last 10 years.

1. Strengthened peacebuilding, national values and cultural systems in institutions of learning.

The Commission has rolled out Amani (Peace) Club curriculum across the country. In addition, teachers and students across the 47 counties have had their capacities enhanced in conflict resolution and peaceful co-existence. The Commission further enshrined the national values and cohesion into the new education curriculum. The Commission annually supports the national music and drama festivals to mainstream the cohesion and integration principles.

2. Influenced the Cohesion and Integration Agenda in Public Institutions.

The Commission has not only raised awareness on the bar of accountability but has also facilitated the inclusion of minority communities such as the Makonde in Kwale County employment. The Commission conducted Ethnic and Diversity Audits in Public Universities, Parastatals, and County Governments and disseminated recommendations of the reports for adoption, consequently influencing inclusion in recruitment in the public institutions. In addition, NCIC published the "Minimum Standards and Principles for Recruitment to Ensure Inclusiveness and Diversity at the County Level". This has provided tangible rules for county governments to follow during their recruitment processes. Members of County Public Service Boards across the 47 counties have been sensitised on the Minimum Standards and Principles for Recruitment and they use these guidelines whenever they are recruiting.

3. Enhancing inter and intra-communal relations through dialogue and mediation processes.

The Commission held a dialogue and mediation forums with local communities, which have led to the signing of 25 permanent peace agreements reducing inter and intra-community conflicts. Communities, counties, CSOs, and FBOs among other actors have been capacity built on Alternative Dispute Resolution Mechanisms (ADRM) across the 47 counties. During the 2017 post-election period, sensitisation and dialogue forums were held across the 47 counties targeting youth, women, and leaders on post-election healing and reconciliation. Inter-cultural exchange programmes have also been held to enhance inter-communal relations across the 47 counties of Kenya.

4. Promoting Compliance and Enforcement of Hate Speech Law.

The Commission has reduced the perpetration of hate speech and ethnic incitement through deterrence, litigation and conciliation efforts. The Commission has successfully investigated cases of hate speech and ethnic contempt that have enabled prosecutions. Over 5,000 cases have been recommended to the Office of the Director of Public Prosecutions (ODPP) since its inception for the offences of hate speech and ethnic contempt. The capacity of 10,000 law enforcement officers has been built across the 47 counties to help the Commission in its investigation efforts. The Commission has established and coordinates a multi-agency working group that deals with hate speech and ethnic contempt. Moreover, multiple sensitisation forums for the members of the National Assembly and the Senate have been conducted to enhance their knowledge of the NCI Act. Members of the public in the 47 counties have also been sensitised on hate speech through Radio, TV and community outreach forums.

5. Strengthened Early Warning and Early Response Mechanisms for peaceful elections.

The Commission recruited and deployed 129 cohesion and social media monitors across the 47 counties, during the 2017 Electioneering period, to contribute to the delivery of peaceful elections. Additionally, the Commission issued hate speech monitoring equipment (150 voice recorders, 500 audio cameras and 50 camcorders) to law enforcement officers and cohesion monitors across the 47 counties to assist in monitoring political activities in public spaces. Mass media campaigns and the production and dissemination of assorted IEC materials were done across the 47 counties to promote peaceful elections and co-existence amongst Kenyans. The capacity of journalists for hate speech monitoring and conflict-sensitive reporting was also enhanced while media guidelines on hate speech were developed and disseminated to media practitioners across the 47 counties.

6. Increased generation of knowledge on cohesion issues through research.

The Commission informed policy actions of various peace actors through enhanced knowledge about inhibitors to social and ethnic cohesion. The Commission conducted two research studies on cohesion matters. These included the Study on the Impact of Gangs on National Cohesion; and Challenges and Solutions to Peace in Mandera County. The studies provided empirical data on the challenges to national cohesion in various counties across the country and proffered policy recommendations to address the identified challenges and improve peaceful coexistence.

7. Demystifying Ethnicity

The Commission has also facilitated difficult national dialogue on the issue of ethnocentrism and as a result; Kenyans have opened up and now engage in open discussions on tribalism and attendant stereotypes. This has gone a long way in reducing suspicions, demystifying ethnic communities and averting conflicts. The Commission further strengthened inter-community relationships through regional dialogue forums and a national people's conference, which enhanced reconciliation among and across many grassroots communities in Kenya. One of the most outstanding outcomes of these conversations fed into the development of the Ethnic and Race Relations Framework, which aims at cultivating "We-ness" in Kenya.

Challenges

1. Budgetary constraints:

Due to financial limitations, the Commission could not implement its planned expansion in full. For instance, there was inadequate staff, a temporary regional presence (no offices in the regions), and an inability to sustain programme activities. All these limited the efficiency and effectiveness of NCIC.

2. Inadequate staffing:

The current number of staff at the Commission is inadequate to deliver fully on its elaborate mandate. Limited understanding of the Commission's mandate: The perception that the mandate of the Commission is hate speech monitoring persists, overshadowing the Commission's other functions. This misperception increases the expectations of the citizens on what the Commission can do thereby limiting their understanding of ongoing work.

3. Limited resources to ensure the sustainability of social contracts and peace agreements:

Implementing social contracts and peace agreements between and amongst communities poses a significant challenge to the Commission as it lacks the financial resources required. The lack of proper follow-up and implementation of such agreements creates conditions for the recurrence of violence.

4. A Multiplicity of drivers of conflict and violence:

The fluid and dynamic nature of conflict are exacerbated by political activities, ethnic polarisation, violent extremism, re-emergence of organised gangs, incitement to violence and competition for resources. This requires the Commission to be highly innovative and flexible in its operations, characteristics that are not readily accommodated by the available funding resources.

5. Statutory nature of the Commission:

Although the Commission was born by an Act of parliament, it is not anchored in the Constitution despite being an independent Commission. This renders it highly dependent on political goodwill for its survival as well as the politics of the Commission.⁶ Slow judicial process: The judiciary experiences a backlog of cases exceeding the one-year timeline. This challenge has resulted in low public confidence and a lack of access to and effective administration of justice regarding the prosecution of hate speech and incitement to ethnic violence cases.

Beyond Ten Years

1. Development of the Roadmap to a Violence-Free 2022 Election

On 10th December 2020, NCIC realised a significant milestone towards ensuring peaceful 2022 elections by launching a forward-looking Roadmap dubbed 'Uchaguzi Bila Noma'. At the heart of the Roadmap to a violent-free 2022, was a determination for NCIC to join hands with other partners and bring to life five transformative actions to curb identified roadblocks to peaceful elections in Kenya. The said actions include building trust between community members; empowering citizens to play their optimal role as active agents of peace through resisting manipulation and shunning perpetration of violence; encouraging leaders to lead responsibly; putting in place robust strategies to eliminate hate speech; and establishing intensive and targeted forms of prevention to reduce risks of violence.

2. Establishment of a Wall of Honour and a Wall of Shame

In a bid to eliminate hate speech, NCIC has established a wall of honour for cohesion champions and a wall of shame for politicians who breach codes of conduct governing elections and political parties. Under section 26(2)(b) of the National Cohesion and Integration Act No. 12 of 2008, several political leaders were feted for their commendable actions towards peaceful co-existence, while others were exposed and chastised for purveying hate and ethnic contempt in various spaces. Shaming the said individuals has created pressure from the citizenry to comply with the required laws and is not only a means of making it difficult for the identified politicians to acquire political seats but is likely to trigger sanctions both from NCIC and other relevant institutions such as the EACC. The Commission has adopted shaming as a means to undermine the culprit's status or prestige on the political stage.





Dr. Joyce Mwikali Mutinda, PhD, EBS

Chairperson

National Gender and Equality Commission

About the National Gender and Equality Commission

The National Gender and Equality Commission (NGEC) is a Constitutional Commission established by the National Gender and Equality Commission Act. No. 15 of 2011 under Article 59 (4) & (5) of the Constitution of Kenya, 2010. The Commission's mandate is to promote gender equality and freedom from discrimination for all people in Kenya with a focus on special interest groups (SIGs), which include: women, children, youth, persons with disabilities (PWDs), and older members of society, minorities and marginalized groups.

Critical Milestones for the Last Ten (10) Years

1. Review of Bills, Policies, Procedures and Administrative Guidelines

The Commission has distinguished itself in the review of bills, policies, administrative procedures, and guidelines at the National and County level. The inputs we have provided address gender equality and inclusion issues and ensure the rights and freedoms of the most vulnerable populations are guaranteed, protected and promoted. The Commission also reviews the language used by drafters to avoid any derogatory terms and phrases in describing the status and needs of SIGs. Between 2013 and 2021, the Commission has reviewed and issued memoranda on 320 legal instruments.

More specifically, the Commission has been at the forefront in championing the legislation of the not more than two-thirds gender principle guaranteed in Article 27 (8) of the Constitution of Kenya 2010. The Commission applied programmatic, legislative and court initiatives towards the implementation of the not more than two-thirds gender principle. From 2012 to 2017 the Commission chaired a technical committee constituted to formulate a framework for the realization of the not more than two-thirds gender principle. In 2018, the Commission published a report on the journey towards realization of the not more than two-thirds gender principle. This report, which is titled: *Journey to Gender Parity in Political Representation: Search of a framework for the realisation of the not more than two-thirds gender principle in Kenya*, documents the processes, lessons learned and missed opportunities in the efforts towards the development of mechanisms for the realization of the two-thirds gender principle in elective and appointive bodies. This document has served to inform further efforts and discussions on the matter.

2. Issuance of Advisories

The Commission has issued more than 300 advisories to government agencies including the County Governments (Executive, and the County Public Service Boards), ministries, departments and agencies including State Corporations on their annual performance in mainstreaming issues of disabilities, gender, youth in plans, budgets, and interventions. Most of the advisories have led to the review of the discriminatory actions and consideration of the corrective measures to reduce exclusions of SIGs in major opportunities.



Chairperson Dr. Joyce Mutinda flanked by Vice Chairperson Dr. Chomba Munyi and Commissioner Priscilla Nyokabi makes submissions in Parliamentary Committee hearing session



3. Development of Gender Mainstreaming Tools and Instruments

In facilitating national and county governments as well as the private sector to mainstream issues of gender, persons with disabilities, youth, older members of society, minority and marginalized groups, in the development and business sector, the Commission has provided the above actors with ten (10) standard guidelines, handbooks, model tools and model instruments. These documents are key reference materials enumerating processes for integrating gender equality and inclusion in the core functions of the organisations. We have learned over time that after providing agencies with these guidelines, instruments and handbooks the rate of compliance with the principles of gender equality and freedom from discrimination increases. For example, by 2021, 29 counties have established the Equality and Inclusion Technical Working Groups(EITWGs) and 11 of the counties are using the equality and inclusion guidelines to manage the affairs of their EITWGs.

4. Dashboard on Gender Equality and Inclusion Indicators

In 2014, the Commission released a gender equality and inclusion dashboard. The dashboard provided a summary of minimum indicators and markers of gender equality in Kenya. The scoreboard was institutionalized in 2017 when the Commission launched a report on the levels of gender equality and inclusion at national and county levels, and in the private sector. The measurement ranged from providing estimates on the national equality and inclusion index, Social Justice and Civic Participation Index, Development Index, Health Index, Education Index, Labour Participation Index, and Gender Equality Index. Since then, the dashboard has been expanded to include routine programmatic measurements including representation of SIGs in public listed companies, trends and levels of indicators on Sexual and Gender-Based Violence, and resource flows to vulnerable groups in the annual budgets. Data generated by NGEC and from other sources have been very useful in reporting on the compliance of Kenya with international and regional instruments relating to SIGs including the Convention on the Rights of Persons with Disabilities(CRPD), Convention on the Elimination of all Forms of Discrimination Against Women(CEDAW), Universal Periodic Review Process, Commission on the Status of Women (CSW), International Convention on Elimination of All Forms of Racial Discrimination (ICERD), Human and Peoples' Rights Declaration on Economic, Social and Cultural Rights in Africa`



Former Chairperson Winfred Lichuma hands over the 1st Country Report on the Status of Equality in Kenya



5. Inventory of Kenya's Minority and Marginalized Communities

In 2015, in readiness for the 2017 General Elections and successive enumeration of Kenya's population in 2019, the Commission undertook a mapping of the ethnic minorities and marginalised communities in Kenya and released a county inventory of the same in 2017. In this inventory titled: Unmasking Ethnic Minorities and Marginalised Communities in Kenya, the Commission recommended that all communities in Kenya whose population is below 0.5 per cent of the national population be classified as a minority. The inventory was considered among other reports in the preparation of the political parties' list for nomination in the 2017 General Elections. For the last five years, the Commission has applied the inventory and worked closely with the Kenya National Bureau of Statistics (KNBS) and other government agencies to recognize indigenous and small communities. These communities include; the Makonde, Shona, Sengwer, Cherengani, Waata, Sanya, Yaaku, Ogiek, among others. A case in point is a request we received from the Wardei community seeking to know if they could be recognized as a distinct marginalized ethnic community and the verdict is out. This community was enumerated in 2019 and there are about 65, 975 Wardei people, As a result, we are happy was communicated to the community.

6. Audit of the 2019 Kenya Population and Housing Census.

Over decades, population censuses have been domiciled in the national statistical systems. For the first time in 2019, Kenya admitted the Commission to the national statistical infrastructural system as a core member of the Gender Statistical Strategy. Under the new appointment, the Commission audited the inclusion and participation of the SIGs in the 2019 Kenya Population and Housing Census.

7. Observation of Elections.

Under the electoral observation systems, NIGEC monitored the participation and inclusion of the SIGs as voters, candidates, observers, and sources of elections-related labour in the 2013 and 2017 General Elections, in several by-elections and in special institutional elections such as; the University of Nairobi Students Association, Maendeleo Ya Wanawake (March 4, 2013), and the Law Society of Kenya. The Commission made conclusions that elections impose a significantly high economic burden and social costs to SIGs including costs associated with security/violence. These are some of the greatest deterrence for women and PWDs' participation in elections that MUST be addressed for the realisation of free and fair elections.

8. Inquiry into Child Pregnancies

In exercise of its powers, the Commission 2016 on its initiative and with funding from the United Nations Development Fund (UNDP) and the Government of Kenya conducted a public inquiry on child pregnancies in Kenya. The results of the inquiry were released in 2016 in a report titled: *Lost Childhood: Drivers of Child Pregnancy in Kenya*. This report has, in the last 4 years, informed national and county policies and strategies on mitigation of child abuse, development of various laws on child-parent care and protection and access to education. The results have also contributed to the growing jurisprudence, judicial practices and procedures on child matters shaped the Commission's investigative role on child inequalities and, informed financing of priority child programs in Kenya. Today, the report is an asset in the rapid response to child pregnancies during times of COVID-19 and in the development of the proposed national strategy and response to preventing child pregnancies in Kenya.



Deputy Chief Justice Philomena Mwilu and Former Chairperson Winfred Lichuma during the launch of the Report on Child Pregnancies in Kenya

9. Public Interest Litigation

The Commission has taken lead in determining jurisprudence on the matters affecting SIGs. To cite a few cases, the Commission is currently finalizing an application for consideration by the High Court, Nairobi Constitutional and Human Rights Division, in the matter of compliance by Parliament with the two-thirds gender principle. The Commission also received in its favour, a judgment on *Petition No. 1 of 2019 NGEV v Majority Leader, County Assembly of Nakuru & 4 others; Jubilee Party & Another (Interested Parties)* directing County Assemblies and Salaries and Remuneration Commissions to provide nominated Women, Members of County Assemblies (MCA) with mileage allowances and other privileges similar to those provided to the elected MCAs and afford nominated members opportunities to run for leadership positions in house committees alongside elected members.



Chairperson Dr. Joyce Mutinda leads a procession in Nairobi CBD during the launch of a campaign on inclusive and accessible public transport



10. Oversight in reporting on Treaties and Conventions ratified by Kenya on matters relating to SIGs

One of the core functions of the Commission is to “act as the principal organ of the State in ensuring compliance with all treaties and conventions ratified by Kenya relating to issues of equality and freedom from discrimination and relating to special interest groups including minorities and marginalized persons, women, persons with disabilities, and children”.

In this respect, the Commission contributes and participates in reporting through various international and regional forums on issues of equality and inclusion with the intent to: Influence international status reports; ensure State’s compliance with the international reporting requirement; and contribute to the International and Regional Economic Social and Political development agenda.

Over the last 10 years, the Commission has routinely participated in various regional and international reporting mechanisms among them the Annual Commission on the Status of Women Conference in New York, Global Summit on Sexual Violence in Conflict, International Conference of Human Rights Experts, and reporting progress on the Convention against Torture among others. The Commission also disseminates concluding observations of all regional and international reporting mechanisms to special interest groups.

Challenges

1. Despite these achievements, the Commission has faced multiple challenges and missed several opportunities. In a nutshell;
2. The Commission’s mandate has been ambiguous to the elite but very clear among the SIGs. This has invited unhealthy debate around overlap of mandate between NGEC and sister Commissions or even with the Ministry responsible for gender. NGEC is a Commission not only responsible for women but five (5) other SIGs namely: Children, Youth, Persons with Disabilities, Older members of Society, Minority and Marginalised Groups.

3. The demand for NGECE's services is overwhelming while the reach is inadequate because the Commission is thinly spread out in the country. The Commission has a physical presence in Nairobi, Kisumu, Nakuru, Kilifi, Kitui, Garissa and Isiolo counties only. The Commission would however like to serve the SIGs at their locality and therefore in the last few years, it has increased its investment in Information Communication Technology (ICT).
4. The slow pace in the realization of gender equality related gains. The realization of gender equality involves a long process running from the basic superficial, classical and traditional forms of equality measured in terms of parity to a higher level of transformative and substantive equality. Few partners have the patience to support the last two miles of equality and therefore the Commission often suffers from inadequate funding and technical support.
5. Lack of a framework to enforce compliance with gender equality and freedom from discrimination. The Commission is happy to have found a way to ensure all agencies comply with the minimum administrative requirements on gender equality and freedom from discrimination as provided for in the enabling laws. The Commission shall soon launch rules and regulations designed to operationalize powers bestowed on it by the Constitution Act.

Beyond Ten Years

As we celebrate, interact, reflect and engage throughout, I would like to reiterate that the Commission remains committed to promoting the rights of all the designated Special Interest Groups in Kenya.

I call upon all actors both State and non-State, the development partners, women rights defenders, gender practitioners, the media and the private sector to renew their commitment to working with us towards accelerating the realization of substantive gender equality and freedom from discrimination. I end with a quote by Mahatma Gandhi: 'Every worthwhile accomplishment, big or little, has its stages of drudgery and triumph: a beginning, a struggle and a victory'



Chairperson Dr. Joyce Mutinda poses with school going boys in Machakos county while monitoring the distribution of dignity kits.





Gershom Otachi Bw'Omanwa

Chairperson
National Land Commission

About the National Land Commission

The National Land Commission (NLC) was established under articles 67 and 248 of the Constitution of Kenya 2010. It was formed to spearhead the land reform agenda in Kenya as intended in the National Land Policy 2009. The Commission is operationalized through Acts of Parliament that give effect to these articles namely: National Land Commission Act, 2012; the Land Act, 2012, the Land Registration Act, 2012 and the Land (Amendment) Act of 2016. The role of the Commission is to facilitate sustainable land use in Kenya through a holistic land policy, efficient land management practices, equitable access to land, comprehensive land registration and applying appropriate land dispute handling mechanisms among others.

Critical Milestones for the Last 10 Years

1. Compulsory Acquisition of Land and Compensation Disbursements

The Commission has facilitated the acquisition of land for 97 flagship public projects in various sectors like transport, water and sanitation, energy and security as spelt out in Vision 2030. In this regard, the Commission has disbursed over Ksh 73 billion to Project Affected Persons (PAPs) whose land was compulsorily acquired for the projects. This has contributed greatly to the achievement of the Big 4 Agenda.



Site inspection of the Eldoret bypass project by the NLC team and other stakeholders. NLC team was led by Gershom Otachi (Chairman), Kabale Tache Oraro (Ag. CEO), Bernard Cherutich (Director, Finance and Corporate planning).



2. Administration and Management of Public Land

a. Land Allocations

The Commission received approximately 7,546 proposals for allocation of public land recommended by various Counties as follows: under the manufacturing sector-100 acres of land to the Export Processing Zone Authority; under the energy sector-1,032 hectares allocated to Kenwind Limited for the generation of wind power in Lamu County and under the infrastructure sector -28,000 hectares for LAPSET Development Authority for Lamu Port development among others.

b. Development Control

The Commission approved and monitored the development of public land through extension /renewal of leases, change /extension of user, subdivisions and building plan approvals. It has processed and recommended for approval over 6,800 renewals/extensions of leases, 4,290 subdivisions/amalgamations schemes, 3,000 change/extensions of user and 3,566 building plans.

c. School Titling Programme

To protect schools against illegal land grabs, the Commission in conjunction with the other agencies in the Shule Yangu Alliance Campaign prepared and dispatched 3,020 transfers of school land to relevant land registries for registration and issuance of titles.

3. Review of Grants and Dispositions of Public Land.

The Commission reviewed grants and dispositions to public land in various counties including Nairobi, Mombasa, Kisumu, Kiambu, Taita Taveta, Kakamega, Kilifi, Nakuru, Narok, Lamu, Kisii, Kilifi, Baringo, Makueni, Nakuru, Lamu, Uasin Gishu, Machakos, Kisumu, Kwale, Embu, Kirinyaga, Laikipia, Mandera, Garissa, Marsabit, and Embu. The process of review of grants and dispositions of public land resulted in reclaiming public land.



Former Vice-Chairperson Abigail Mbagaya and former Commissioner Emma Njogu receiving an illegally acquired title for the Kibarani dumpsite from the Mombasa County Governor, H.E. Hassan Joho.



4. Land Conflict Resolution Mechanism.

a. Historical Land Injustices (HLIs)

The Commission received 3,665 claims on HLIs. About 126 have been analyzed and determined while the remaining are being considered for admission, investigation and hearing.



Submission of HLI claims presented by the Maasai Community Leaders to the National Land Commission led by Gershom Otachi (Chairman), Gertrude Nguku (Vice-Chairperson), Hon. Esther Mathenge (Commissioner) and Hubbie Hussein Al-Hajji (Commissioner).



b. Alternative Dispute Resolution (ADR) and Traditional Dispute Resolution (TDR)

The Commission has been able to handle over 5,000 land disputes through the ADR/TDR mechanism. The resolution of these land disputes has promoted national cohesion and peaceful coexistence between communities.



Exchange of title deeds between leaders of Solai Ruyobei Farm Ltd overseen by NLC Chairman, Gershom Otachi and Ag.CEO, Kabale Tache Arero. The exchange was a result of a successful ADR process between the two communities.



c. Civil Litigations and Investigations

The Commission has participated in resolving numerous court cases touching on land at the Supreme Court, Court of Appeal, High Court (Environment and Land Court) and the Magistrates Court. It has also played an important role in carrying out investigations & forensic services in fraudulent public land transactions. It liaised closely with NEMA and NCA for the protection of riparian land where it served notices for the withdrawal of construction licenses to people putting up structures on riparian land.

5. Mainstreaming of Land Use Planning

The Commission prepared frameworks for monitoring the implementation of the National Land Use Policy (NLUP) and monitoring implementation of the National Spatial Plan (NSP). It also reviewed and made

recommendations for improvement on Urban Land Use Plans. These are tools of engagement between the Commission as a monitoring and oversight agency and County governments as planning authorities.

6. Research and Natural Resources

a. Research on Land and use of Natural Resources

The Commission continues to guide the country on policy matters through research on land and the use of natural resources towards improving land administration and management in Kenya. Consequently, the Commission has developed its research agenda in the following thematic areas: Land Governance and Land Management; Land use planning and land use conflict resolution; Land Rights and Security of Tenure; Emerging Global and Strategic Land Issues; Historical Land Injustices and Legal Research; Sustainable Conservation of Land-Based Natural Resources; and Valuation and Taxation.

b. Development of Kenya's Natural Resource Atlas and Inventory

The development of the Country's Natural Resources Atlas as an information hub to integrate a multiplicity of actors/agencies' data on land-based resources is another achievement by the Commission. The atlas shows how the entire natural capital is distributed and interconnected as well as the changing patterns within the land/seascape towards enhancing and informing sustainable socio-economic development in the country.

7. Revenue generation from land and land-based resources

Through the assessment of tax on land and premium on immovable property in any area designated by law, the Commission has generated revenue from the land and land-based resources where it regularly reviews and prescribes rents, royalties, and other payments that should be paid by lessees and licensees of the public land.

8. Implementation of the 2009 Land Policy

The Commission has implemented various recommendations regarding land management and administration under land policy principles. These include: equitable access to land; security of land rights; sustainable and productive management of land resources; transparent and cost-effective administration of land; sound conservation and protection of ecologically sensitive areas; and elimination of gender discrimination in law, customs and practices related to land and property in land; among others. The Commission further developed an advisory opinion to guide the development of a new land policy to the Parliament.

9. Advisories Issued by National Land Commission

The Commission issued more than 20 advisory opinions to MDAs, Parliament, County Governments, foreign governments and investors to ensure the enhancement of better land governance.

10. Public Education and Awareness:

The Commission conducted over 5,275 public awareness and stakeholder engagement sessions. These have been elaborate and targeted public education and participation exercises to enhance awareness and protect land rights for all Kenyans.

11. Decentralised Land Governance in the Counties

The Commission has decentralized its services by establishing offices as per the devolved units. The decentralized units provide services to members of the public within their counties hence the promotion of efficiency and effectiveness in service delivery.

12. Strengthened partnerships and collaborations

The Commission collaborated with several government agencies, development partners, professional bodies, civil society organizations and the private sector in various engagements and forums to improve land reforms and land rights delivery mechanisms on an equal basis. The Commission recognizes and appreciates collaborations, networks and partnerships that have been crucial for the success of the Commission. The partners include; MoLPP, CoG, FAO, UNDP, WWF, World Bank, KLA, NAMATI, KELiN, and IMPACT among others.

Challenges

Despite the above achievements, the Commission experienced some challenges as shown below:

1. Financial and Budgetary Constraints

The Commission continues to experience inadequate funding hence affecting its activities majorly on the delivery of its operational and administrative mandates. On average, the Commission has been allocated a mere 30 per cent of its annual budget requirement.

2. Vesting land to the Government after Compulsory Acquisition

Land compulsorily acquired by the government has not been vested since independence. This has resulted in the illegal occupation and use of such land for private purposes, charges on public land, and the risk of double acquisition during project expansion. This challenge has been compounded by a lack of budgeting by the acquiring entities.

3. Litigation: Costly court cases and liabilities

There has been an increase in land conflict and a corresponding increase in the number of land cases in the Land and Environment Courts across the country. The high number of court cases implies that Commission incurs high costs in these cases.

4. Climate Change:

The severe impacts of climate change such as extreme flooding and droughts, rise in sea levels and rise in water levels in major water bodies such as Lake Naivasha and Lake Baringo adversely affected the Commission's work of managing and administering public land

5. Lapse of Time Frame for Review of Grants and Dispositions

The Commission was to undertake a review of grants and dispositions within five years but the given timespan lapsed before the Commission could address all the claims received conclusively. The Commission continues to receive more complaints relating to illegally and irregularly acquired land but due to a lack of legal framework, requests received cannot be addressed.

Beyond 10 Years

As we celebrate, reflect, and participate, I would like to emphasize that the Commission will continue to work with other actors in the land sector to effectively administer and manage public land on behalf of the two levels of Government. Among other things, the Commission seeks to:

1. Continue the implementation of its Strategic Plan 2021-2026 to guide its operations as it has taken cognizance of the Country's development agenda.



Cabinet Secretary Dr. Fred Matiang'i, NLC chairman Mr. Gershom Otachi, NLC Ag. CEO/ Secretary Ms. Kabale Tache and NLC stakeholders displaying copies of the 2021-2026 Strategic Plan during the launch.



2. Continue strengthening the use of technology in accessing the information on public land. The Commission jointly with the MoLPP will continue to promote the use of the Ardhisasa platform to allow the public access to land information, the use of the 'Haki kwa Ground' system for land conflict resolutions.
3. Address the issue of vesting. So far the Commission continues to engage the acquiring entities with the view of budget provision.
4. Promote revenue generation on land by reviewing existing property tax legislative framework to enable efficient revenue collection and implementation of policies and guidelines on valuation services for the assessment of property taxes.
5. Improving socio-economic development and peace through the provision of effective land dispute resolution and conflict management through the use of AJS, ADR and TDR mechanisms. The Commission will also continue to implement HLI legal framework to provide redress for Historical Land Injustices.





Hillary Nzioki Mutyambai M.G.H. nsc (AU)

*Inspector General
National Police Service*

About the National Police Service

The National Police Service (NPS) is the umbrella law enforcement organ in Kenya. The NPS is established under articles 243 -245 of the Constitution of Kenya, 2010, the National Police Service Act 2011 and the National Police Service Commission Act 2011. The NPS consists of the Kenya Police Service, the Administration Police Service, the Directorate Criminal Investigation and the Internal Affairs Unit. It is under the independent command of the Inspector General. The Kenya Police Service (KPS) and the Administrative Police Service (APS) are each headed by a Deputy Inspector General, while the Directorate of Criminal Investigation (DCI) and the Internal Affairs Unit (IAU) are each headed by a director.



The NPS seeks to achieve the highest standards of professionalism and discipline among its members. It also prevents corruption while promoting and practicing transparency and accountability. It ensures compliance with constitutional standards of human rights and fundamental freedoms when carrying out Policing functions. Further, the Service endeavors to train staff to the highest possible standards of competence, integrity, and respect for human rights while upholding fundamental freedoms and dignity. It further seeks to foster & promote relationships with the broader society. The NPS envisions being a world-class Police Service, with a mission to provide professional and people-centred Police service through partnership and upholding rule of law for a safe and secure society. Its motto is "Service with dignity" anchored on justice, integrity, equity, participation, accountability, openness and civility as its core value.

Critical Milestones for the Last 10 Years

The National Police Service has in the last ten years made strides in the areas of institutional legislative and policy reforms, Police Accountability reforms, Police professionalism reforms and Administrative operational preparedness and logistical capacity reforms.

1. Institutional, legislative and policy reforms

a. Institutional reforms

The Constitution 2010 established the National Police Service (NPS) under the Inspector General and repealed the previous Kenya Police Force and Administration Police Force under the commissioner of police and Commandant respectively. The Inspector-General is deputized by the Deputy Inspector General Kenya Police Service (KPS) and the Deputy Inspector General Administration Police Service (APS) thus bringing KPS and APS under the office of the Inspector General.

The Constitution 2010 established the National Police Service Commission (NPSC) which oversees the Human Resource functions of the National Police Service while the Independent Policing Oversight Authority (IPOA) was also established to oversight the Police and investigate police misconduct. The internal affairs unit was established under the office of the Inspector General to take care of internal accountability issues.



b. Legislative reforms

This includes the enactment of the National Police Service Act, 2011, National Police Commission Act 2011, and Independent Policing Oversight Authority Act 2011.

c. Policy reforms

The NPS has formulated several policies to guide the operations of the Service. Some of these policies are the Bond and Bail policy, NPSC Discipline, regulations 2014, National Police Service Commission Human Resource Management Regulation 2014, National Police Service Commission Transfer and Deployment Regulations, 2014, National Police Service Commission Promotion regulations 2014, Training Policy, Housing Policy and Chaplaincy among others.

2. Police accountability reforms

The Service has established the Directorate of Internal Affairs as per section 87 of the NPS Act, 2011 to internally hold the Police accountable to the law and the people of Kenya in the performance of their duties. Additionally, we have developed an NPS Communication strategy for effective, efficient coordinated, consistent and credible communication. The NPS Anti-Corruption strategy was also developed aimed at establishing corruption prevention committees in the counties, formation and sub-counties.



3. Police professionalism terms and conditions of service

The Service has been keen to promote high standards of professionalism and to enhance performance in service delivery through training and capacity building. To achieve this, a new harmonized training curriculum has been developed and adopted across the Services enriched with new modules in areas of human rights, gender, public relations, ICT, Community Policing and customer service. Additionally, NPS has from the year 2013 to the year 2021 recruited a total of 35,800 new personnel greatly increasing its ability to offer quality service to the public.

Further, the Service Standing Order (SSO) and a police code of conduct have been developed. They established standards of professional behaviour for all Police officers and fosters an environment of mutual trust and respect between police officers and the general public. To improve the terms and conditions of the Service of police officers, Human Resource management regulations 2014 was developed which addressed, transfers, promotions, retirements and salaries and allowances.

4. Administrative operational preparedness and logistical capacity reforms

For Police to provide efficient and effective Service, it has to be properly equipped with enhanced technology capacity. Towards this end, the Service has developed Police Service fleet management guidelines to maximize the efficiency of use of available vehicles. The leasing of vehicles increased the number of serviceable vehicles available to the Police. The Service has also acquired more speed boats for Maritime Police and the Police Airwing has been affiliated with the military. ICT equipment and infrastructure has been revamped while IC3 projects have been implemented in Nairobi and Mombasa.

Additionally, the policy framework on the reorganization of the National Police Service and provision of decent and affordable housing to police was developed to give NPS a clear command structure, facilitate effective and responsive service delivery, and resolve the long-standing housing crisis hence restoring the dignity to officers. In turn, the officers have been able to discharge their functions with higher levels of dignity and the required professionalism. To move services closer to the citizens, 701 additional police stations were gazetted.



Challenges

1. Inadequate human, financial and infrastructural resources.
2. Increased cases of police suicides and homicides are estimated to be an average of 50 cases of suicides or homicides by fellow police officers every year.
3. Long working hours coupled with incommensurable compensation
4. A negative police image is associated with a lack of accountability and indiscipline by some officers.
5. Emerging crimes like cyber-crime, human trafficking and terrorism.

Beyond 10 Years

1. Establish a Police Infrastructure Development Fund for improvement, modernization and building of new Police Service facilities,
2. Recruit a bigger number of Constables every year to attain the United Nations recommended police population ratio of one police officer to every 450 civilians.
3. Improve Police remuneration and applicable allowances to be commensurate with hours worked.
4. Extend the Police Medical Insurance to cover mental related illnesses and conditions including rehabilitation of serving officers and their dependents.
5. Enhance accountability by strengthening both the internal and external accountability mechanisms.
6. Embrace a multi-agency approach by sharing Intelligence with other security agencies both local and international, upgrading ICT infrastructure in the NPS and training officers to be able to combat emerging crimes.
7. Extend IC3 Services to all major urban centres





National Police Service Commission



Eliud N. Kinuthia, CBS, OGW, HSC

*Chairperson
National Police Service Commission*

About the National Police Service Commission

The National Police Service Commission (NPSC) is one of the independent Commissions established under Chapter Fifteen of the Constitution 2010. The Commission is established under Article 246 of the Constitution. It took over, among other functions, the human resource management function of the Police Service that was previously handled by the Public Service Commission. The establishment of the National Police Service Commission to specifically oversee the human resource functions of the National Police Service is not only anchored in the Constitution but also a culmination of findings and recommendations by various task forces appointed by the Government on the role of the Police in providing security and maintaining law and order.

As stipulated in Article 246(2)(a), the Commission consists of nine (9) members, which include a person qualified to be appointed as a High Court Judge; two retired senior police officers; three persons of integrity who have served the public with distinction; the Inspector-General of the National Police Service and both Deputy Inspectors-General of the National Police Service. The Commission which became operational on 5th October 2012 is in charge of human resource management of the National Police Service, which comprises the Kenya Police, the Administration Police and the Directorate of Criminal Investigations.

Critical Milestones for the Last 10 years.

1. Financial Year 2012/2013: One hundred and twenty-six (126) police officers were promoted to various ranks; Eight (8) disciplinary cases were handled and finalized in the year under review; and 30 Chief Inspectors of Police were nominated/selected to attend the Higher Training Course (HTC) in Kiganjo Training College.
2. Financial Year 2013/2014: The Commission established the legal framework and vetting regulations; Vetting of 198 Police Officers in the rank of Senior Deputy Commissioner of Police I&II, Deputy Commissioner of Police, Senior Assistant Commissioner and Assistant Commissioner of police; and Development of regulations on Recruitment, Promotions, Transfers and Discipline; Development of a Strategic Plan.
3. Financial Year 2015/2016: Recruitment of 9,937 Police Constables in April through delegated authority to the Inspector General as per Section 10(2) of the NPSC Act; Participated in the development of the police reforms Program Document 2015 – 2016; Finalized development of the scheme of service for members of the National Police Service; and Participated in the development of the National Police Service Review of Training Curriculum. Also; Vetting interviews for 248 police officers; Vetting results for 1,366 police officers were processed and released; Applications from 62 police officers seeking review of the vetting decisions, were reviewed; and Developed and installed an in-house vetting software-VETPOL- and launched it for use.
4. Financial Year 2016/2017: 10,000 police constables were recruited; 2,393 police officers were promoted; 279 disciplinary cases were settled; 260 cases of appeal finalized; and 58 cases of retirement were processed.

5. Financial Year 2017/2018: Promotion of 2,541 police officers; 523 police officers were transferred; 374 disciplinary cases were completed; Approval of the Revised NPS Training Curriculum; Vetting of Traffic, Chief Inspectors and Internal Affairs Unit Officers; and NPS policies were developed.
6. Financial Year 2018/2019: Developed policies in counselling, Training and Development, and Housing in the NPS; 278 police officers were promoted and 402 transferred; 477 disciplinary cases were received and settled; 61 appeal cases were settled; Vetting of the remaining 250 Traffic Police Officers; and Release of results for 1,551 vetted traffic police officers. Also, Reviewed cases relating to traffic officers removed from the service; Vetted 1,666 Chief inspectors; The Commission successfully prepared and implemented the performance contracts; Development of the 2019– 2022 Strategic Plan; and NPSC Performance Appraisal Tools were developed.
7. Financial Year 2019/2020: Reviewed salary for police officers; Developed an endowment fund for police officers, widows, widowers and orphaned children; Operationalized a counselling centre to assist the National Police Service Commission (NPSC) address physiological stress-related problems affecting officers; De-linked non-uniformed officers from the public service commission; and Developed a policy on treatment and conduct of officers deployed to Security for Government Buildings (SGB), Critical Infrastructure Protection Unit (CIPU) and VIP protection. Also, Approved establishment against current strength of NPS; Established a monitoring committee for health medical cover for NPS; Established a committee for the identification of beneficiaries for deceased officers' benefits; 1,792 promotions processed; 60 transfers were done; 151 discipline cases were settled; and 102 cases of appeal were processed.
8. Financial Year 2020/2021: Recruited 5,132 police constables and 300 cadet inspectors; Operationalization of the Mombasa region counselling centre and recruitment of 26 counsellors and social workers; Establishment of NPSC special medical board; Development of a reward structure for implementation of the presidential directive for the rewarding performance of officers in the public security sector; Promotion of 1,016 police officers; 182 discipline cases were handled; 45 complaints handled; 109 Appeal cases were handled; Rebranding of the Commission; and Records Management Standard Operation Procedure was developed.

Challenges

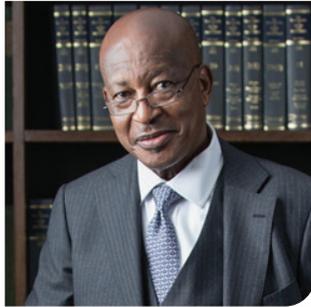
During the period under review, the Commission went through a series of challenges that include;

1. Low budgetary allocation hindered the implementation of several planned activities. These activities include operationalizing regional counselling and wellness centres, decentralization of NPSC services, partitioning of new NPSC headquarters, and acquisition of Commission vehicles to aid in mobility.
2. Lack of automation of Police records thus affecting the speed of decision making by NPSC.
3. There has been the immense public expectation for Police Reforms but the Commission realizes that change will have to come step by step.

Beyond 10 Years

Based on the current Strategic Plan, the Commission intends to;

1. Decentralize Human Capital Management services to the Regions, Counties and Sub-counties.
2. Operationalise the Psychosocial Support and Wellness Centre at HQ and Regions.
3. Automate Human Capital Management processes.
4. Delink and take over NPS civilian staff excluding PFM staff from PSC to NPSC.
5. Relocate NPSC HQ offices and proposed a plan for the acquisition of a new HQ building.



OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

**Honourable Justice (Rtd) Paul Kariuki
Kihara, EGH**
The Attorney General

About the Office of the Attorney General and Department of Justice

The Office of the Attorney General is established under Article 156 of the Constitution. The Attorney General is the principal legal adviser to the Government, and also represents the national government in court and in other legal proceedings to which the national government is a party, save for criminal proceedings.

The Office of the Attorney General Act, 2012, gives greater specificity to the functions of the Attorney General. The Attorney General's mandate is set out to include, inter alia, advising Government Ministries, Departments, Constitutional Commissions and State Corporations on legislative and other legal matters; advising the Government on all matters relating to the Constitution, international law, human rights, consumer protection and legal aid and negotiating, drafting, vetting and interpreting local and international documents, agreements and treaties for and on behalf of the Government and its agencies.

Section 5(2) of the Office of the Attorney General Act prescribes the manner in which the Attorney General is to discharge his functions. The provision directs that the Attorney General shall provide efficient and professional legal services to the Government and the public for the purpose of facilitating, promoting and monitoring the rule of law, the protection of human rights and democracy. The foregoing is the legal context within which the Office of the Attorney General performs its mandate. At present, the Office of the Attorney General has presence beyond Nairobi in twelve regional offices, namely: Nakuru, Eldoret, Kakamega, Kisumu, Kisii, Nyeri, Embu, Machakos, Mombasa, Malindi, Garissa and Meru. Pursuant to the Executive Order Number 1 of 2020 (Revised), the Attorney General has the mandate of implementing various Acts of Parliament, which include the Marriages Act; the Public Trustee Act; the Business Registration Services Act; the Legal Education Act; the Kenya School of Law Act; the National Crime Research Centre Act; the Proceeds of Crime and Anti-Money Laundering Act, among others.

Critical Milestones for the Last 10 Years

The last ten years have seen significant transformation in the mandate and structure of the Office of the Attorney General, as well as major milestones in terms of the performance of the Office's constitutional and statutory mandate.

Before 2010 when the current Constitution was promulgated, the Attorney General was responsible for public prosecutions. The current Constitution saw the establishment of the Office of the Director of Public Prosecutions under Article 157 of the Constitution as a separate Office from that of the Attorney General. This necessitated a reorganisation in order to give effect to the stipulations in the Constitution. Further reorganisation was occasioned by the merger of the then Ministry of Justice and Constitutional Affairs with the Office of the Attorney General.

One of the consequences of the promulgation of the Constitution in 2010 was the need to enact legislation to give effect to various provisions of the Constitution. The Fifth Schedule to the Constitution stipulated strict timelines within which such legislation was to be enacted. In this regard, the Office of the Attorney General worked together with the now defunct Commission on the Implementation of the Constitution, and other actors such as the Kenya Law Reform Commission, to develop the requisite legislation within the

required timelines for presentation to Parliament. Most of these statutes were enacted within the requisite timelines and have been instrumental in ensuring the smooth implementation of the Constitution.

The new Constitution also raised a number of novel questions in our constitutional and legal environment. On many of these questions, the Office of the Attorney General has provided guidance to the various Government Ministries, Departments and Agencies, as well as to independent offices, constitutional commissions and other arms of Government. On others, the Attorney General has approached the Supreme Court for advisory opinions, and also articulated positions that have assisted in the development of the law. Among the initial matters in respect of which the advisory opinion jurisdiction of the Supreme Court was invoked was instituted by the Attorney General, concerning the question of the implementation of the constitutional requirement of gender representation in the Senate and in the National Assembly.

The Attorney General continues to represent the National Government in various court proceedings, both locally and internationally. In international arbitration, the Attorney General has successfully defended the National Government against a number of claims, including the approximately Kshs. 200 billion claim in the case of *Cortec Mining Kenya Limited, Cortec (Pty) Limited and Stirling Capital Limited vs. Republic of Kenya (ICSID Case No. ARB/15/29)*. The Attorney General has also successfully defended the National Government in other multi-billion dollar claims, including the *World Duty Free Company v Republic of Kenya (ICSID Case No. Arb/00/7)* and *Walam Energy v Republic of Kenya (ICSID Arb. 15/7)*, among others. Locally, the Attorney General has been a party to a number of landmark cases that have shaped the development of our law. Recently, for example, the Attorney General successfully prosecuted an appeal at the Supreme Court of Kenya against the finding by the Court of Appeal and the High Court that the Basic Structure Doctrine was applicable in Kenya, with the effect that certain provisions of the Constitution were unamendable, except through a process of remaking the Constitution. In effect, the Supreme Court affirmed the Attorney General's position that all provisions of the Constitution were amendable in line with the amendment provisions stipulated in the Constitution itself.

Challenges

The Office of the Attorney General faces both infrastructural and capacity challenges. These challenges emanate from increasingly limited budgetary allocations. There is need, for instance, for more Office space and equipment both at the Headquarters and in the regional offices, as well as the need to establish offices in all the counties in order to ensure that our services are fully devolved, in line with the Constitution. There is also the need for more staff. Our current staff establishment falls below the recommended standards. The challenge is compounded by the high turnover of staff, largely on account of better terms of service in the private sector and other law and justice oriented public entities. Yet, the demand for our services continues to grow as the law develops and rule of law-based governance takes root. There is also a misunderstanding of the role of the Attorney General, largely driven by erroneous media portraits and narratives. There is, for instance, the tendency to assess the outcome of court cases in which the Attorney General is involved from a binary win-lose perspective, notwithstanding the fact that the Attorney General's paramount objective, as stipulated in the Constitution, is to secure the public interest and promote the rule of law. This objective transcends a win-lose assessment of outcomes in court cases.

Beyond Ten Years

Our mission is to facilitate the realization of good governance and respect for the rule of law through the provision of public legal services, protection and promotion of human rights and upholding of ethics and integrity. Our vision is to be the best institution in the region in the provision of public legal services and promotion of a just, democratic and corruption-free nation.

In order to achieve our mission and vision, part of our strategic plan, in partnership with the relevant Government agencies, includes expansion of our current infrastructural capacity and establishment of regional offices in all the forty-seven counties, to ensure that our services are effectively devolved and responsive to mwananchi at the grassroots. We also aim at enhancing our staff capabilities through engaging more staff and working on staff retention through attractive and competitive remuneration packages and developing sustainable capacity development programmes.



CPA Nancy Gathungu, CBS

*Auditor-General
Office of the Auditor-General*

About the Office of the Auditor-General

The Office of the Auditor-General (OAG) is an Independent Office established under Article 229 of the Constitution of Kenya, 2010. The Office is charged with the primary oversight role of ensuring accountability in the use of public resources within the three arms of government (the Legislature, the Judiciary and the Executive) as well as the Constitutional Commissions, Independent Office and any entity that is funded using public funds. Article 229 (6) of the Constitution requires the Auditor-General to confirm whether public funds are spent lawfully and effectively.

This primary oversight is carried out through audit and audit reports which are issued after audit execution. These reports are submitted to Parliament and the relevant County Assemblies, with copies to key stakeholders including the audited entities. The reports are discussed at the relevant Parliamentary Committees which include the: Public Accounts Committees (PAC), Public Investments Committee, Special Funds Accounts Committee, Senate County Public Accounts and Investments Committee, and other Departmental Committees. Audit reports are also discussed at the County Assemblies' Public Accounts and Investments Committee.

After discussions are complete, the Parliamentary and County Assembly Committees with the assistance of the Office of the Auditor-General give recommendations that must be implemented by the entity concerned. Thereafter, the Auditor-General follows up to confirm whether the recommendations have been implemented. In executing the audit mandate, OAG interacts with several key stakeholders as is required by International Standards of Supreme Audit Institutions (ISSAIs) and other legal frameworks like the Constitution of Kenya and the Public Audit Act, 2015.

Critical Milestones for the last 10 years

1. Appointment of new Auditor-General



*CPA Nancy Gathungu,
CBS, being sworn in
as Auditor-General*



The first Auditor-General under the new Constitution 2010, FCPA Edward Ouko, CBS was appointed for an eight-year tenure in September 2011. His term ended in August 2019. CPA Nancy Gathungu, CBS, was sworn into office on 17 July 2020, as the second Auditor-General under the Constitution, 2010.

2. Pioneered the Performance Measurement Framework Assessment Tool

The Office was honoured by the International Organisation of Supreme Audit Institutions (INTOSAI) Capacity Building Committee for successful and effective use of the Supreme Audit Institution Performance Measurement Framework (SAI-PMF) assessment tool. The tool is used by Supreme Audit Institutions to monitor and evaluate their performance and identify areas of improvement. It is conducted after every five years.

3. Developed a Five-Year Strategic Plan 2021-2026

The Office developed a Strategic Plan that will guide operations for the next five years. The 2021-2026 Strategic Plan will be instrumental in OAG's efforts to remain futuristic, relevant and a value-adding institution, to public sector accountability. The Plan is hinged on the provision of audit services that make a difference in the lives and livelihoods of the Kenyan people.



4. Revamped Website to Enhance Stakeholder Experience

In enhancing communication with our stakeholders as part of our Credibility Pillar, we revamped our Website to meet international standards. The platform is a credible source of information on our mandate, roles, responsibilities, achievements and aspirations. The new Website is easy to navigate, user-friendly and can be accessed on any web-enabled device.

5. Auditor-General elected Vice-Chair of the African Organisation of English-Speaking Supreme Audit Institutions (AFROSAI-E) for a three-year term.

We were honoured with the election of the Auditor-General, CPA Nancy Gathungu, CBS by the Governing Board of AFROSAI-E to the position of Vice-Chair of AFROSAI-E for a period of 3 years. AFROSAI-E is a member-based institution with 26 Auditors-General from English-speaking African countries making up our Governing Board.

6. Decentralization of Audit Services

With the advent of devolution, OAG embarked on establishing additional Offices in various regions across the country. We currently have 11 regional Offices which are strategically placed to enable us to provide quality audit reports. Our continuous presence at the grassroots ensures that we provide timely audit services to our clients and continuous quality service delivery to all.

7. Provided Technical Support to other Supreme Audit Institutions

To enhance international partnerships, the Office offers support to other Supreme Audit Institutions (SAIs) in the region. During the period, we offered technical support to Supreme Audit Institutions of Sierra Leone, South Sudan, Liberia and other countries through AFROSAI-E.



Performance auditors from the African region sharing experiences



8. Leveraged ICT to Improve Efficiency

The Office implemented an Audit Management System (AMS) to enhance efficiency and effectiveness in conducting audits. The system ensures that audit documentation meets professional standards.

9. Launched Citizen Engagement Framework (for Citizen Accountability Audits)

We developed a new audit approach where we involve citizens in the audit process. This has led to public participation in the audit process and hence shared ownership of audit outcomes.



Engaging Stakeholders. EACC Chairman Rtd. Arch. Eliud Wabukala at the OAG exhibition booth



10. Cleared Significant Backlog of Audit Reports

We managed to complete the 2018/2019 and 2019/2020 audits and submitted the reports to Parliament and the relevant County Assemblies. The backlog was caused by the delayed appointment of the Auditor-General which impacted our operations.

11. Developed Framework for Tracking Implementation of Audit Recommendations

The Office has developed a draft framework for tracking the implementation of audit recommendations to address the existing gap where entities have audit queries recurring in subsequent audit reports. Once the framework is in place, it is expected that entities will improve their performance in service delivery.



The AG during a visit to Konza Technopolis for a familiarization of project



Challenges

Despite the achievements made, OAG has faced some challenges among them being;

1. Budget Constraints

One of the challenges to independence is the lack of resources to fulfil our mandate. We have been experiencing perennial budget shortfalls, thus affecting the timely execution of our mandate. Despite the OAG being responsible for auditing and reporting on the entire national budget, the Office receives an average of only 0.2 per cent of the national budget, which is inadequate.

2. Tight Timelines for Completion of Audit Reports

Our timelines for submission of audit reports are very tight owing to a provision in the Public Finance Management Act, 2012, which gives public entities three (3) months after the end of each financial year, to present their financial statements for audit. This has been adversely affecting the timelines for reporting, leading to backlogs and impacting negatively on the efficiency and effectiveness of oversight by Parliament and County Assemblies.

3. Inadequate Implementation and Follow up of Recommendations from Audit Reports

There is a lack of an effective mechanism for follow up on the implementation of recommendations and as such most audit queries recur in subsequent audit reports due to a lack of adequate action. This will, however, be addressed by the Framework for tracking, follow up and reporting on the implementation of audit recommendations.

4. Delay in Discussing Performance Audit Reports in Parliament.

We have in the past issued over forty (40) Performance Audit Reports touching on various sectors. However, Parliament has not deliberated on the reports. Some of the reports have provided recommendations if implemented, would have mitigated some of the current issues we are experiencing in the country.

5. COVID-19 and Other Emergencies/Crises

The COVID-19 pandemic impacted our audit schedule as our auditors could not make physical visits to the clients' premises for audit inspections. However, we adopted technology, remote working and flexible working hours for staff to ensure we continued providing audit services.

Beyond Ten Years

1. Implementation of the Strategic Plan 2021-2026

An increasingly dynamic, complex audit environment, heightened risks, emerging priorities as well as escalating stakeholder expectations call for innovative approaches to conducting audits. The Office developed a new Strategic Plan 2021-2026, to guide our work to enable us to remain future, relevant auditors and a value-adding institution.

2. Further Decentralization for More Impact

We will continue to restructure OAG by further decentralizing our audit services by opening additional offices in the regions. The construction of OAG Headquarters in Nairobi is planned for the next financial year.

3. Optimize the use of the Audit Management System (AMS)

We continue to optimize the use of the Audit Management System (AMS) for enhanced efficiency and effectiveness in conducting audits.

4. Securing a Legal Framework that Underpins Independence of the OAG

To safeguard the independence of the Office as enshrined in the Constitution, we are in the process of reviewing the Public Audit Act, 2015. Some of the proposed amendments include: the establishment and functions of the Audit Advisory Board, enhancing the financial independence of the Office of the Auditor-General and entrenching emerging audit areas in law.

5. Resource Mobilization through Lobbying for Adequate Funding

We will continue to lobby for more funding from Parliament, The National Treasury and our Development Partners for continuous support to implement and meet our strategic objectives and to enable us to assure accountability in the use and management of public resources for the benefit of the citizens.



CPA Dr. Margaret Nyakang'o, CBS

*Controller of Budget
Office of the Controller of Budget*

About the Office of the Controller of Budget

The Office of the Controller of Budget (OCOB), is an independent office established under Article 228 of the Constitution of Kenya 2010, with the mandate to oversee the implementation of the budgets of the national and county governments by authorizing withdrawals from public funds and submitting to each House of Parliament a report on the implementation of the budgets every four months. Further, the office is required under Article 254 of the Constitution to publish and publicise statutory reports and ensure that members of the public have access to information on budget implementation by both the National and County Governments. Established in August 2011, the OCOB has made a significant contribution to enhancing prudence in the management of public finance by ensuring that government entities comply with the requisite legislation.

As a key institution constitutionally responsible for authorising withdrawals from public funds, OCOB has an important role in national development by facilitating the availability of resources required to implement various national and county governments programmes through timely approval of withdrawals from the public funds and inculcating a culture of transparency and accountability through provision of timely information to Parliament on utilisation of public funds; advising the national and county governments on measures to improve budget implementation; ensuring prudent use of public funds through enforcement of budgetary ceilings set by Parliament on national and county governments expenditure, and sensitising the public on their role in public financial management at national and county levels. The operations of the OCOB are implemented under one MTEF programme namely: Control and Management of Public Finances.

Critical Milestones for The Last Ten Years

1. Establishment of the Office of the Controller of Budget and unbundling the mandate of the Controller of Budget

Following the appointment of the first Controller of Budget in 2011, there was the need to unbundle the mandate of the Office of the Controller of Budget as provided in Article 228 of the Constitution. This involved conceptualisation and internalisation of the mandate. As part of this process, the OCOB carried out three benchmarking visits to Germany, Australia and Ethiopia to understand the functions of a devolved system of government in established governments. Further in July 2013, the OCOB took part in a study tour to the USA organised by the Council of Governors with the support of USAID under the Kenya Governors Strategic Execution Support (KEGOSES) programme. The study tour covered the states of Tennessee and Oklahoma. The objective was to learn the unique approaches, structures, strategies and policies for devolution/decentralization that had been successfully applied, tried and tested in the USA and could be replicated in Kenya. The tour also sought to promote and establish relationships between key constitutional bodies in Kenya and their USA counterparts, including government officials, at the Federal and State level.

2. Job Evaluation and Recruitment

Initial staff members were seconded from various Ministries to assist the OCOB during its nascent stage of operations and capacity building was carried out to facilitate the efficient delivery of its mandate. Consequently, the OCOB carried out a Job Evaluation exercise to inform optimal staffing levels and job descriptions that would enable it to deliver on its mandate. In 2013, the OCOB decentralised its services to all 47 Counties through the appointment, training and deployment of County Budget Coordinators (CBCs) who would coordinate requests for authorisation of withdrawals from the County Revenue Fund while monitoring and reporting on budget implementation at the county level.



Induction training for the recently appointed members of the Audit and Risk Committee for the Office of the Controller of Budget.



3. Capacity building for County Governments

Since the dispensation of the Devolved governments in 2013, the OCOBs continuously assisted in building the human resource capacity of the Counties through staff training and the development of requisite systems and procedures.

4. Authorization of withdrawals from Public Funds

The OCOB developed a procedure manual for authorising withdrawals from Public Funds. The manual provides a guide to ensure approval for withdrawals from Public Funds is made in conformity with the law. In this regard, the OCOB reviews exchequer requests from MDAs and Counties for completeness and compliance with the law. The manual streamlined the exchequer process and ensured that exchequer requests from MDAs and counties are approved expeditiously to enhance seamless implementation of the approved budgets.

5. Total Exchequer Issues

From the inception of the OCOB in 2011/12 to 2021/22, the total exchequer issues to the MDAs and Counties is Ksh 20.7 trillion. The exchequer issues comprised Ksh 11.7 to trillion to MDAs, Ksh 6.3 trillion for Cash Flow Statement and Ksh 2.6 Trillion to the Counties. The exchequer issues to net estimates averaged 92.6 per cent over the ten years.

6. Publishing of Quarterly Budget Implementation Review Reports

The OCOB has prepared and published 73 budget implementation review reports: 40 for the National Government and 33 for County Governments. The reports highlight key issues affecting budget implementation at both levels of government. The first quarterly report by the OCOB for the 2011/12 financial year covered the period between July to December 2011. A high-level meeting bringing together Cabinet Secretaries, Principal Secretaries and Development Partners was held at KICC to discuss absorption of the development budget and key resolutions were made. The report marked the impact of the OCOB regarding reporting on budget implementation.

7. Monitoring and Evaluation of Projects

The OCOB has a monitoring framework in place to monitor the implementation of the national and county government programmes and projects. The framework enables OCOB to effectively advise both the Executive and the Legislature on budget implementation matters. In line with its core mandate, the OCOB monitored the implementation of selected projects in all the 47 counties every financial year since 2013 to date. The main objective of the monitoring exercise is to provide information on the implementation status of planned projects and programmes and an assessment of the achievement of the planned outputs and outcomes as a result of the implementation of the programmes as provided for in the respective County budgets. Monitoring reports are prepared and shared with the respective Counties.



The controller of budget accompanied by Dr. Patrick Khaemba, Trans Nzoia Governor, inspecting a flagship business centre during a monitoring and evaluation exercise by OCOB.



8. Review of County Budgets and Impact of OCOB Recommendations on County Budgets

The OCOB has since its inception analyzed all draft budgets; some key issues have been noted and recommendations for corrective measures communicated to the respective Counties.

These recommendations have been implemented resulting in improvement in local revenue collection in several Counties; improvement in reporting of expenditure by the Counties; establishment of County Public Funds enabling regulations; improved service delivery in some Counties due to capacity building and reduced conflicts between County Executives and County Assemblies.

9. Advisory and Parliamentary Committee Activities

The OCOB has continually engaged with Parliamentary Committees to increase awareness of budget implementation and discuss issues under consideration by Parliament. The OCOB's engagement with Parliament ranged from making written submissions, giving clarification during committee hearings, consultation on-budget implementation, and provision of expert opinion on findings as well as making recommendations for action to both Parliament and the Executive.

10. Enactment of the Controller of Budget Act, 2016

In the financial year 2016/17, Parliament enacted the Controller of Budget Act, 2016 to give effect to the provisions of Articles 225, 228 and 252 of the Constitution of Kenya, 2010 regarding the functions of the Office of the Controller of Budget. The Act provides the framework for the operationalization of the OCOB to enable it to deliver on its mandate effectively.

11. Sharing Information with the Public – Public Participation Fora

The OCOB has remained steadfast in ensuring information on budget implementation by both the National and County Governments is published and publicized as required by Section 39 (8) of the PFMA, 2012. Between 2014 and 2019, the OCOB organized public sensitization sessions covering 36 counties during which over 1000 members of the public participated. A key component of this process is ensuring effective public participation in monitoring the utilization of public funds. The scrutiny of citizens ensures that decision-makers consider strategies aimed at improving efficiency, responsiveness and the accountability of government to the citizens.

12. Gender Responsive Budgeting

The OCOB in collaboration with the UN Women Kenya Office undertook a scoping analysis in 2015/16 to identify entry points for deepening Gender Responsive Budgeting (GRB) within the Public Finance Management Reforms (PFMR) in Kenya. As one of the entry points for deepening Gender Responsive Budgeting within the Public Finance Management Reforms (PFMR) in Kenya, the National Treasury included, in the 2016/17 BPS a requirement that all budgets be prepared using the Gender Responsive Budgeting framework with the presentation of the targets, indicators and beneficiaries reflecting gender-disaggregated data that would be achieved during the implementation of the budget.

The OCOB together with the Council of Governors and with support from UN Women carried out the training on Gender Responsive Budgeting, for County officials from all the 47 Counties as well as the OCOB's County Budget Coordinators.

13. Baseline Revenue Analysis Survey

The OCOB signed a Memorandum of Understanding with the Kenya Institute for Public Policy Research and Analysis (KIPPRA) to conduct a Baseline Revenue Analysis Survey in FY2015/16. The main objective of the study was to analyze revenue performance in the Counties to improve public financial management across the Counties and in turn enhance budget implementation. The study recommended the need for the Counties to promote transparency, accountability and flexibility in their revenue generation framework.

14. The development of the Controller of Budget, Regulations 2021

The Controller of Budget has developed the Controller of Budget Regulations, 2021. The Regulations are aimed at giving effect to the provisions of the Controller of Budget Act and the principles of public finance management enshrined in the Constitution. The Regulations have been approved by the National Assembly Committee on Delegated Legislation and are awaiting deliberation by the Senate Sessional committee on Delegated legislation, before being released for implementation.



The COB poses with County Budget Coordinators and other COB staff during the drafting process of the COB Regulations, 2021



15. Exchequer Automation

The OCOB is currently at the forefront of automating the exchequer requisition process for MDAs and County Governments. Accordingly, the OCOB is partnering with the National Treasury and the Central Bank of Kenya to implement an Exchequer Automation system that will reduce the time taken for processing exchequer requisition, as well as the information security. The process is currently being tested for final roll-out by July 2022.

16. Development of the Controller of Budget Management Information System

The OCOB, with the support from UNICEF, is currently developing an IT system – the Controller of Budget Management Information System (COBMIS) - for data capture, analysis and reporting. The COBMIS will provide a portal for standardized input, management and generation of OCOB internal and external reports. The system will improve the efficiency; authentication and reliability of data generated by the OCOB and in turn support the reporting role of the office. The System is under internal validation and testing for eventual commissioning before June 2022.

17. Financial Reporting

For the nine financial years between 2011/12 and 2019/20, the Auditor-General has expressed seven Unqualified and one Qualified Audit Opinion on the financial statements of the OCOB. This means that the financial statements consistently gave a true and fair position of the financial affairs and that the financial statements comply with the standards prescribed by the Public Sector Accounting Standards Board, the International Public Sector Accounting Standards (Cash Basis), the Constitution of Kenya, 2010 and Public Finance Management Act, 2012.

18. Advisory on Public Debt and Pending Bills

Consistently, the OCOB has spearheaded the provision of critical advice on the management of Public Debt and Pending Bills, issues that are of great concern to the citizens of Kenya. The OCOB has played the role of monitoring the settlement of pending bills, some of which have been outstanding for a very long time and achieved a good measure of success.

19. Awards and Commendations

Since its inception, the OCOB has been recognized and awarded for exemplary performance.

a. Financial Reporting (FiRe Awards)

The OCOB was, in FY 2015/6, nominated in two categories namely the MDAs and International Public Sector Accounting Standards (IPSAS) Cash Category during the first participation in the awards in FiRe Awards. In the same 2015/16, the OCOB received First Runners-up in the Category of MDAs and the Second Runners-up for the IPSAS Cash category on the 2013/14 financial statements.

In 2016, OCOB was awarded the First Runners-up Award in the Category of MDAs and the Second Runners-up for the IPSAS Cash category on the 2014/15 financial statements. The Office of the Controller of Budget emerged overall winner during the 2017 Financial Reporting (FiRe) Awards under the Independent Offices and Constitutional Commissions category and in the IPSAS Cash Category on the 2015/16 financial statements.



Mr. Macklin Ogolla, our Director Corporate Services accompanied by OCOB Staff receiving a Financial Reporting (FiRe) award on behalf of the Controller of Budget



b. United Nations Systems in Kenya Award

The OCOB was Awarded a Certificate of Commendation by the United Nations System in Kenya in 2017 in recognition of “professionalism in the consequential responsibility in championing Gender Responsive Budgeting (GRB)” in Kenya.

c. Public Service Commission Award

The OCOB, being part of the government institutions that were evaluated on values and principles by the PSC in 2018; ranked third overall after attaining outstanding scores in six key thematic areas: Efficiency; Effectiveness; Economic use of Resources and Sustainable Development; Equitable Allocation of Opportunities and Resources; Good Governance, Transparency and Accountability; and Accountability in Administrative Acts. The OCOB attained a mean score of 100 per cent in each area and was rated high while in the thematic areas of Improvement in Service Delivery and in Ensuring High Standards of Professional Ethics in Public Service, the mean scores were 80 per cent and 85.7 per cent respectively.

Challenges

1. Weak Legislative Framework

The Controller of Budget continues to experience challenges arising out of legislative gaps identified during the implementation of the constitutional mandate. Some of the identified gaps include a lacuna in the transition upon expiry of the term of the substantive office holder, and that the mandate of the Controller of Budget does not include imposing any sanctions on any government acting in violation of the principles of public finance.

2. Inconsistent Reporting Timelines

Article 228 (6) of the Constitution of Kenya, 2010 requires the Controller of Budget to submit to each House of Parliament a report on the implementation of the budgets of the national and county governments every four months. Although the Constitution provides that the Controller of Budget submits the reports every four months, Section 9 (1) of the Controller of Budget Act, 2016 limits the period within which the Controller should submit the reports to thirty days after the end of the quarter.

The OCOB relies on the financial and non-financial reports prepared by the national and county governments to prepare the Budget Implementation Review reports but verifies the same user data obtained from IFMIS. The timelines between submission of OCOB reports to Parliament and when National Government and County Governments submit quarterly financial and non-financial reports to OCOB are too close for the timelines to be observed.

3. Ineffective Public Sensitization Frameworks

The OCOB is required to disseminate information to the Public on budget implementation at both levels of government under Section 39(8) PFM Act, 2012. Despite this constitutional requirement, there is no clear framework on how public participation and sensitization should be institutionalized and implemented. The process has not been anchored in law and the policy on Public Participation developed by the State Department of Devolution has not been concluded. As a result, the OCOB has not conducted public sensitization effectively.

4. Failure to Report on Achievements of Programmes and Projects

The Controller of Budget is required to report on the achievements of programmes and projects by MDAs as stipulated in Section 9 (2) of the Controller of Budget Act, 2016. The OCOB developed and shared a format to capture this information. Despite this, some MDAs and County Governments have frequently failed to present information on programme and project achievements.

5. Inadequate office space

The OCOB is currently occupying two floors at Bima House, Treasury Annex and the current office space is not adequate to accommodate the total staff establishment as well as provide storage space for the library and registry offices.

6. Lack of Data Management and Storage System

The OCOB lacks a Central Data Management and Retrieval System (CDMRS) for data storage and management of information, both at the headquarters and County Budget Coordinators' offices. The lack of an automated registry system to facilitate storage, archiving and retrieval of office documents increases the risk of inefficiencies in information accessibility, especially considering that all records must be made available for use by staff and other stakeholders.

Beyond Ten Years

Currently, the office is reviewing the OCOB 2018/2022 Strategic Plan to give impetus to the new direction to enhance its core mandate and operations. We envision seeing improved efficiency and reliability in promoting prudent utilization of public funds and offering excellent service delivery to the citizenry of Kenya, in line with the upcoming MTP IV.



The OCOB held a Corporate Social Responsibility activity at the Nest Children's home in Limuru





Noordin Mohamed Haji, OGW, CBS

Director,
Office of the Director of Public Prosecutions

About the Office of the Director of Public Prosecutions

The Office of the Director of Public Prosecutions (ODPP) is established under Article 157 of the Constitution of Kenya. It is an independent office and the Director, Public Prosecutions (DPP) does not require consent from any person or authority in exercising his powers or functions as stipulated in Article 157 (10) of the Constitution. In addition, the ODPP has powers under Article 157 (6) to direct the Inspector General of the National Police Service to investigate any information or allegation of criminal conduct and the Inspector General shall comply with any such directions.

The vision of the ODPP is to provide a just, fair, independent and responsive prosecution services to all. In this regard, the Office has nine (9) regional offices and has a presence in all 125 court stations across the 47 counties. The headquarters is based in Nairobi County.

Mandate of the ODPP

The overall mandate of the ODPP is to exercise state powers of prosecutions. The functions of the ODPP include to:

- a. Institute and undertake criminal proceedings against any person before any court of law other than court martial;
- b. Take over and continue any criminal proceedings commenced in any court by any person or authority with permission of the person or authority; and
- c. Discontinue at any stage before judgement is delivered, any criminal proceedings with the permission of the court.



*ODPP Leadership with
H.E. the President of
the Republic of Kenya*



Critical Milestones for the Last Ten Years

The ODPP in the last ten years has been able to achieve the following milestones that have enhanced operations and improved access to justice:

1. Enhanced Conviction rates

In 2020/2021 the ODPP achieved a conviction rate of 93.31%. The Decision to Charge Guidelines have tremendously contributed to ensuring that only cases that reach evidentiary and public interest thresholds are prosecuted.

2. Enhanced Access to Justice

By application of Alternatives to Prosecution. The ODPP has been implementing this strategy through various policies such as diversion and plea-bargaining, which focus on restitution, compensation and rehabilitation.

3. Policies and Other Operational Arrangements:

The ODPP has developed the following policies and guidelines: -

- a. Guidelines on the Decision to Charge; Plea Bargaining Guidelines 2019; Corruption and Economic Crimes Prosecution Guidelines; Diversion Policy and Guidelines; the Excellence Charter 2020-2023; Deferred Prosecution Guidelines; SOP Manual and Rapid Reference Guide on Prosecution of Female Genital Mutilation; A Prosecutor's Guide to Children in the Criminal Justice System; Rapid Reference Guide for the Investigation and Prosecution of Terrorism and Related Offences; and Rapid Reference Guide for the Investigation and Prosecution of Wildlife Related Offences.
- b. Oath of Office to promote integrity and independence;
- c. Risk Management Strategy, 2021 intended to aid the ODPP in identification, management and mitigation of risks in a structured and coherent manner; and
- d. Document Tracking Manual.

4. Operationalization of the Uadilifu Case Management System:

This system is digitally integrated for the purposes of receiving and allocating cases, managing official documents, serving and preserving documents. It further facilitates the exchange of electronic information between the police, prosecution, judiciary and the prisons department.

5. Review of the Organizational Structure:

This includes establishment of the following Offices and Units:

- a. Internal Compliance & Quality Assurance Department: It was established to ensure the highest levels of integrity from ODPP members of staff.
- b. Regional Offices: The regional coordinators have delegated administrative power to manage and oversee regional operations.
- c. Proceeds of Crime Recovery Unit: One of ODPP's strategies in the fight against corruption is the "follow-the-money" strategy. This strategy seeks to ensure that in addition to successful prosecution, offenders do not gain monetary benefit from economic crimes.
- d. Victim and Witness Facilitation Unit: Established to ensure that witnesses are traced, facilitated and prepared for criminal trials.

6. Improved Terms and Conditions of Service:

The ODPP successfully engaged the Salaries and Remuneration Commission on the improvement of staff salaries and terms of service, the result was an increase in the basic salary by at least 51.26%.

7. Restructuring and Streamlining of Delegated Prosecutions:

The ODPP commissioned an audit of all the Agencies with delegated authority to prosecute. The audit established that there were about 1000 prosecutors, some of whom had no legal training, therefore lacked the requisite prosecutorial expertise. They were subsequently de-gazetted.

8. Establishment of the Office of Change Management:

It was operationalized to spearhead the implementation of the change initiatives enshrined in the ODPP Excellence Charter.

9. Establishment of the Prosecution Training Institute (PTI):

The role of the PTI as a Centre of Excellence is to develop curriculum for training of all staff. The Institute presents a unique opportunity towards the improvement of the quality of prosecutions through the provision of world class continuous trainings to prosecutors and other officers in the criminal justice system.



Development partners and ODPP Management at PTI



10. Improved Public Outreach:

The ODPP launched the ODPP Café show which airs discussions centered on thematic areas within the criminal justice sector which are disseminated to the public in a simplified manner.

11. Strengthened Partnerships and Collaborations:

A Stakeholder Engagement Strategy was established with the intention to provide a structured manner through which interagency partnerships and collaborations can be enhanced. One of the achievements is the partnership with UNODC/PLEAD in which ODPP acquired a boat, MV ADIL, for the Lamu Office.



ODPP in Partnerships with other stakeholders



12. Community Engagements and Dialogues:

These engagements have informed the development of policies that are more responsive to the needs of the mwananchi. The DPP also initiated a mentorship programme at the Kamiti Youth Correctional Training Centre. This programme is led by ODPP staff, with the aim of guiding, imparting life skills and supporting the youth as a rehabilitative measure.



ODPP Community Engagement with Remandees



13. Acquisition of New Premises for the Headquarters:

The ODPP was previously housed at the NSSF building; the Office has since acquired a new stand-alone office known as ODPP Building in Upper Hill, Nairobi.

Challenges

The Office is committed to efficiently deliver on its mandate. However, this has not been without challenges. The ODPP has encountered the following challenges and put in place the following proposed strategies to mitigate them:

1. The Coronavirus (COVID-19) Pandemic

The onset of the COVID-19 pandemic adversely affected the ODPP's and generally the criminal justice

sector's service delivery. As a consequence, the criminal justice sector significantly downscaled its activities leading to increased backlog of cases.



2. Inadequate ICT Infrastructure and Operational Capacity

Following a needs assessment conducted by the Office, it was found that some ODPP stations did not have sufficient equipment and infrastructure necessary for the full digitization of the Office's processes.

3. Inadequate Human Resource Capacity

The ODPP's current terms and conditions of service remain less competitive despite significant improvements over the last few years. Furthermore, the Office needs to improve on its succession management and career progression plan.

4. Prosecution of Complex and Emerging Crimes

The evolving nature of crime introduces complexities in prosecution. For instance, the use of the dark web and crypto-currency in illegal cyber trade pose challenges such as difficulty in collecting evidence for successful prosecution.

5. Weak Inter-Agency Coordination and Collaboration

Despite concerted efforts to strengthen inter-agency collaboration, there exists coordination gaps amongst the agencies in the criminal justice system. This has resulted in inefficiency and ineffectiveness in the delivery of justice.

6. Legislative gaps in the virtual court processes

This leads to cases of mistrials and unnecessary failure in prosecutions.

Beyond Ten Years

The ODPP seeks to establish itself as a 21st Century prosecution service. In tandem with this, the Office is contributing to the implementation of the two national development strategies, namely, the Kenya Vision 2030 and the Big Four Agenda and seeks to implement the following strategies:

1. Increased focus on the environment:

Environmental crimes are often part of larger global networks of transnational organized crimes which fund corruption, drug trafficking, hazardous dumping and terrorism. The ODPP is in the process of publishing a Handbook on the Prosecution of Environmental Crimes.

2. Increased use of technology in prosecution of cases:

The ODPP is planning to incorporate a forensic unit and artificial intelligence that will coordinate the use of digital evidence in the prosecution of cybercrimes, and other emerging digitally enabled crimes.

3. Adoption of data driven policies:

The ODPP intends to implement Geographic Information Software (GIS) into its internal operations which is intended to help the Office in crime mapping and evidence analysis. This data is intended to inform a checklist that will be utilized by prosecutors to conclude cases successfully.

4. International Organization for Standardization (ISO) Certification:

ISO certification is an international certificate that would aid the ODPP in developing and improving its performance. Attainment of the certification would demonstrate successful standardization of the Office's processes, and compliance with statutory and regulatory requirements.

5. Law Reform:

The ODPP will, as appropriate, recommend to Parliament new laws requiring enactment and areas of current law standing in need of change in order to address emergent challenges and facilitate enhanced service delivery.

6. Identification of emerging crimes:

The ODPP recognizes that in order to effectively combat emerging crimes, it will need to stay ahead of the curve and identify which crimes are becoming increasingly common. This will allow the Office to tailor training programs and research in these areas.

7. Identification of emerging crimes:

the ODPP recognizes that in order to effectively combat emerging crimes, it will need to stay ahead of the curve. This will necessitate the Office to tailor training programs and research so as to deliver progressive prosecution services.

8. Education, training and research through the PTI with a focus on trial advocacy and emerging crimes.

9. Focus on recovery of proceeds of crime and asset recovery in the prosecution of economic crimes.

10. Adoption of restorative justice as a guiding principle for prosecution.



Hon. Justin Muturi, E.G.H., M.P.,

*Speaker of the National Assembly and
Chairman of Parliamentary Service Commission*

About the Parliamentary Service Commission

The Parliamentary Service Commission was established in the year 2000 following an amendment to Section 45 of the former Constitution of Kenya and the enactment of the Parliamentary Service Act, 2000 which provided in detail the powers and functions of the Commission. The Constitutional amendment and enactment of the Parliamentary Service Act, 2000 was a milestone in ensuring the independence of the legislature as it removed the management of Parliament from the Executive arm of Government to the Commission that was under the control of Parliament.

The Parliamentary Service Commission was re-established by Article 127 of the Constitution of Kenya, 2010 and given the status of a Chapter Fifteen Constitutional Commission. The Parliamentary Service Act, 2000 was repealed in 2019 and replaced with the Parliamentary Service Act, 2019 to realign it to the new constitutional framework.

Article 127(2) of the Constitution provides for the composition of the Parliamentary Service Commission as follows –

- a. the Speaker of the National Assembly as Chairperson;
- b. a Vice-Chairperson elected by the Commission from the members appointed under paragraph (c);
- c. seven Members appointed by Parliament from among its members of whom: four shall be nominated equally from both Houses by the party or coalition of parties forming the national government, of whom at least two shall be women; and three shall be nominated by the parties not forming the national government, at least one of whom shall be nominated from each House and at least one of whom shall be a woman
- d. one man and one woman appointed by Parliament from among persons who are experienced in public affairs, but are not Members of Parliament; and
- e. Article 127 (3) provides that the Clerk of the Senate shall be the Secretary to the Commission.

Article 127 (4) (a) and (5) provides that Commissioners who are Members of Parliament (MPs) are appointed to serve for a term of a House of Parliament and continue in office until a new member has been appointed in the Member's place by the next House. Article 250(6) of the Constitution provides that non-MP Commissioners are appointed for a single term of six (6) years and are not eligible for re-appointment.

The Commission is mandated under Article 127(6) of the Constitution to;

- a. provide services and facilities to ensure the efficient and effective functioning of Parliament;
- b. constitute offices in the parliamentary service, and appoint and supervise office holders;
- c. prepare annual estimates of expenditure of the parliamentary service and submit them to the National Assembly for approval, and exercise budgetary control over the service;

- d. undertake, singly or jointly with other relevant organizations, programmes to promote the ideals of parliamentary democracy; and
- e. perform other functions necessary for the well-being of the members and staff of Parliament or as prescribed by national legislation.

Critical Milestones for the Last 10 Years

Strategic Focus

The Constitution of Kenya 2010 brought about significant changes in the structure, roles and functions of Parliament. The introduction of bicameralism with Parliament consisting of two Houses; the National Assembly and the Senate necessitated the need to provide the requisite facilities to accommodate the significantly increased number of Members of Parliament and the attendant staff. The Parliamentary Services Act, 2019 also resulted in the establishment of three services of the Parliamentary Service; the Senate Service, the National Assembly Service and the Parliamentary Joint Service to address the services shared between the two Houses of Parliament; all aimed at enhancing service delivery in Parliament.

To address the above changes and challenges, the Parliamentary Service Commission reoriented its Strategic Plan (2008-2018) in 2012 to align it to the new constitutional realities and ensure the provision of effective and efficient services to Members and staff of Parliament.

The Commission's focus moved to the following strategic areas:

1. New Demands and High Expectations on Parliament following the Adoption of the Constitution

- a. To Strengthen the Capacity of Members to Effectively Play their Roles in the New Constitutional Dispensation
- b. To Strengthen the Capacity of Members in the Oversight Role Over the Public Financial Management
- c. To Strengthen the Parliamentary Research Services

2. Need for Enhanced Public Engagement with Parliament

- a. To Enhance the Public Engagement with Parliament
- b. To Enhance Service Delivery

3. An Effective Organizational Structure and Enhanced Staff Capacity

- a. To Enhance Staff Performance
- b. Strengthen Coordination and Teamwork between the Commission, Directorates and Departments

4. Need to Provide a Conducive Working Environment for Members and Staff

To Improve the Working Environment

5. Need to Leverage on ICT for Improved Performance and Communication

To Enhance Use of ICT in Operations and Communications

6. Need for Enhanced Resource Base and Improved Resource Management

Enhanced Resource Base and Improved Management of Resources

Key Achievements

Below is a summary of the achievements made by the Commission in the last decade that impacted or facilitated the promotion of constitutionalism and observance of democratic values and principles –

1. Infrastructural Development:

- a. The Commission facilitated the construction and furnishing of the two Chambers of Parliament in readiness for the bicameral Parliament and to cater for the increased number of Members.
- b. As part of its long-term vision of providing adequate office accommodation for Members and staff of Parliament and creating a Parliamentary Square, the Commission initiated the construction of a 27 storey office block which is expected to be completed by July 2022.
- c. The Commission acquired the Red Cross Building, Juvenile Court, County House and Imani house and renovated them to accommodate the increased number of members and staff of Parliament.
- d. To facilitate Members of Parliament in the discharge of their representation role effectively, the Commission established offices for Members of the National Assembly and the Senate both in Nairobi and in their Constituencies or Counties of representation respectively.

2. Capacity Development of Members and Staff

The Commission facilitated the induction of MPs after the general elections, training them on their mandates in the House, Committees and on the oversight role of Parliament. The Commission has ensured that the capacity building programs are sustained to address any emerging training needs of the Members.

To support the Members of Parliament to effectively discharge their mandates, the Commission embarked on developing a competent and professional workforce through the implementation of capacity building programs for all cadres of staff. The Commission approved Mandatory Promotional Courses administered through the Centre for Parliamentary Studies and Training (CPST), which is the training institution for Parliament. The CPST also plays a key role in the capacity development of Members and staff of County Assemblies as a way of strengthening devolution.

3. Recruitment of Staff

The Commission recruited over 300 additional staff between 2014 and 2022 to bridge existing capacity gaps identified in the various departments following the establishment of the bicameral Parliament including Committee Clerks, Researchers, Fiscal Analysts, Hansard Reporters and Legal Counsel among others. While ensuring merit, the Commission embraces inclusion and diversity in its recruitments. The Commission was rated as the topmost institution in compliance in observing regional, ethnic, and gender diversities and inclusion of persons with disabilities in the staffing composition by NGECC.

4. Performance Contracting in Parliamentary Service

The Commission adopted performance contracting in the institution in a bid to embrace best practices in human resource management. This commenced with senior staff and was cascaded to the middle-level management.

5. Enhanced staffing and facilities for Parliamentary Leadership:

The Constitution of Kenya, 2010 transferred some of the functions performed by the Executive to Parliamentary Leadership among them the Leader of Majority Party, Leader of Minority Party and the Political Party Whips. To ensure that the Leadership discharged their functions effectively, the Commission facilitated them with fully equipped offices and staff employed on contract including a Personal Assistant, Researcher, driver, Secretary and Office attendant. The Commission also facilitated the Leadership with vehicles to aid their movement while performing official duties.

6. Information & Communication Technology (ICT):

To enhance service delivery and transition to an e-Parliament, the Commission implemented a paperless-meetings management system, e-Parl for use by Members and staff in House business and Commission meetings. This has greatly enhanced work efficiency and significantly reduced paper use. The importance of this facility was visible during the Covid-19 pandemic.

7. Facilitation of Persons with Disability:

The Commission developed a policy to provide facilitation to Members and staff of Parliament who have disabilities with assistive devices such as motorized wheelchairs and employment of aides for cases with critical immobility challenges.

8. Lactating Mothers:

The Commission established a nursing facility (crèche) within the parliamentary premises for lactating mothers and developed a policy permitting lactating Members and staff of Parliament to travel on official local business with their infants below two (2) years of age and a caregiver.

9. County/Constituency Offices:

The Commission enhanced the management and administration of Constituency/County allocation for Members of Parliament to facilitate Members of Parliament to execute their representation roles.

10. Prudent Financial Management:

As part of its efforts to ensure prudent financial management, the Commission 2015 invited the Ethics and Anti-Corruption Commission (EACC) to undertake a review of the financial management systems to identify systemic weaknesses to enhance accountability. The EACC Report assisted the Commission to develop a road map for the implementation of the recommendations which greatly improved financial management in the institution.

11. Fuel Management:

The Commission adopted a fuel card system by entering into a framework contract with the National Oil Corporation of Kenya (NOCK) for the provision of fuel to the Commission. This has greatly improved the dispensation of fuel in Commission vehicles and led to a reduction in the amount spent on fuel.

12. Parliamentary Outreach –opening parliament to the public:

The Commission established live broadcasts of plenary proceedings in both the National Assembly and the Senate. Other initiatives include the Open Week for members of the Public, exhibition in Agricultural Shows of Kenya and engagement of the public through social media. The Commission also initiated outreach programs to be rolled out in each County to demystify the role and functions of Parliament and its linkages with the citizens.

13. Public Participation:

In the spirit of implementation of Article 118 of the Constitution, the Parliamentary Service Commission has facilitated the Committees of the two Houses of Parliament to undertake public participation while undertaking their mandate both within Parliament and in the Counties, including public participation on Bills, Petitions, budget-making process, and other businesses of Parliament.

14. Partnerships:

The Commission through its Centre for Parliamentary Studies and Training entered into a Memorandum of Understanding with the following training institutions to improve technical expertise for Members and staff of Parliament: The Institute of Diplomacy and International Studies of the University of Nairobi, Kenya; The United Nations Institute for Training and Research (UNITAR) in Geneva, Switzerland; The McGill University School of Professional Studies, Montreal, Canada; and The Organization of Social Science Research in Eastern and Southern Africa, Addis Ababa, Ethiopia.

15. Secretariat to IEBC Selection Panels:

The Commission provided the secretariat and support facilities to the IEBC selection panel which culminated in the appointment of IEBC Chairperson and Commissioners in 2017 and the replacement of four Commissioners in 2021.

16. Remuneration and benefits of Members of Parliament:

The Commission in recognition of the role of the Salaries and Remuneration Commission (SRC) under Article 230 of the Constitution, participated in the job evaluation exercise carried out by the SRC to determine the relative worth of jobs and enable the SRC appropriately set the remuneration for Members of Parliament.

Challenges

1. The following are some of the key challenges that hindered the effective discharge of the constitutional mandate of the Parliamentary Service Commission –
2. the increased size of the 11th Parliament arising out of the bicameral set-up under the 2010 Constitution and the subsequent increase in the number of members and staff of Parliament, hence the need for more finances, services and facilities;
3. financial constraints including inadequate budget and delayed exchequer releases which led to significant downscaling of work plans that sometimes compromised key operational activities;
4. increased litigation challenging procurement processes leading to delayed procurement of some goods and services;
5. conflicting roles and functions of the Salaries and Remuneration Commission (SRC) vis-à-vis that of the Parliamentary Service Commission in terms of the nature and extent of the services and facilities to be provided to Members of Parliament and other State Officers in the Commission;
6. inadequate facilities like office space to accommodate the increased number of members and staff of Parliament, Committees of Parliament has adversely affected its workings. This challenge would be addressed once the Multi-storey Office Block project is completed; and
7. inadequate internal capacity to undertake specialized capital projects leading to project implementation delays and over-dependence on consultants and the Ministry of Public Works.

Beyond Ten Years

The Parliamentary Service Commission is making preparations to welcome the 13th Parliament in September 2022. The preparations include facilitating Committees to prepare exit reports, preparing journals and records documenting the work of Parliament and its organs and developing manuals to guide the new Houses of Parliament. The Commission is also developing policies and procedural manuals aimed at standardizing operations of Parliament and management of the transitional period between the current 12th and 13th Parliament.

For the next ten years, the Parliamentary Service Commission will continue to implement the PSC Strategic Plan (2019-2030) with a focus on enhancing public trust, embracing green compliance such as e-strategies in systems and development projects and waste management.

The key focus will be on the Strategic Pillars and Strategic Objectives listed in the table below:

1. Strategic Pillar 1: Effective Representation, Legislation and Oversight

- a. To improve the process of representation, legislation and oversight
- b. To strengthen the capacity of Members of Parliament to execute their constitutional mandate
- c. To strengthen devolution and the capacity of devolved Units and County Offices
- d. To mainstream monitoring and evaluation for legislation and oversight
- e. To strengthen knowledge and evidence-based decision making in the legislature
- f. To develop the capacity and capability of CPST as a Centre of excellence in legislative studies

2. Strategic Pillar 2: Excellence in Service delivery

- a. To institutionalize performance management systems across the Parliamentary Service
- b. To strengthen the capacity of staff to facilitate Members in discharging their constitutional duties in an effective and efficient manner
- c. To enhance human resource management and business processes for efficient service delivery
- d. To enhance staff wellness for efficient service delivery

3. Strategic Pillar 3: Public Trust

- a. To enhance the involvement of the public in legislation and oversight
- b. To strengthen parliamentary diplomacy, partnerships and linkages
- c. To enhance parliamentary outreach and promote ideals of parliamentary democracy

4. Strategic Pillar 4: Embrace and Implement an E-Parliament

- a. To enhance automation of all systems and processes core to operations of Parliament for efficient service delivery
- b. To leverage ICT in all processes and operations of Parliament

5. Strategic Pillar 5: Embrace Green Compliant Parliament

- a. To adopt and implement modern energy management systems in Parliament
- b. To adopt and implement modern waste recycling technologies in Parliament

6. Strategic Pillar 6: Provision of Modern Facilities and Secure Working Environment for Members and Staff of Parliament

- a. To create a Parliamentary Square
- b. To provide adequate facilities for Members and staff of Parliament

7. Strategic Pillar 7: Enhanced and sustained Financial Resource Base

- a. To Mobilize Sufficient Financial Resources to Fund Parliamentary Programs Strategies
- b. To Enhance Efficiency in Procurement of Goods and Services Strategies
- c. To Enhance Efficiency in Resource Utilization, Monitoring and Evaluation Strategies





Amb. Anthony Muchiri

*Chairperson
Public Service Commission*

About the Public Service Commission

The Public Service Commission is an independent Commission established under Article 233(1) of the Constitution of Kenya to oversee the human resource function in the public service. Its mandate comprises establishment and abolition of offices, provision of competent human resources, promotion of good governance, and ensuring efficiency and effectiveness in the provision of quality services in the Public Service as spelt out in Articles 234, 155(3)(a), 158(2)(3) and (4), 171(2), 230(2)(b) and 236 of the Constitution.

The Commission is the oldest among the Constitutional Commissions, having been established in 1954. It is composed of a Chairperson, Vice-Chairperson and seven other members who serve on a full-time basis for a non-renewable term of six years. The first Commission under the Constitution of Kenya, 2010, came into office in 2013, followed by the current Commission in January 2019. The Commission is supported by a secretariat headed by the Secretary/CEO.

The Commission may delegate, in writing, with or without conditions, any of its functions and powers under this Article to any one or more of its members, or to any officer, body or authority in the public service.

Critical Milestones for the Last Ten Years

The Commission made progress in the implementation of its constitutional mandate under six broad areas:

1. Strengthening the institutional capacity of the Commission;
2. Establishment and abolition of offices in the public service;
3. Recruitment, selection and appointment of persons to public offices;
4. Enhancing human resource capacity and performance of the public service;
5. Promotion of good governance, values and principles in the public service; and
6. Strengthening compliance to governance, national values and principles of public service.

1. Strengthening the Institutional Capacity of the Commission

The Commission:

- a. Developed the Public Service Commission Bill that was later enacted by Parliament in 2017, Public Service Commission Regulations 2020; and Public Service Commission (Performance Management) Regulations, 2021;
- b. Upgraded the online recruitment and selection database system;
- c. Improved access to the Commission's services through the implementation of a video conferencing facility that has enabled online interviewing of candidates including those in the diaspora;

- d. Improved data storage capacity through the installation of a modern data centre that ensures reliability, confidentiality and security of IT services; and
- e. Rolled out the PSC Staff Performance Appraisal tool to facilitate the management of staff performance.



Former Public Service Commission chairman, the late Stephen Kirogo addressing the first cohort of over 3,000 Public Service Internship Programme interns during the launch of the programme at Kasarani Sports Gymnasium in October 2019.



2. Establishment and abolition of offices in the Public Service

During the last 10 years, the Commission created new offices and reviewed organisational structures to align them with emergent realities and demands for fit-for-purpose institutions for efficient and effective service delivery. The Commission:

- a. Issued guidelines on the establishment and abolition of offices in the public service;
- b. Approved staff establishment of 89,227 posts for 44 MDAs comprising posts in technical and support services; and
- c. Reviewed organisational structures for Ministries and State Departments in line with Executive Orders.

3. Recruitment, Selection and Appointment of Persons in the Public Service

The Commission made a significant contribution to addressing youth unemployment, staffing needs, succession management and career growth in the following ways:

- a. Recruited 18,882 officers in various cadres comprising 10,468 (55.4%) male and 8,614 (44.6%) female;
- b. Recruited over 10,000 health workers under the Universal Health Care programme on short term contracts;
- c. Promoted 33,673 officers in various cadres, of whom 32,107 officers were promoted under succession management initiative to address stagnation and seamless progression within the career structure;
- d. Seconded a total of 60,695 officers from various Ministries and State Departments to the 47 County Governments to perform the devolved functions;
- e. Recruited and recommended to the President persons for appointment as Principal Secretaries, Solicitor General, Chairperson, Governor and Deputy Governor of the Central Bank of Kenya, EACC commissioners, among others;

- f. Recommended 44 persons for consideration for appointment to fill eight positions in seven public universities to the President and Chancellors and University Councils for Vice-Chancellors, Deputy Vice-Chancellors, and Deputy Principals;
- g. Facilitated the appointment of Chairpersons and Members of Kenya Law Reform Commission and Universal Service Advisory Council; and
- h. Developed regulations on processing petitions for the removal of the Director of Public Prosecutions.



Newly commissioned Assistant County Commissioners appointed by the Public Service Commission with Interior Cabinet Secretary Dr. Fred Matiang'i.



4. Enhancement of human resource capacity, performance and ethical service delivery in the public service

For effective discharge of its mandate including the execution of delegated powers and functions to MDAs, the Commission developed, reviewed and issued human resource policies and guidelines, namely:

- a. Delegation instrument to County Public Service Boards and County Assembly Service Boards on the discipline of seconded officers to the County Governments;
- b. Framework for Inter-Agency collaboration, cooperation, consultation and partnership with the county governments;
- c. Internship policy in 2016 to guide internship programmes in the public service;
- d. Public Service Commission Staff Human Resource Policies and Procedures Manual to guide staff on HRM&D matters;
- e. Guidelines on the management of the seconded staff to the counties;
- f. Human Resource Policies and Procedures Manual for the Public Service, 2016;
- g. Public Service Commission (County Government Appeals and Procedures) Regulations, 2016;
- h. An annual training policy statement to guide MDAs on training matters;
- i. Guidelines for Negotiation, Conciliation and Mediation;
- j. Rewards and Sanctions Policy;
- k. Framework for review of terms and conditions of service in the public service; and,
- l. Institutional framework for engagement with trade unions.



The pioneer group of 50 fellows under the Public Service Emerging Leaders Fellowship Programme with former President of Liberia Ellen Johnson Sirleaf after she inaugurated the programme at KICC in Nairobi on 15th March 2022.



The Commission also:

- a. Introduced reforms in the pensions department and undertook a 100 days Rapid Results Initiative that resulted in the payment of over 40,000 outstanding claims to pensioners;
- b. Conducted Business Process Re-engineering in Postal Corporation of Kenya that enabled the state corporation to return to profitability;
- c. Processed 4,166 discipline cases from MDAs;
- d. Automated the Discipline Management System;
- e. Recruited and deployed 12,127 graduate interns under the Public Service Internship Programme (PSIP) and trained 400 mentors and coaches to support the internship programme;
- f. Recruited 50 young entry-level officers into the Public Service Emerging Leaders Fellowship (PSELF) Programme to build their capacity for ethical leadership;
- g. Developed and implemented Public Service Excellence Awards (PSEA) Scheme and awarded public officers for exemplary performance in 2015, 2016 and 2017;
- h. Reviewed and issued guidelines on the Staff Performance Appraisal System (SPAS) and automated SPAS forms in the GHRIS;
- i. Implemented Phase-I of Job Evaluation salary structure for Civil Servants;
- j. Reviewed and made recommendations to the national government on conditions of service regarding house allowance, hardship allowance, and medical cover for Civil Servants and Disciplined forces; and
- k. Harmonised allowances for State Corporations and Public Institutions.

5. Promotion of Good Governance, Values and Principles in the Public Service:

The Commission:

- a. Conducted Citizen Satisfaction Baseline Survey for the Public Service and established the index at 42.6 per cent;
- b. Developed the Leadership and Integrity Code for the members of the Commission under section 37(1) of the Leadership and Integrity Act, 2012;
- c. Developed the Public Service Code of Conduct and Ethics (2016) for Public Officers;
- d. Developed Mwongozo Code for good corporate governance in state corporations in collaboration with the State Corporations Advisory Committee (SCAC);

- e. Reviewed the declaration of Incomes, Assets and Liabilities administrative procedures to allow for automation of the process under Legal Notice No. 53 of 2016;
- f. Developed and issued 'A Framework for the Implementation of Values and Principles in Articles 10 and 232 of the Constitution in the Public Service', 2015;
- g. Developed procedures manuals for monitoring and evaluation, compliance audit and investigation for purposes of strengthening compliance with values and principles in the areas of organisation, administration and personnel practices;
- h. Held a National Dialogue Conference on Values and Ethics in 2015 to discuss ways to entrench a value culture in the public service;
- i. Promoted national and public service values and principles in the educational system through the Kenya National Music and Drama Festivals;
- j. Developed Public Service Commission Code of Practice for Mainstreaming Disability Issues in the Public Service;
- k. Developed Diversity Management Policy, 2016; and
- l. Developed and issued Public Participation Policy in the Public Service.



The Chairperson of the National Assembly Departmental Committee on Administration and National Security Hon Peter Mwathi presents a certificate of participation during training of mentors and coaches for the Public Service Internship Programme



6. Strengthening Compliance with the Governance, National Values and Principles of Public Service

The Commission:

- a. Disseminated Values and Principles framework (2015) during workshops which were conducted for officers from all public institutions under the jurisdiction of the Commission;
- b. Developed the Public Service (Values and Principles) bill which was later enacted by Parliament in 2015;
- c. Conducted annual audit, investigation and quarterly M&E related to organisation, administration and personnel practices to strengthen oversight role;
- d. Reviewed Guidelines on Declaration of Income, Assets and Liabilities, and the administration of declarations of income, assets and liabilities;
- e. Conducted annual evaluation of the extent to which the values and principles of governance and values and principles of the public service are complied with in MDAs and prepared and submitted a total of nine reports to the President and Parliament from 2011 to 2021;
- f. Administered the financial declaration forms for the declaration period 2011/13, 2013/15, 2015/17, 2017/19 and 2019/2021 in line with the provisions of Part IV of the Public Officers Ethics Act, 2003; and
- g. Developed manuals for a compliance audit, investigations and monitoring and evaluation and conducted an annual compliance audit of MDAs.



PSC Vice-Chairperson Ms Charity Kisotu (left), former Chairperson National Assembly Departmental Committee on Administration and National Security the late Hon Paul Koinange, and PSC CEO Mr. Simon Rotich during a strategic policy working retreat for the committee and PSC on the draft Public Service Human Resource Management Bill in Mombasa in 2020

Challenges

In the course of implementing its mandate, the Commission encountered challenges that included;

1. Continued inability to comply with the 5 per cent requirement of allocating employment opportunities to Persons living with Disabilities due to the relatively low number of applications made by the targeted group;
2. Increased number of court litigations resulting in increased court awards and costs against the Commission and Ministries;
3. The added responsibilities to the Commission through Parliamentary legislations for recruitment of senior management positions in public universities and other statutory bodies have brought additional workload without commensurate resources. This has further strained the Commission's limited budget, capacity, and facilities;
4. Budget cuts directed by the Government in the course of budget implementation have adversely affected the implementation of planned programmes;
5. Impact of Covid-19 Pandemic: The management and containment protocols against the Covid-19 pandemic led to the down-scaling of in-person contact and recruitment, stakeholder engagement programmes, and reallocation of limited resources towards the management and containment measures as a priority, at the expense of planned programmes; and
6. Industrial unrest by sections of unionizable employees leads to disruption in service delivery.

Beyond Ten Years

The successes achieved and lessons learnt in the implementation of the Commission's mandate during the period under review have prepared the Commission to counter emerging challenges. Rapid policy shifts occasioned by externalities such as the Covid-19 pandemic requires new strategies for coping with the challenges while still delivering quality public service.

Going forward, the Commission will commence preparation and subsequent implementation of the 2024/27 and 2028/32 Strategic Plan aligned to the MTP IV, Vision 2030 and contemporary public service management practices. We are also looking forward to completing the development of the Public Service Human Resource Masterplan to provide common standards and norms for human resource practice in the public service.



Salaries & Remuneration
Commission
Rewarding productivity



Mrs Lyn Cherop Mengich
Chairperson
Salaries and Remuneration Commission

About the Salaries and Remuneration Commission

The mandate of the Salaries and Remuneration Commission (SRC), as stated in Article 230 of the Constitution of Kenya, 2010, is to: set and regularly review the remuneration and benefits of all State officers; and advise the National and County governments on the remuneration and benefits of all other public officers. The Commission continues to fulfil its mandate, taking into account the adherence to and working in tandem with objects outlined in Article 249 of the Constitution.



*SRC launching its
Strategic Plan 2019-
2024*



Critical Milestones for the Last Ten Years

1. The decline in the public wage bill, as a per cent of revenue, from 54 per cent in 2013/14 to about 48 per cent in 2020/21, released resources for the development and provision of services.
2. The public service is currently a major employer in Kenya, with improved terms of competitiveness, continuity, attraction and retention, with numbers rising from 682,605 in 2012/13 to 874,908 in 2020/21.
3. The economy lost 20,795,834 man-days, equivalent to 5,000 workers for 11 years in 2012. However, following SRC's issuance of the Collective Bargaining Negotiations (CBN) parameters and guidelines, this reduced to lost man-hours of 3,620,191, equivalent to 5,000 workers for two years in 2017.

4. Due to SRC's intervention, industrial unrest for improved terms and conditions of employment declined from 32 in 2010 to below 10 in 2021. This saved the country a far-reaching impact on the economy, both in real terms and opportunity costs foregone for businesses, competitiveness and service delivery.
5. The public service remains the best and most preferred employer based on a study commissioned by SRC showing retention of 95 per cent of employees within the public service.
6. The implementation of the Allowances Policy Guideline will eliminate duplication, redundancy, disparities and varied eligibility criteria in the application of allowances; resulting in about six percentage points in the reduction to the total public wage bill.
7. Successes through court cases on house allowance and pension resulted in massive savings into the billions for the taxpayer.

Achievement of constitutional principles for pay determination

The achievements and impact of SRC through principles of pay determination outlined in Article 230(5) of the Constitution and SRC Act, 2011, are described below:-

1. Achievements on Principle 1: The need to ensure that the total public compensation bill is fiscally sustainable

- a. SRC contributed to the reduction of the wage bill to total revenue ratio from 54 per cent in financial year (FY) 2012/13 to 47 per cent in FY 2021/22;
- b. Issuance of the CBN Guideline fostered better industrial harmony, stabilised the labour market, reduced the Collective Bargaining Agreement (CBA) cycle from two to four years, and set CBA negotiation parameters, thus, reducing the cost impact on the economy;
- c. The economy lost 20,795,834 man-days, equivalent to 5,000 workers for 11 years in 2012. However, following SRC's issuance of the CBN parameters and guidelines, this reduced to lost man-hours of 3,620,191, equivalent to 5,000 workers for two years in 2017;
- d. In collaboration with the Kenya School of Government(KSG), SRC developed a CBN Curriculum;
- e. SRC developed the Public Sector Remuneration and Benefits (PSRB) Policy Guideline to address emerging challenges in the management of the public wage bill, including non-compliance to the Public Finance Management (PFM) Act, 2012; non-compliance with SRC advisories; double compensation through automatic wage increase and negotiated pay; and future situations such as Covid-19, which have an impact on employment and wages, including facilitation of employees to work from home;
- f. SRC convened a National Wage Bill Conference in November 2019, which focused on achieving a fiscally sustainable wage bill, and proposed strategies to improve spending efficiencies on the public wage bill. The conference recommended 15 resolutions, which were adopted by the Eighth Summit. The resolutions are currently being implemented through an intergovernmental multi-agency team chaired by the Cabinet Secretary in the Ministry of Public Service, Gender, Senior Citizens Affairs and Special Programmes as well as the Chairperson of the Council of Governors. SRC and the Intergovernmental Relations Technical Committee are coordinating the implementation of the resolutions. SRC concluded the development of policies concerning resolutions within its mandate, such as the Allowances Policy Guideline, CBN Guideline, and PSRB Policy Guideline;



SRC hosting the National Wage Bill Conference in November 2019



- g. SRC developed the Allowances Policy Guideline for the Public Service to rationalise, harmonise and streamline the management and administration of allowances, to ensure the fiscal sustainability of the public wage bill. Consequently, the allowances for State and public officers will be merged, renamed, restructured, retained or abolished;
- h. SRC developed the Remuneration Guideline for the Public Service to guide the determination and review of remuneration and benefits of State officers and other public officers. The guideline anchors SRC's advisory to public service employers and workers, and the Employment and Labour Relations Court (ELRC). The guideline is also a key reference document for ELRC, public service employers, State and public officers as workers, in addition to respective trade unions and employer organisations.

Impact

- a. Reduction in the share of public expenditure on the public wage bill freed up resources for development and service delivery;
- b. Improved utilisation of public resources through enhanced compliance with SRC's advice, in collaboration with stakeholders;
- c. A more predictable and stable labour environment;
- d. A better understanding of SRC's role in CBN.

2. Achievement on Principle 2: The need to ensure that the public service can attract and retain the skills required to execute their functions

- a. A study on private-public service wage differentials afforded SRC a platform to address areas where the public service was not able to attract and retain requisite skills. Consequently, SRC harmonised house, hardship, leave and subsistence allowances;
- b. SRC approved the Mortgage and Car Loan facility for all public officers;
- c. Attraction and retention of the best talent are due to benefits, stability, competitiveness, continuity, and the salaries offered.

Impact

The public service remains the best and most preferred employer based on a study commissioned by SRC, which showed retention of 95 per cent of employees within the public service.

3. Achievements on Principle 3: The need to recognise productivity and performance

- a. SRC developed a framework for rewarding performance and productivity, which is being piloted in selected public service institutions;
- b. In collaboration with stakeholders, SRC is coordinating the development and implementation of productivity indices.

Impact

The reward and recognition of productivity and performance is a work in progress and expected output should be realised between two and five years. For instance, the Kenya Ports Authority is currently implementing a productivity measurement and started realising a positive change in the last two years.



4. Achievements on Principle 4: Transparency and fairness

- a. SRC is guided by the Constitution and applicable laws of Kenya, and therefore engages stakeholders in policy-making processes as guided by Articles 10, 118 and 232 of the Constitution;
- b. SRC decisions are disseminated through Kenya Gazette Notices, circulars, letters, media and social media;
- c. Production and dissemination of annual reports on the discharge of SRC's mandate.

Impact

Increased access to information and accountability to stakeholders on the remuneration and benefits of public officers.

5. Achievements on Principle 5: Remuneration that ensures equal pay to persons for work of equal value

- a. Three remuneration and benefits review cycles (2013/14–2016/17; 2017/18–2020/21; and 2021/22–2024/25), were undertaken for job evaluation and grading structure for State and other public officers, and which established the relative worth of jobs;
- b. Salary surveys and job evaluation grading results were carried out to inform the three remuneration and benefits review cycles;
- c. SRC developed a Job Evaluation Guideline for conducting job evaluation for Remuneration Review Cycle 2021/22–2024/25;
- d. SRC developed a Job Evaluation Curriculum in collaboration with the Kenya School of Government for the training of public service institutions on job evaluation;
- e. Approximately 88 State officer jobs were evaluated in the first Remuneration Review Cycle 2013/14–2016/17. 55,048 jobs were evaluated in the second Remuneration Review Cycle 2017/18–2020/21, while 33,284 jobs were evaluated in the third Remuneration Review Cycle 2021/22–2024/25;
- f. SRC advised on and reviewed remuneration structures for State and other public officers;
- g. SRC reviewed and harmonised house, hardship, leave and subsistence allowances in the public service.



Impact

- a. Harmonisation, rationalised, equitable and defensible job grading and salary structures;
- b. A predictable and stable remuneration regime based on a four-year review cycle.

Challenges

The Commission has faced the following key challenges:

1. A multiplicity of determinants of the public wage bill, some beyond SRC's mandate;
2. Non-compliance, by some institutions, with SRC circulars and advice;
3. Lack of a central payroll data warehouse and data mining system;
4. Misinterpretation of SRC's mandate by some institutions;
5. Clamour for increased pay despite public officers earning relatively well in comparison with the private sector and the region.

Beyond Ten Years

As the country implements Kenya's Vision 2030 and other national development priorities;

1. SRC's contribution rests on delivering a fiscally sustainable public wage bill, working towards achieving a 35 per cent wage bill ratio to total revenue as per the PFM Act thus enhancing the attraction and retention of requisite skills and a productive workforce;
2. Implementation of the Allowances Policy Guideline will eliminate duplication, redundancy, disparities and varied eligibility criteria in the application of allowances, resulting in about six percentage points in the reduction to the total public wage bill;
3. A harmonised remuneration and benefits in the public service;

In implementing its strategic pillars, SRC is providing an enabling environment for the attainment of the national development priorities, and delivering on its vision of "A productive public service that is fairly remunerated."



*Joint Press
Conference on the
Third Remuneration
Review Cycle 2021–
2024*





Dr Jamleck Muturi John

Chairman
Teachers Service Commission

About the Teachers Service Commission

Teachers Service Commission was formed in July 1967 through an Act of Parliament to give teachers one employer and uniform terms and conditions of service. It was charged with the mandate of registering, employing, promoting, disciplining and paying teachers. TSC became a constitutional commission after the promulgation of the Kenya Constitution in 2010.



TSC chairman Dr Jamleck Muturi John is welcomed by TSC CEO Dr Nancy Macharia when he reported on 5th May 2021

Under Article 237(2) and (3) of the Constitution, the Commission is mandated to perform the following functions: Register trained teachers; Recruit and employ registered teachers; Assign teachers employed by the Commission for service in any public school or institution; Promote and transfer teachers; Exercise disciplinary control over teachers; Terminate the employment of teachers; Review the standards of education and training of persons entering the teaching service; Review the demand for and supply of teachers; and advise the national government on matters relating to the teaching profession.

Critical Milestones in the Last Ten Years

1. Registration of Teachers

To ensure that learners are served by qualified teachers the Commission has registered a total of 380, 857 teachers since 2013.

2. Employment of Teachers

Since 2013, the Commission has recruited a total of 107,208 teachers (54, 755 for Primary Schools and 52,453 for Secondary Schools). This annual employment of teachers has greatly mitigated the teacher shortage in the country and created employment. The teacher shortage currently stands at 114,581 (primary schools 49,653 and post-primary institutions 64,928).

3. Promotion of Teachers

The Commission has for the last 9 years promoted all teachers under its employment to several job grades. Between 2017- and 2021 alone, the Commission spent Ksh 54 billion on the promotion of teachers. Further, on 1st July 2020, the Commission promoted 140,000 teachers in the lowest Job group to the next grade. (Grade B5 to C1). From 2017 to date, TSC has promoted 32,787 teachers after competitive interviews.



Dr Jamleck Muturi John and Dr Nancy Macharia join teachers who have excelled for a photo session on World Teacher Day 2021 that was held on 5/10/2021

a. Competency-Based Curriculum

TSC has retooled 229,000 teachers on the Curriculum reforms for grades 1 to 5 at a total cost of Ksh 3,312,985,460. This year, TSC started the training of junior secondary school teachers at a cost of Ksh 1.2 billion in readiness for the academic year 2023 when the first cohort of CBC learners will transit to junior secondary school.

4. Provision of Quality Education

TSC institutionalized performance management in 2016 in the teaching service to ensure the provision of quality education and strengthen institutional supervision. This was done by implementing a Performance Contract (PC) for heads of institutions and the Teacher Performance Appraisal and Development (TPAD) for all teachers. Implementation of PC and TPAD has improved teacher-pupil contact and reduced teacher absenteeism significantly, leading to improved learning outcomes.



TSC Chairman Dr Jamleck Muturi John (extreme left) addresses education stakeholders during a stakeholder engagement forum held in Mandera County on 21st February 2022. Among those present are Vice-Chairperson Leila Ali and Commissioner Adana Salesa.



5. Teacher Professional Development

The Commission developed and launched the Teacher Professional Development (TPD) Policy Framework in April 2018. The programme is meant to equip teachers with requisite competency skills and address any performance gaps identified in TPAD and renew the teaching certificate every five (5) years.

6. Protection of the Learners

TSC has implemented programmes towards adherence to the constitution, TSC Act, Children's Act, basic education Act and Code of Regulation for teachers among others. Mentorship programmes to sensitise staff have been conducted and sanctions to deter all forms of abuse against learners as enshrined in legal and administrative instruments.

7. Decentralized Services

Under the provisions of Article 174 (h) of the Constitution that requires state organs to decentralize their functions and services, the Commission has decentralized most of its functions to the 47 counties over the last 10 years. The services that have been decentralized include: recruitment of teachers; the discipline of teachers and Maintenance of teaching standards.

8. Automation of Processes

To remedy manual processes that are used to define our operations, the Commission has invested heavily in the automation of processes in the last 10 years. In this regard, the Commission has automated:

Teacher registration, Application for employment, Application for promotion, Access to payslips and P9 forms, Teacher Performance Appraisal and Development (TPAD), Leave application, Sending or entry and exit reports Management of Third-party deductions on payslip through T-pay and Wealth Declaration.

Automation has significantly improved service delivery and provided timely response and accessibility of information.

9. Innovation

The Commission previously incurred costs in terms of printing and dispatching of payslips monthly and annual tax forms and loss of time in retrieving paper files. But two innovations over the last six years have changed all this.

a. T-PAY System

This system was developed to enable employees to access their payslips and tax return forms (P9 Forms) online. The system was scaled up to enable employees to manage their 3rd party transactions. In 2019, the African Union through the Africa Public Service Day (APSD) recognized the impact of this innovation and awarded the Commission 3rd position in Africa under the “Best Ethical, Managed, Accountable, Transparent and Accessible organization” category.

b. Digitization of Records

Upon finalization of the digitization project, which is 80 per cent done, the Commission will go fully paperless and implement the Electronic Document Management System (EDMS) that will manage the storage, retrieval and access of the digitized content. In addition, this will guarantee the security of digital records.

10. Implementation of Collective Bargaining Agreements with teachers’ unions.

The Commission and its stakeholders have continued to enjoy industrial peace attributed to the Collective Bargaining Agreements (2013-2017 and 2017-2021). The second CBA of 2017-2021 raised the minimum teacher’s salary by 30.3 per cent from Ksh 16,692 to Ksh 21,756. In 2021, TSC signed 2021 - 2025 CBAs with teachers’ unions. This has enabled predictable implementation of school programmes hence promoting the provision of quality education.



TSC Chairman Dr Jamleck Muturi John flanks Dr Nancy Macharia as she addresses the media after a joint TSC & teachers’ unions CBA at Safari Park Hotel, Nairobi on 29/7/2021. They are accompanied by Deputy Chairperson Leila Ali and Commissioner Mbage Njuguna and Timon Oyucho.



11. TSC Open Days

In 2016 the Commission initiated TSC open days that are held annually across the country. TSC open days aim to create awareness about the Commission's mandate and operations, provide an opportunity to interact with stakeholders and create goodwill and mutual understanding with clients.

12. Teachers' Medical Scheme

In line with the objective of universal health coverage of the Big Four Agenda, the Commission rolled out a comprehensive medical insurance scheme offering both inpatient and outpatient care to all the teachers employed by the TSC, their spouses and dependents for Ksh 5.6 billion in 2015, The scope has increased to provide additional medical services and currently stands at Ksh 12 billion annually.

13. Integrity and National Values

TSC has continuously promoted national values through the Kenya Music Festival and Art competitions. Further, the Commission has ensured that the deployment of its staff, both at the secretariat and teachers, reflects regional diversity and balance.

Challenges

Key challenges affecting the TSC include insufficient financial and human resources; persistent insecurity in some parts of the country and the high number of litigation cases that impact the Commission's decisions.

1. Authentication of Academic and Professional qualifications

The commitment to the public as per the TSC Service Charter is to register qualified applicants within 30 days. To achieve this, the Commission continuously seeks information from teachers' training institutions to authenticate the validity of academic and professional certificates presented by applicants resulting in some delays in registration.

2. Inadequate financial resources

Sometimes there are inadequate budgetary allocations to TSC, which affects: recruitment of adequate numbers of teachers; monitoring and support of teacher management programmes; and provision of adequate office accommodation to the decentralized offices.

3. Teacher shortage

Over the last 10 years, there has been a teacher shortage which may be attributed to the implementation of Free Primary Education (FPE), the Free Day Secondary initiative and the establishment of day wings in National and Extra county schools to accommodate 100 per cent transition.

4. Insecurity

There has been considerable disruption of learning programmes in certain regions of the country such as Coast, Rift valley and North Eastern arising from insecurity. This posed a challenge in the assignment and rationalization of teachers to attain regional parity and optimal utilization.

5. Increased Litigation

Since the promulgation of the Kenya Constitution in 2010, there has been an increase in adverse litigation from stakeholders that relate to the nature and execution of the Commission's mandate under the law.

Beyond Ten Years

Looking ahead, I see a commission that will have fully transformed the teacher management functions in several fundamental ways as follows:

1. Livestreaming of lessons where one teacher will be engaging learners in several schools via video calls.
2. The Commission will continuously engage the government to provide additional funding to cater for recruitment, capacity building and better remuneration of teachers.
3. TSC will continue engaging all stakeholders to address the safety concerns of its employees in some parts of Kenya.



Dr Nancy Macharia during the launch of the pilot of live streaming of lessons at Alliance Girls High School, on 26th January 2022. When the programme becomes fully operational, students from the linked schools will enjoy diversified teaching and learning activities streamed live onto screens in their classrooms by teachers from the principal schools. The lessons will also be interactive, as students in the satellite schools will have an opportunity to make comments and ask questions via the video link.



Annexures

Technical Committee Members

| Technical Committee Members | | |
|-----------------------------|--------------------|-------------------------------------------------|
| S/No. | Names | Organisation |
| 1. | Andrew Munyao | Commission on Revenue Allocation |
| 2. | Aniceta Nyaga | Independent Policing Oversight Authority |
| 3. | Anne Wamboi | Office of Auditor-General |
| 4. | Anthony Mwangi | Salaries and Remuneration Commission |
| 5. | Anthony Sissey | Judicial Service Commission |
| 6. | Asma Mohamed | National Land Commission |
| 7. | Barry Karanja | National Land Commission |
| 8. | Browne Kutswa | Public Service Commission |
| 9. | Catherine Gatetua | Kenya Law Reform Commission |
| 10. | Catherine Wahome | Kenya Law Reform Commission |
| 11. | Christine Chelagat | National Land Commission |
| 12. | Daniel Waitere | National Gender and Equality Commission |
| 13. | Dennis Odunga | Office of Auditor-General |
| 14. | Dennis Oketch | Independent Policing Oversight Authority |
| 15. | Faith Sialai | Commission on Administrative Justice |
| 16. | Farida Kokita | Ethics and Anti-Corruption Commission |
| 17. | Florence Manoti | National Land Commission |
| 18. | Hezron Alela | National Land Commission |
| 19. | Jacinta R Katee | National Land Commission |
| 20. | Jecinter Hezron | Commission on Revenue Allocation |
| 21. | Joseph Wachosi | Kenya Law Reform Commission |
| 22. | Karanga Kariuki | Teachers Service Commission |
| 23. | Keziah Saoli | Teachers Service Commission |
| 24. | Leah Gondi | Office of the Controller of Budget |
| 25. | Linda Mworio | Independent Electoral and Boundaries Commission |
| 26. | Lynesther Mureu | Kenya National Commission on Human Rights |
| 27. | Moses Muchiri | National Police Service |
| 28. | Nancy Awere | National Land Commission |
| 29. | Nancy Kosgey | National Land Commission |
| 30. | Nicholas Mureithi | Office of Auditor-General |
| 31. | Raymond Njue | Teachers Service Commission |
| 32. | Robert Koech | National Land Commission |
| 33. | Ronald Ngeno | Commission on Revenue Allocation |
| 34. | Sammy Cheboi | Commission on Administrative Justice |

| Technical Committee Members | | |
|------------------------------------|-----------------|-------------------------------------------------|
| S/No. | Names | Organisation |
| 35. | Stephen Chebii | National Land Commission |
| 36. | Stephen Wangaji | Office of the Controller of Budget |
| 37. | Tabitha Mutemi | Independent Electoral and Boundaries Commission |
| 38. | Trizah Mwanyika | National Police Service Commission |
| 39. | Rose Muthamia | National Land Commission |
| 40. | Rachael Kibui | Consultant |
| 41. | Richard Bett | Consultant |



Contacts

| S/No. | INSTITUTION | CONTACTS |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | <p>Commission on Administrative Justice</p>  | <p>West End Towers, 2nd Floor, Waiyaki Way, Westlands P. O. BOX 20414-00200, Nairobi, Tel: +254-202270000/2303000/2603765 Toll free Line: 00800221349 E-mail: info@ombudsman.go.ke complain@ombudsman.go.ke Website: www.ombudsman.go.ke Facebook: Ombudsman Kenya Twitter: KenyasOmbudsman Instagram: kenyasombudsman</p> |
| 2 | <p>Commission on Revenue Allocation</p>  | <p>Grosvenor Suite, 2nd Floor, 14 Riverside Drive P.O. Box 1310 – 00200, NAIROBI Tel: +254 20 4298000 Email: info@cra.go.ke Website: www.cra.go.ke Facebook: @crakenya Twitter: @CRAKenya YouTube: Commission on Revenue Allocation</p> |
| 3 | <p>Ethics and Anti-Corruption Commission</p>  | <p>Integrity Centre, Jakaya Kikwete/Valley Road Junction P.O. Box 61130 - 00200, Nairobi Tel: (020) 4997000 Mobile: 0709 781000 / 0730 997000 Email: eacc@integrity.go.ke Corruption Report Centre: Hotline: (020) 2717468 / 0715 007700 / 0783 777700 / 0727 285663 / 0733 520641 Email: report@integrity.go.ke</p> |
| 4 | <p>Independent Electoral and Boundaries Commission</p>  | <p>Anniversary Towers, 6th Floor University Way P.O BOX 45371 - 00100 Nairobi, Kenya Tel: 020 - 276 9000 / 020 - 287 7000 Email: info@iebc.or.ke Twitter:@IEBCKenya Facebook: IEBCKenya Instagram:@iebckenya Youtube: iebcpage</p> |
| 5 | <p>Independent Policing Oversight Authority</p>  | <p>1st Ngong Avenue, ACK Garden Annex; P.O. Box 23035- 00100 GPO Nairobi. Tel: 020 490 6000 Tollfree: 1559; Email: info@ipoa.go.ke Website: www.ipoa.go.ke Twitter: @IPOA_KE Facebook: IPOAKENYA</p> |

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| 6 | Judicial Service Commission  | Judicial Service Commission, Re-Insurance Plaza Taifa Road, Podium Floor, P.O. Box 30041 – 00100, Nairobi Tel: 020 2739180 Email: jscsecretariat@judiciary.go.ke |
| 7 | Kenya Law Reform Commission  | Reinsurance Plaza, 3rd Floor, Taifa Road Phone: (+254) 20 2241201 P.O. Box 34999-00100 Mobile: (+254) 799 030 716 NAIROBI, Kenya Website: www.klrc.go.ke Facebook: KenyaLawReformCommission Twitter: @klrcKE Email: info@klrc.go.ke |
| 8 | Kenya National Commission on Human Rights  | 1st floor CVS plaza, Lenana road P.O. Box 74359 – 00200 Nairobi, Kenya Tel: 254-20-3969000 Mobile: 0726 610159 Email: haki@knchr.org Twitter: @hakiKNCHR Facebook: KNCHR YouTube: KNCHR Website: www.knchr.org KNCHR SMS: 22359 |
| 9 | National Cohesion and Integration Commission  | Britam Towers, 17th Floor, Hospital Rd, Upper Hill P. O. Box 7055-00100 Nairobi E-mail Address: info(@)cohesion.or.ke Facebook: National Cohesion and Integration Commission Twitter: NCIC_Kenya Tel:020-2786 000 , 020-2585702/3/1 https://www.cohesion.or.ke |
| 10 | National Gender and Equality Commission  | 1st Floor, Solution Tech Place, 5 Longonot Road, Upper Hill, Nairobi P.O BOX 27512-00506, Nairobi, Kenya Landline: +254(020)3213100 Mobile: +254 (709)375100 Toll Free: 0800720187 SMS: 20459 info@ngeckkenya.org www.ngeckkenya.org Twitter: @NGECKENYA www.facebook.com/NGECKKenya |

| S/No. | INSTITUTION | CONTACTS |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11 | <p>National Land Commission</p>  | <p>316 Upperhill Chambers 2nd Ngong Avenue, Off Ngong Road P.O Box 44417 – 00100 Tel: 020 8000 242 Website: www.landcommission.go.ke Email: info@landcommission.go.ke Twitter: @NLC_Kenya, Facebook: National Land Commission Instagram: nationallandcommissionkenya_ LinkedIn: National Land Commission Kenya YouTube: National Land Commission</p> |
| 12 | <p>National Police Service</p>  | <p>Jogoo House 'A' Taifa Road P.O.Box 44249 - 00100. NAIROBI: Email: nps@nationalpolice.go.ke; Phone: +254-020-2221969</p> |
| 13 | <p>National Police Service Commission</p>  | <p>P.O. Box 47363-00100, Nairobi. Email: info@npsc.go.ke Tel: 0709-099-000 Website: www.npsc.go.ke Twitter @NPSC_KE Facebook/NPSC Kenya</p> |
| 14 | <p>Office of the Attorney General and Department of Justice</p>  | <p>Office of The Attorney General Sheria House, Harambee Avenue P.O. Box 40112-00100, Nairobi, Kenya Tel: 020-2227461-9 / 020-2251355 / 0732 529995 / 0700 072929 E-mail: communications@ag.go.ke Department of Justice; Co-operative Bank House, Haile Selassie Avenue, P.O. BOX 56057- 00200, Nairobi, Kenya. Tel No. 020-2227461-9 / 020-2251355 / 0732 529995 / 0700 072929 Email: info@ag.go.ke</p> |
| 15 | <p>Office of the Auditor-General</p>  | <p>3rd floor , Anniversary Towers, University Way P.O. Box 30084-00100, Nairobi Tel: 254 02 3214000 Email: info@oagkenya.go.ke Website: www.oagkenya.go.ke Facebook: Office of the Auditor-General, Kenya Twitter: @OAG_Kenya LinkedIn: Office of the Auditor-General, Kenya</p> |

| S/No. | INSTITUTION | CONTACTS |
|-------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16 | Office of the Controller of Budget  | Bima House, 12th Floor, Harambee Avenue, Nairobi P.O. Box 35616 - 00100 Nairobi, Kenya +254202211068, +254 709 910 000, +254 716 274 922 Official Email: cob@cob.go.ke/ info@cob.go.ke Website: www.cob.go.ke To report corruption cases: Send us an email: corruption-reporting@cob.go.ke or Toll free number: 0800 720 141 Twitter: @CoB_Kenya |
| 17 | Office of the Director of Public Prosecutions  | ODPP House, Ragati Road, Upper Hill P.O. Box 30701-00100. Nairobi, Kenya Tel: 020 273 2090/020 273 2240/020 271 5833 Mobile: 0787880580 Fax: +254 2 2243524/2251808 Email: info@odpp.go.ke |
| 18 | Parliamentary Service Commission  | Parliament Buildings, Nairobi P.O. Box 41842 — 00100, NAIROBI. Email: clerk@parliament.go.ke. Tel: (254-2) 2221291 or 2848000. |
| 19 | Public Service Commission  | Commission House, Harambee Avenue, P.O. Box 30095, Nairobi 00100 Telephone: +254 20 2223901, +254 20 2227471 Contact Centre: +254 20 4865000 Email: psck@publicservice.go.ke Website: www.publicservice.go.ke Facebook: Public Service Commission of Kenya Twitter: @PSCKenya |
| 20 | Salaries and Remuneration Commission  <p>Salaries & Remuneration Commission Rewarding productivity</p> | P.O. Box 43126, GPO-00100, Nairobi, Kenya Williamson House, 6th Floor, 4th Ngong Avenue, Tel: +254 (20) 2710065/71/73/81 / +254-736712864 Email: info@src.go.ke Website: https://www.src.go.ke/ Twitter, Instagram, Flickr: @srckenya Facebook: @SRCKE LinkedIn, YouTube: Salaries and Remuneration Commission |
| 21 | Teachers Service Commission  | Teachers Service Commission TSC House Kilimanjaro Avenue, Upper Hill, Nairobi Email: info@tsc.go.ke Twitter: @TSC_KE Facebook: TSC KENYA Phone: 020 289 2000/ 0722 208 552/ 0777 208 552 Website: www.tsc.go.ke |



CONSTITUTIONAL COMMISSIONS
AND INDEPENDENT OFFICES

