

LEST WE FORGET:

The Faces of Impunity in Kenya



KENYA HUMAN RIGHTS
COMMISSION



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BY

KENYA HUMAN RIGHTS COMMISSION

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DEDICATION

This report is dedicated to all Kenyans who have, for the last century borne and continue to bear the brunt of impunity owing to the repugnant governance systems and values in the society.

We salute them for their unrelenting resolve to overcome all the oppressive practices in Kenyan society that have resulted from poor governance and the entrenchment of the culture of impunity in Kenya.



Kenyans in a public demonstration demand the truth with regard to the death of Fr. John Kaiser and an end to impunity during the 10th Commemoration of Fr. Kaiser in August 2010.

ACRONYMS AND GLOSSARY OF TERMS

ACHPR	African Charter on Human and Peoples Rights
ADC	Agricultural Development Corporation
AfriCOG	Africa's Centre for Open Governance
AG	Attorney General
AUCPAC	African Union Convention on Preventing and Combating Corruption
CBK	Central Bank of Kenya
CFA	Collateral Financial Agreement
CJ	Chief Justice
CID	Criminal Investigations Department (Kenya)
CoB	Controller of Budgets
CoK	Constitution of Kenya 2010
DC	District Commissioner
DO	District Officer
DPP	Director of Public Prosecutions
DSC	District Security Committee
FBI	Federal Bureau of Investigations (USA).
FORD	Forum for the Restoration of Democracy
GIL	Goldenberg International Limited
GJLOS	Governance, Justice, Law and Order Sector
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IIEC	Interim Independent Electoral Commission
JSC	Judicial Service Commission
KACC	Kenya Anti-Corruption Commission
KANU	Kenya African National Union
KCB	Kenya Commercial Bank
KENDA	Kenya National Democratic Alliance
KHRC	Kenya Human Rights Commission
KNCHR	Kenya National Commission on Human Rights
KNDR	Kenya National Dialogue and Reconciliation
KNHREC	Kenya National Human Rights and Equality Commission
KPC	Kenya Pipeline Corporation
LAICO	Libyan Arab Investment Company Limited
LR	Land Reference Number
MARS (Group)	Media Analysis and Research Strategies
MoA	Ministry of Agriculture
MoE	Ministry of Energy
MoF	Ministry of Finance
MoSSP	Ministry of State for Special Programmes
MP	Member of Parliament

NACADA	National Agency for Campaign Against Drug Abuse
NACADA	National Agency for Campaign Against Drug Abuse
NCIC	National Cohesion and Integration Commission
NCPB	National Cereals and Produce Board
NDP	National Democratic Party
NLC	National Land Commission
NSIS	National Security Intelligence Service
NSSF	National Social Security Fund
OCMs	Oil Marketing Companies
ODM	Orange Democratic Movement
OCPD	Officer Commanding Police Division
OCS	Officer Commanding Police Station
PAC	Parliamentary Accounts Committee
PC	Provincial Commissioner
PMG	Paymaster General
PNU	Party of National Unity
PS	Permanent Secretary
PSC	Public Service Commission
PWC	PriceWaterhouseCoopers
TJRC	Truth, Justice and Reconciliation Commission
UHDL	Uhuru Highway Development Limited
UNDP	United Nations Development Programmes
UNEP	United Nations Environmental Programme
UNGAC	United Nations Convention Against Corruption
UDHR	Universal Declaration on Human Rights

PART I: BACKGROUND AND MAJOR FINDINGS OF THE REPORT

OVERVIEW

The Kenya Human Rights Commission (KHRC) is a non-governmental organization founded in 1994 with a mandate to entrench human rights and democratic values in society. Towards this end, KHRC has been at the forefront in spearheading the democratization and transitional justice processes in Kenya with the aim of entrenching democratic reforms, justice and accountability in the governance of the country.

KHRC recognizes that research, advocacy and civic action for documentation, litigation, memorialization, truth telling, reforms, reparations, lustration among other mechanisms are instrumental to changing the governance culture in Kenya and ending the impunity that has been a defining feature of governance for decades. It is on this basis that the KHRC initiated the Review of the Official Reports Project in order to *compile a list of those individuals recommended for further investigation and institution of criminal proceedings in official reports into gross and systemic human rights violations as well as grand corruption and economic crimes*. The objectives of the project are:

- (i) To review the official reports and profile the alleged perpetrators against the human rights violations and economic crimes they are alleged to have committed; and actions taken against them;
- (ii) To develop a report providing both the findings and recommendations in order to ensure truth, retribution and reparations within the existing reforms, justice and accountability frameworks at the national and international levels.

This project is meant to address the following gaps in truth and justice seeking:

- (I) The inadequate understanding and appreciation of the level of the truth already existing in current official and other reports;
- (ii) The inadequate review, harmonization and presentation of the findings of official and other reports over historical injustices in Kenya;
- (iii) The inadequate analysis and presentation of both the patterns and perpetrators of impunity across the different regimes, reports and categories of injustices in Kenya;
- (iv) The inadequate interventions to ensure that the cross cutting findings and recommendations are applied to expose, lustrate and hold to account, the purveyors of impunity.

The report is organized around five topics:

- *Background*: This provides both the historical dimensions of the culture of impunity and the conceptual perspectives of corruption and human rights violations in Kenya.

- *Major Findings and Recommendations:* This underlines the key revelations and action points of the report against the set objectives of the project.
- *About the Review of Official Reports Project:* This underscores the problem statement and the expected results of the project. It also analyses the existing human rights and anti-corruption frameworks at the national and international levels.
- *Synopsis of the Reports Reviewed:* This provides a brief analysis of the more than 15 reports which form the basis of this project.
- *Detailed Findings:* This captures in details the names and profiles of the alleged perpetrators of corruption and human rights violations captured in the official reports, the actions taken (if any) and recommendations therein.

From the background, findings and conclusion below, it can be deduced that the culture of impunity is so entrenched into Kenyan society that human rights violations and grand official corruption committed by state and non-state actors remain unresolved. It is in pursuit of truth and accountability with regard to those allegedly involved in gross human rights violations and corruption in Kenya that the KHRC conceptualized and implemented this project to review the official reports relating to past injustices and call for the implementation of their recommendations. It is our contention that the findings and recommendations in this report will go a long way in bridging the information gap on human rights violations and economic crimes committed in Kenya over the years. Should serious, concrete action be taken to implement the recommendations of the various reports as summarized in this report, Kenya will have moved a long way forward in resolving historical injustices and ending the culture of impunity in the country.

1. BACKGROUND

1.1 The Culture of Impunity in Kenya

Kenya's polity is a product of colonial and post-colonial governance systems and practices which were for long designed and applied to deepen political, social and economic injustices in the society. Throughout all the regimes, both colonial and post colonial, abominable human rights violations and economic crimes have been committed by both state and non-state actors with no redress for victims. In many cases, the Government of Kenya has resorted to such mechanisms as task forces, select committees, commissions of inquiry criminal investigations, court inquests and public audits among others.¹

A report by the Africa's Centre for Open Governance (AfriCOG-2008) which investigated the efficacy of commissions of Inquiry in Kenya, found that such commissions have been created for varying reasons which include response to public pressure, pacification of the public, re-examination of national policies and as political exit strategies. The report notes that: *“The history of the commissions also reveals a common thread running through almost all the commissions – the failure or lack of enthusiasm by the government to implement recommendations of reports of the commissions.”*²

Thus, most of these “truth seeking” mechanisms in Kenya have produced reports which are either not fully acted upon (if implemented at all) or are never made public. They therefore become the conduits for cover-up and entrenchment of the culture of impunity. *Impunity* generally means exemption from punishment or loss or escape from fines.

Within the context of human rights and accountability, impunity refers to the failure by society to bring perpetrators of human rights violations and economic crimes to justice. Specifically, international human rights law defines impunity as:

*‘the impossibility, de jure or de facto of bringing the perpetrators of violations to account whether in criminal, civil, administrative or disciplinary proceedings since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims.’*³

The root causes of impunity are identified as the failures of the state at four levels: the failure to meet their obligations to investigate violations; failure to take appropriate measures in respect of the perpetrators, particularly in the area of justice, by ensuring

¹Going back from the Native Labour Commission of 1913 to a number of other 'truth telling projects' during the colonial and post independence regimes.

²AfriCOG; “Commissions of Inquiry in Kenya: Seekers of Truth or Safety Valves?”

that those suspected of criminal responsibility are prosecuted, tried and duly punished; failure to provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered; and, failure to ensure the inalienable right to know the truth about violations and to take other necessary steps to prevent a recurrence of violations.⁴

Following the Kenya National Dialogue and Reconciliation (KNDR) process which ended the post-election violence, the key political protagonists- the Mwai Kibaki-led Party of National Unity (PNU) and Raila Odinga's Orange Democratic Movement (ODM) signed a National Accord on February 28 2008. Agenda 4 of the Accord binds the Kenyan state to address impunity by, inter alia, resolving the long term governance issues on reforms, justice and accountability. The dire need for realization of these issues and agenda fall squarely within the KHRC's goal in 2009-2011 of Entrenching Reforms for Justice and Accountability in Kenya. It demands a great deal of research, monitoring, evaluation and interventions on the extent to which the perpetrators of human rights violations and economic crimes have been exposed and sanctioned.

1.2 Corruption and Human Rights Violations: Conceptual Perspective

Corruption and human rights violations are endemic and the major governance concerns for Kenya. They are the most egregious indicators of impunity and are deeply rooted in society.



Politicians seldom own up to any wrong-doing. Cartoon courtesy DAILY NATION November 14, 2010

³The Amended Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity, submitted to the United Nations Commission on Human Rights on 8 February 2005 found at <http://quintessentialruminations.wordpress.com/2011/02/09/on-crimes-against-humanity-impunity-and-moral-decency/> accessed on May 20, 2011.

⁴Ibid

Corruption generally refers to the conduct or act by any person that adversely affects their honest and impartial exercise of their functions as public officers. *The Anti-Corruption and Economic Crimes Act (2003)* provides a descriptive definition of corruption to cover such crimes as abuse of public office, breach of trust, conflict of interest, misappropriation and embezzlement of public funds, theft and plunder of public resources and any offence involving dishonesty, in connection with any other tax, rate or impost levied under any Act or dishonesty relating to elections of any persons to public office. The focus of this research is the *grand official corruption* and *corporate corruption* both of which refer to corruption by senior government officials and usually involve large sums of money. Such corruption generally tends to occur between public officers and private businesses and suppliers or private service providers.

Human rights refer to the universal freedoms, claims and entitlements that derive from moral and/ or legal norms. Human rights promotion and protection safeguards the dignity, liberty, security, equality and development of a human person. *Gross human rights violations* means violations of the fundamental human rights through torture; killing; abduction and severe ill-treatment of any person; imprisonment or other severe deprivation of physical liberty; rape; any form of sexual violence; enforced disappearance of persons; and persecution of any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender among other grounds impeachable under international law.⁵

The violation of social economic rights such as the right to health, education, housing and safe water (which are now entrenched in the Constitution of Kenya) is also closely interlinked with and results from corruption.

Corruption and human rights violations are related in many ways. Corruption usually leads to the personal enrichment of the public officer involved and, inevitably, to the violation of the rights of citizens. It is on that basis that the United Nations Development Programme (UNDP) posits thus:

...“corruption dilutes human rights in a significant way, although it is rarely observed and understood from that perspective... human rights discourse is a powerful resistance to violation of various rights and the problem of corruption can be addressed by framing it from the standpoint of being a human rights violation...(the) corruption problem, when framed as a human rights issue, can empower the judiciary to enforce certain rights for the citizenry and demand a transparent, accountable and corruption free system of governance...”⁶

⁵See “Interpretations” in Truth, Justice and Reconciliation Act (Kenya-2008), p. 8

⁶Extract from the “UNDP Report on the Impact of Corruption on the Human Rights Based Approach to Development” from the UN website www.undp.org/oslocentre/docs05/Thusitha_final.pdf visited on 24th May 2011.

2. MAJOR FINDINGS AND RECOMMENDATIONS

2.1 Findings

2.1.1 Relationship between human rights and corruption:

The direct link between human rights violations and corruption is indisputable. First, corruption leads to misappropriation of resources meant for national development or the enjoyment of the political, social, economic and cultural rights of citizens. The extent to which the theft of national resources affects national pride and sovereignty and the ability of the nation to be self-reliant was well captured by Joseph Kinyua, the Permanent Secretary in the Ministry of Finance on December 2, 2010, when he observed that between 25-30% of the national budget (about Ksh. 270 billion) is usually stolen, and then stated: *“This is a lot of money. We may not need to bow down to some development partners who sometimes do not smile even though they are just giving us a token.”*⁷

Civil and political rights are violated when architects of graft connive to suppress and silence anti-corruption campaigners and crusaders. For instance, there are allegations that Dr. Robert Ouko, the then Minister for Home Affairs was murdered in 1990 partly due to his fight against corruption.

According to Harrison Angir Owuor, then a senior intelligence officer based in Kisumu who had a conversation with the Minister before he died: *“Ouko was concerned by how harambees were fueling graft. He felt that making civil servants, especially those in public administration, to collect money would encourage the vice that would ultimately burden the public.”*⁸

2.1.2 The Silent Sufferers: Victims of Grand Corruption, Human Rights Violations and Impunity in Kenya

Discussions of corruption, human rights violations and impunity tend to take place in the abstract, focusing more on the perpetrators and the legal issues involved, and leaving out the many silent victims of these acts. The human rights violations and economic crimes that have occurred in Kenya over the years have left in their wake countless victims, unheard, denied justice, their grievances and injuries having no redress. The victims and survivors range from those individuals and families who were the victims of political assassinations and killings, torture, inhuman and degrading treatment, arbitrary arrest and detention; disappearances, abductions and extra judicial killings.

Added to this group is an even larger number of victims of conflict, insecurity, civil strife; and internal displacements resulting from politically instigated clashes, The grand

⁷“Kshs. 270bn of budget to be lost in graft” in Daily Nation, Friday, December 3, 2010, p. 6

⁸For details see Kipchumba Some, “Fight against corruption could have cost him his life”; Sunday Standard, November 21, 2010, P.5

corruption and theft of public resources results in a large army of landless poor, and marginalized groups, while the culture of impunity breeds lawlessness and disrespect for the law, creating yet another group of victims- the survivors of crime, sexual and gender based violence and discrimination.

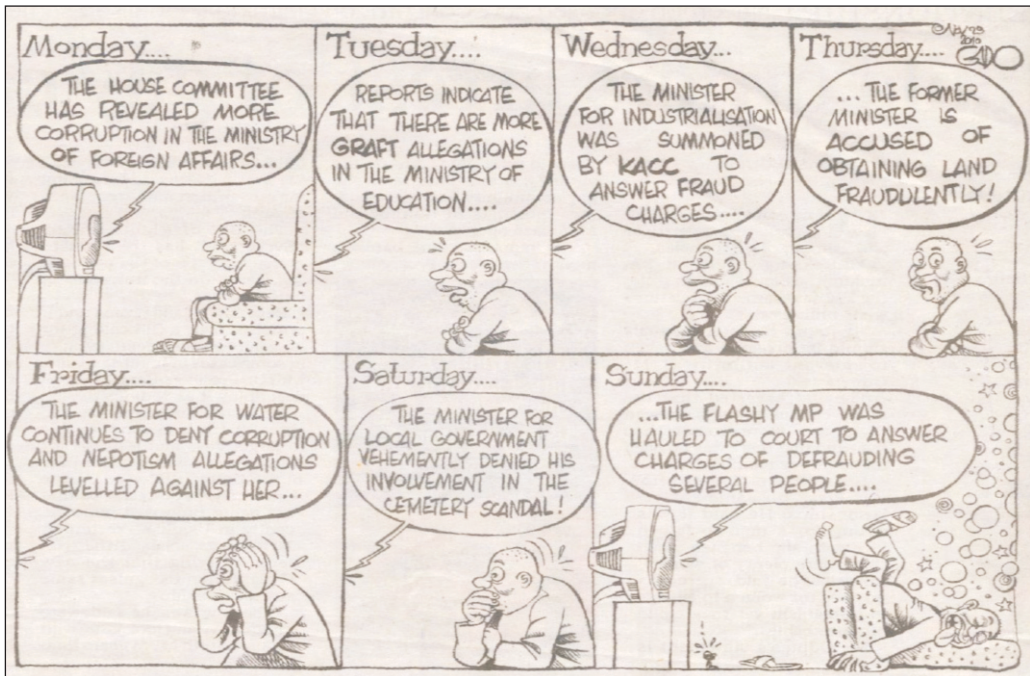
In calling for the implementation of the various reports produced by the diverse commissions set up in Kenya over the years, therefore, KHRC is seeking a mechanism for ensuring not just an end to impunity but also redress for the injustices visited on victims. For instance, the Akiwumi, Kiliku and Ndung'u reports raise questions about the injustices to the IDPs and landless communities in Kenya. The Goldenberg and Maize Scandal reports capture the gross affronts to the citizens' rights to food and development, among other things. The implementation of these and other reports and other information on past and contemporary atrocities will thus go a long way in guaranteeing justice to victims; and accountability to society in general.

2.1.3 Plethora of Reports and Information on Past injustices

The failure to ensure justice for victims of human rights violations and corruption has not resulted from a lack of information on the nature and extent of the violations, or on the perpetrators of such violations and crimes. Many official reports exist in Kenya adversely mentioning the key political leaders and administrators who have been allegedly involved in human rights violations and corruption. These have been derived from a number of 'truth and justice-based' or transitional justice mechanisms indicated below. What has been lacking has been the political will to follow up on the recommendations made in these reports- to investigate and call to account those found responsible for the violations.

Though the main focus in these reports and in this analysis is given to the injustices committed from 1992 to 2010 (the period during which arguably the worst violations of human rights and economic crimes in post independence Kenya occurred), there are new efforts to deal with what happened before then. For instance, in November 2010, Parliament's Public Accounts Committee (PAC) questioned the payments of Kshs. 1,057,621, 935 (from 2003 to date) over a questionable deal agreed in 1975, where no goods and services were delivered to set up a fertilizer factory.⁹ The debts resulting from such dubious transactions fall within the category of what are referred to as odious debts.

⁹Refer for instance to: Alphonse Shiundu, "Sh. 2.4bn scandal unravels, 35 years after dubious deal"; Daily Nation, November 29, 2010, P.9



Endless lists of scandals, corruptions, past injustices and other misdeeds. Cartoon courtesy DAILY NATION November 29, 2010.

2.1.4 Economic Crimes and Odious debts

According to its proponents, the term 'odious debts' refers to debts contracted and spent against the interests of the population of a State, without its consent, and with full awareness of the creditor. Sack (1929) wrote as follows:

...if a despotic power incurs a debt not for the needs or in the interest of the State, but to strengthen its despotic regime, to repress its population that fights against it, etc., this debt is odious for the population of the State. The debt is not an obligation for the nation; it is a regime's debt, a personal debt of the power that has incurred it, consequently it falls within this power....The reason these 'odious' debts cannot be considered to encumber the territory of the State, is that such debts do not fulfill one of the conditions that determines the legality of the debts of the State, which is: the debts of the State must be incurred and the funds from it employed for the needs and in the interest of the State.¹⁰

Thus 'odious debts,' incurred and used for ends which, to the knowledge of the creditors, are contrary to the interests of the nation, do not compromise the latter—in the case that the nation succeeds in getting rid of the government which incurs them – except to the extent that real advantages were obtained from these debts.

According to the PAC report and past testimony by Permanent Secretary, Joseph Kinyua on the questionable fertilizer factory debt of Kshs. 1,057,621, 935 discussed above, the tax payer will shoulder this burden, including penalties for delayed payments and cost of arbitration at an international tribunal until 2017 and beyond, due to the agreements signed between the Kenya Government and a foreign government and creditor banks in Belgium and Austria.¹¹

2.1.5 Multiple Initiatives to Deal with the Same Violations

There are cases where more than one 'truth and justice based' initiatives have been put in place to address related, at times the same injustices, with no concrete result emerging. Two illustrations will suffice.

First, the 1990 murder of Robert Ouko was initially investigated by the Scotland Yard team led by Inspector John Troon, then by a Commission sitting in Kisumu under Justice Evans Gicheru, and then, in 2003, a Parliamentary Committee led by the MP for Kisumu Town East Hon. Gor Sunguh was established. None of these produced a conclusive report on the murder. The politically instigated violence of the 1990s has seen the establishment of several initiatives and production of several reports to inquire into the causes of the clashes and those responsible.

Second, the *Parliamentary Select Committee to Investigate Ethnic Clashes in Western and Other Parts of Kenya*,¹² 1992 and *The Judicial Commission of Inquiry into the Tribal Clashes in Kenya*¹³ were mandated to carry out investigations on the clashes and make recommendations. Following the 2007-2008 election –related violence, the Kenya National Commission on Human Rights carried out investigations into the violence and produced a report¹⁴ that indicated, among other things, the course of the violence, the nature of the human rights violations, the epicenters of the violence and those suspected of having played the leading roles as planners, financiers and perpetrators of the violence. A commission of inquiry, the Justice Waki-led *Commission of Inquiry into Post Election Violence in Kenya (CIPEV)* was appointed, sat and produced a report.

2.1.6 The Role of the Judiciary in Achieving Accountability

Court actions with regard to some of the reports have yielded four major results:

- Having the names of some alleged perpetrators expunged from the reports, for instance in the case of Prof. George Saitoti against the Goldenberg Commission;
- Refusal to grant the application for removal of names as in the case of Hon. Uhuru Kenyatta when he sought to have his name expunged from the Kenya National Commission on Human Rights report;

¹⁰See: Alexander Nahum Sack, *The Effects of State Transformations on their Public Debts and Other Financial Obligations*; and Robert Howse, "The Concept of Odious Debt in Public International Law" in http://www.unctad.org/en/docs/osgdp20074_en.pdf; See also Prof Christoph G. Paulus's postulation of "The Concept of Odious Debt: A Historical Survey" in http://r0.unctad.org/dmfas/docs/DMconf07_papers/paulus.pdf.

¹¹Refer to David Ochami and Matin Mutua, "PAC questions failed fertilizer plant three decades after deal"; *The Standard*, Thursday, December 2, 2010, p.12

- Ordering the Executive to make some of the pending reports public for instance in the case of *Roshanali Pradhan v Attorney General* and others in which the court in July 2002 ordered the publication of the Akiwumi report which had not been made public three years from the date the Commission had completed its sittings;¹⁵

Clarifying misinformation in some official reports as was the case during the Inquest in August 1, 2007 into the death of Fr. Kaiser where the court refuted the claims in the joint report by America's Federal Bureau of Instigations (FBI) and Kenya's Criminal Investigations Department (CID) that Fr. Kaiser suffered from a mental illness which could have led him to take his own life.

2.1.7 The Key Perpetrators and Abettors of Impunity

Leaders and administrators allied to the political parties to which the executive belongs seem to be more prone to these violations and crimes. However, well connected private or non-state actors have also played a critical role either in initiating or abetting these injustices in collaboration with their state partners. For instance, in the post election violence and financial scandals such as Goldenberg, the City Council Cemetery land, Anglo Leasing, and Triton, individuals and companies have been found to be the key purveyors of impunity in the public sector.

2.1.8 Multiplicity of Culpability

The KHRC found a pattern of culpability cutting across both human rights violations and corruption, and either within the same or different regimes. For instance, individuals have been adversely mentioned for having committed political violence during both the former President Daniel Moi's and current Kibaki administration in 1991-1997 and 2007-2008 respectively. Some are alleged to have committed both gross human rights violations and economic crimes during either or both regimes.

2.1.9 Attempts at Accountability and Integrity

While past attempts to hold those responsible for impunity had been directed to the lower level culprits, there seems to be a new wave targeting the higher level perpetrators in the context of the Constitution of Kenya (CoK 2010) and also through the Kenya Anti-Corruption Commission (KACC) and Parliamentary Committees, among others.

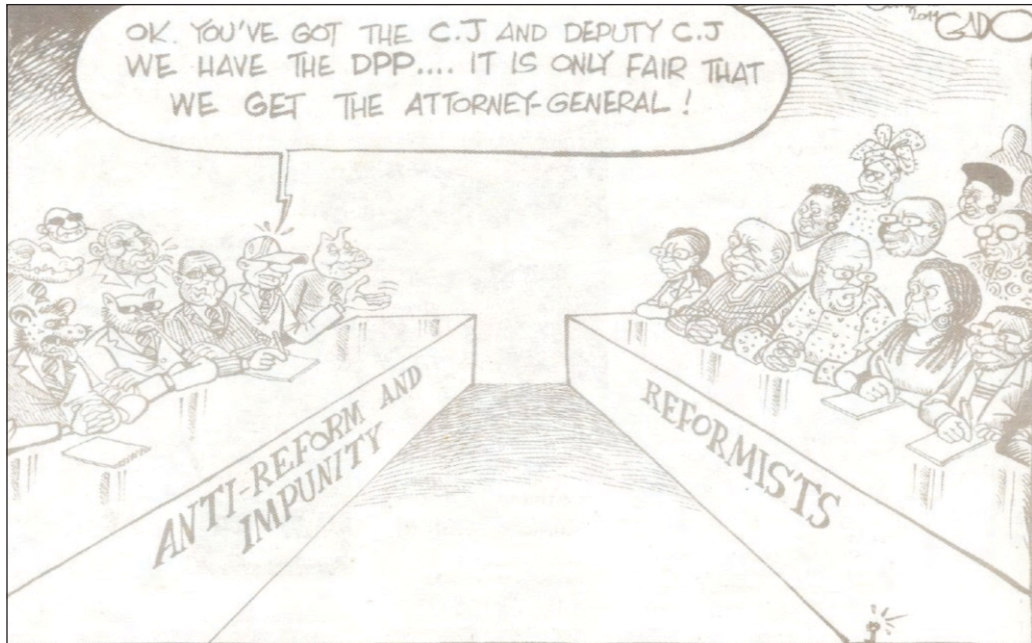
¹²The Kiliku Report-1992

¹³The Akiwumi Report-1999

¹⁴On the Brink of the Precipice: A Human Rights Account of Kenya's Post-2007 Election Violence.

¹⁵For details see: The synopsis of the Inquest Court's Judgment as captured elsewhere in this report and the FBI 81 page document entitled "The Final Report into the Murder of Fr. John Kaiser at <http://www.millhillmissionaries.com/Death%20of%20Father%20Kaiser.pdf>;

A pattern has also emerged in which some of those mentioned in the reports have either opted or been forced to “step aside” rather than resigning from their public offices. This “stepping aside” phenomena has put the country into an awkward situation where suspects being investigated are still drawing salaries and other benefits from public coffers.



pace of reforms, Kenya still has a long way to go. Cartoon courtesy of DAILY NATION June 19, 2011.

Moreover, there are mixed actions in locking out of public office those implicated in past injustices pursuant to Chapter 6 of the CoK which focuses on leadership and integrity. Critical among these is a joint effort by the Interim Independent Electoral Commission (IIEC), KACC and CID department to vet state officers and lock out candidates who fail the integrity test as evidenced during the Kirinyaga Central by-election held in February 16, 2011.

In addition, every political party has been tasked to ensure that their candidates meet the integrity criteria set out in the CoK 2010. According to Issack Hassan, the IIEC Chair: *“Political parties should know their own candidates and if this is not done, we will go ahead and use the necessary laws to bar them from contesting.”*¹⁶

The Executive has also taken some initiatives to entrench integrity and ethics in the conduct of public affairs. During the Cabinet retreat in November 2010, it was agreed that public officers, ministers and assistant ministers, MPs, permanent secretaries and all

¹⁶ “Tainted candidates to be locked out of poll”; Daily Nation, Tuesday, November 30, 2010, p. 10

civil servants must comply with integrity and ethical values as outlined in the CoK 2010. They also resolved to uphold the rule that prohibits public officers from presiding over harambees.

However, these resolutions were vitiated in February 28, 2011 when President Mwai Kibaki appointed Justice Alnashir Visram, Prof Githu Muigai, Kioko Kilukumi and William Kirwa to the positions of Chief Justice (CJ), Attorney General (AG), Director of Public Prosecutions (DPP) and Controller of Budget (CoB) respectively without regard to constitutional provisions on leadership and integrity.

The appointments were later revoked following a public outcry coupled with the Speaker's and Court rulings that the four appointments were unconstitutional.

The fact, however, that they were made when Justice Visram was yet to be vetted to establish his integrity as required under the new Constitution, Kirwa was allegedly under investigation by a Parliamentary Committee and Kilukumi's appointment would have given rise to a conflict of interest during the prosecution of anti-corruption cases in light of the fact that at the time of his appointment, he was representing public figures charged with corruption called to question the executive's commitment to integrity in public service.

The revocation and withdrawal by the President, however, presents an opportunity for the appointments to proceed as provided for in the CoK 2010 with the Judicial Service Commission (JSC) recruiting the CJ and the deputy CJ, Candidates for these positions will be required to declare their wealth and political affiliations; submit samples of judgments and scholarly writings; and have high moral character, integrity and impartiality¹⁷. These are cardinal requirements under Chapter Six of the CoK 2010.

The DPP and the Controller of Budget would be recruited by the Public Service Commission (PSC) while the President and Prime Minister will be required to consult and sort out the AG's appointment.

2.1.10 Claims of Tribal and Political Witch Hunting

Most of the politicians mentioned in the reports on human rights violations and economic crimes claim that they are innocent and their names are being used to either 'finish them or their ethnic communities' politically. This may not hold water for the final accountability outcomes are based on individual criminal and political responsibility as opposed to collective criminal and political liability.

¹⁷See the paid up advert entitled: "Judicial Service Commission: Vacancy for the Office(s) of –(1) Chief Justice (2) Deputy Chief Justice" in The Standard, Friday, March 4, 2011, p. 49.

2.1.11 The Culture of Conspiracy and In-action

The failure by the state to either pre-empt these human rights violations and economic crimes or to publicize and implement the findings contained in the reports of bodies which investigated the violations and economic crimes is indicative of a conspiracy within the government to condone impunity in Kenya at all levels. This approach was described by Duncan Wachira, the then Commissioner of Police during his submissions to the Akiwumi Commission as the 'conspiracy of silence.'



The Kenya Police often turns a blind eye on human rights violations and economic crime. Cartoon courtesy DAILY NATION June 6, 2011.

He cites the case of police officers where he argues:

“They fired in the air, a strategy which the police were to employ in many other incidents of tribal clashes and which proved not only useless but which also, indeed, at times, seemed deliberately calculated to assist those burning houses during the tribal clashes.”¹⁸

He concludes that this leniency of the security organs contributed to the confidence of the attackers and to the length of the incidents of the tribal clashes which could have been easily curtailed if the security officers wanted to do so. This failure to act with regard to the very first incidents of violence is largely to blame for the continuation and escalation of politically instigated violence in Kenya.

¹⁸See Akiwumi Report, p.40

2.1.12 Parliament's Double Standards towards impunity

While Parliament has been instrumental in the production of some of the reports and holds the executive to account, it has however been averse to the processes and institutions which seem to be a threat to their selfish political interests. This explains the on-going campaign by legislators to malign and disband the Kenya National Commission on Human Rights, KACC, National Cohesion and Integration Commission (NCIC); and the attempt to withdraw Kenya from the International Criminal Court (ICC).

2.1.13 Doubtful Credibility of some Truth Initiatives and their reports

The credibility of some reports emanating from bodies set up to inquire into human rights violations and past injustices has been put to question mainly due to the flawed operations of the institutions working on them or their skewed findings and conclusions. For instance, the report by The Parliamentary Select Committee to investigate Ethnic Clashes in Western and other parts of Kenya 1992 (The Kiliku Commission Report) carried clear findings in the main text of its report on who were responsible for the violence.

However, some of these names were not captured within the sections on “perpetrators and abettors” of the clashes. The Committee was also hesitant to make far reaching recommendations such as investigations and accountability for all those it found responsible for the 1991-1992 politically instigated violence in Kenya.

The Gor Sunguh-led Parliamentary Committee set up in March 2003 to investigate the 1990 murder of Robert Ouko suffered serious credibility issues. Its report was presented to Parliament on December 8 2010. It was dismissed on December 22, 2010 on accusations that the Committee failed to gather credible evidence with regard to the disappearance and murder of the Minister.¹⁹

2.1.14 Failure to Release Reports to the Public

A number of reports have been withheld either by the Executive or Parliament with a view to protecting vested interests in these arms of government. Such reports include²⁰ the Report by the Judicial Commission of Inquiry into the Sale of the Grand Regency (Cockar Commission Report-2008), and the Triton Audit Report by PriceWaterhouseCoopers (PWC) – 2009.

Related to this is a trend in which reports are publicized many years after they are presented to the state institutions in charge. The Report by the Parliamentary Committee on the Artur Brothers and Associates, for instance, was made public in December 2010, three years after its work was completed in 2006. The Report by the Parliamentary Committee Investigating the Murder of Dr. Robert Ouko (the Gor Sunguh Committee Report) was made public in December 2010, seven years after most of the work was completed in 2003. the Report by the Judicial Commission of Inquiry into the Tribal

Clashes in Kenya (Akiwumi Report) was made public only after an order was obtained from the High Court to compel the release of the report. The report was made public in October 2002 while the Commission had submitted it to former President Daniel Arap Moi in July 1999.

2.1.15 On-going Cases

There are currently a number of cases either pending in court or still under investigation related to grand corruption and economic crimes. It is hoped that these will be concluded expeditiously in the spirit of the new Constitution. According to PLO Lumumba, *“In the next few weeks, KACC will forward five to eight high voltage files to the AG for perusal and necessary recommendations.”*²¹

Some of these cases are:

- A case early in 2010 in which KACC charged 12 people, who included vehicle importers, clearing, and forwarding agents, Kenya Bureau of Standards and Kenya Revenue Authority employees, in connection with a racket in which vehicles of more than eight years were finding their way into the local market;
- Prosecution of Hon. Henry Kosgey, then Minister for Industry who was forced to resign in January 2011 following the allegation that he gave exemptions for the importation of hundreds of cars against the eight-year age limit for used cars;
- Investigation into Hon. Mutula Kilonzo, the Minister for Justice, National Cohesion and Constitutional Affairs and MP for Mbooni over alleged mismanagement of the Constituency Development Fund;
- Investigations of the then Foreign Affairs Minister, Hon. Moses Wetang'ula and his Permanent Secretary, Thuita Mwangi, who were forced to leave office after the Parliamentary Committee on Defence and Foreign Relations accused them of abetting corruption in the purchase of diplomatic properties in Tokyo, Islamabad, Abuja and Brussels;
- Prosecution of former Nairobi mayor, Geoffrey Majiwa. He was forced out of office after being arraigned in court to answer corruption charges related to the Ksh. 283 million purchase of land for a cemetery in Mavoko, Athi River.

2.2 Recommendations

2.2.1 Investigations and Accountability.

KHRC recommends that thorough investigations are undertaken on the culpability of the alleged perpetrators with a view to establishing their level of involvement and taking legal and/or administrative actions against them. Those found guilty should resign and be

¹⁹For details, see other sections of this report.

²⁰Details of such reports are captured in the recommendations section.

²¹See “War on Corruption” and “Another Minister on KACC radar over devolved funds” in Daily Nation, Wednesday, January 12, 2011, pp 2 and 11. This was a Statement by PLO Lumumba, the KAAC's chair.

barred from holding public offices in future. In addition, they should be subjected to the retributive and reparative measures that their violations or crimes demand. For instance, title to land acquired illegally or irregularly should be revoked and ownership and use returned to the public under the envisaged National Land Commission (NLC). Moreover, those found guilty of misappropriating public funds should have their accounts frozen and be surcharged to the extent of the misappropriation.

2.2.2 The Institutional Frameworks on Human Rights and Corruption

The requisite legislation for establishment of the Kenya National Human Rights and Equality Commission (KNHREC), the Ethics and Anti-Corruption Commission, the National Land Commission and the Police Service Commission provided for under the Constitution should be prioritised. The appointment of a credible and competent Chief Justice, Deputy Chief Justice Attorney General, Director of Public Prosecutions and other state officers should be expedited in order to create effective administrative frameworks for addressing gross human rights violations and economic crimes in Kenya.

2.2.3 Parliamentary Accountability

Parliament should remain accountable to the citizens and sustain its efforts to hold the executive to account for human rights violations and corruption. However, its members should refrain from threatening the existing justice and accountability mechanisms such as KNHREC which are pursuing the perpetrators of impunity in the society. Finally, Parliamentarians should work diligently to pass the legislations proposed in the CoK 2010 in order to move the campaign against impunity forward.

2.2.4 Civic Vigilance and Engagement

The citizens and civil society should remain organized, focused and vigilant in monitoring and calling to account those responsible for gross human rights violations and economic crimes. They should also be involved in the formation of and engagement with the above-mentioned state institutions. This is based on the fact that the executive and legislature seems to pursue parochial as opposed to national interests in anti-impunity and state formation initiatives.

2.2.5 Publicization and Implementation of Official Reports

The reports on past human rights violations and economic crimes should be published and their findings implemented. In the growing need for public accountability the following reports should be released and made accessible to the public. They include:

1. The Parliamentary Select Committee Report on the murder of the Hon. J. M Kariuki, former Member of Parliament for Nyandarua.
2. The Triton Audit Report on the oil scandal by Price Waterhouse Coopers (PWC)-2009;

3. The Kroll Report on the Anglo-Leasing scandal
4. Troon and Gicheru reports on the Ouko murder
5. Cockar Report on the Sale of the Grand Regency
6. Ambassador Ngali Task Force Report(2005-2006 on IDPs)

Moreover, we are also call upon the full implementation of the following reports:

1. The Nyenze report on the Pyramid Schemes
2. Kiruki report on the Artur Brothers
3. The Akiwumi and Kiliku report on IDPs
4. The Ndung'u report on the illegal and irregular allocation of public land
5. The Bosire Report on the Goldenberg Scandal report
6. The Kenya National Commission on Human Rights Report on the 2007-2008 post election violence
7. Professor Philip Alston Report on the Police Brutality and Extra-judicial killings
8. The Mau Forest Task Force report among others.

The demand to have these report made public is in line with Section 35 of the CoK 2010 which provides that:

- (1) *Every citizen has the right to access to(a) Information held by the state; and; (b) Information held by another person and required for the exercise or protection of any right or fundamental freedom*
- (2) *Every person has the right to the correction and deletion of untrue or misleading information that affects the person;*
- (3) *The state shall publish and publicise any important information affecting the nation.*

This demand is also in line with Article 19 of the Universal Declaration of Human Rights (UDHR); Article 19 of the International Covenant on Civil and Political Rights; and Article 9 of the African Charter on Human and Peoples Rights (ACHPR).

2.2.6 Enactment of the Freedom of Information Law:

Civil society advocacy led to the publication of the Freedom of Information Bill in 2007. However, the Bill was not prioritized in the House business and it lapsed with the Ninth Parliament in December 2007. Thus the enactment of the Freedom of Information Act should be fasttracked to ensure unfettered access to state information.

According to one of the Bill's proponents: *“Access to information would enable effective monitoring and ensure transparency. It is also the key that will open the door to critical information required to hold public official accountable.”*²² As pundits argue, corruption thrives in secrecy.

2.2.7 Possible Legal Action against the State's Inability to Release the Reports to the Public

Should the Government of Kenya fails to make the above reports public, KHRC will consider taking legal action based on the precedent set in the case of Roshanali Pradhan v Attorney General and Others, the decision which led to the release of the Akiwumi Report.²³ In this case, the Plaintiff filed a suit claiming damages on grounds of breach of statutory duty and negligence on the part of the government when it failed to act on reports of a commission of inquiry into tribal clashes established under the Commission of Inquiry Act Cap 102 that armed youths had camped adjacent to the Plaintiff's farm and were terrorizing residents in the area, including his workers.

The court held that the government was guilty of failure to protect the constitutional rights of the Plaintiff and was also guilty of negligence in failing to act quickly to control the clashes. It also found that failure by the Attorney General to supply the report of the Akiwumi Commission to the Plaintiff constituted a breach of his constitutional rights. Article 22 CoK read together with Article 35 on the right to information provide constitutional basis for an application by KHRC for release of the reports to the public. Article 22(1) provides that:

“Every person has a right to institute court proceedings claiming that a right or fundamental right or fundamental freedom in the Bill of Rights has been denied, violated or infringed or is threatened.”

Article 22(2) (a)-(d) fundamentally changes the position on *locus standi* (legal standing) by providing that a suit seeking protection of rights can be instituted by a person acting on behalf of another person who cannot act in their own name; a person acting as a member of, or in the interest of, a group or class of persons; a person acting in the public interest; or an association acting in the interest of one or more of its members. Public interest will offer the best standing and ultimate motivation for the KHRC's litigation on this matter.

²²Sheila Masinde, “It is time the government explained to Kenyans what, exactly is a state secret”, in Daily Nation, December 3, 2010, p. 13

²³http://www.kenyalaw.org/CaseSearch/case_search_one.php?pageNum_result=43&totalRows_result=435&casParties=&casSubject=righ&casNumber=&casCourt=&casJudges=&casType=&casAdvocates=&casCitation=&casYear=&check_submit=1&submit ter=Searching. Miscellaneous Civil Application No. 65 of 2002

PART II: ABOUT THE RESEARCH PROJECT AND DETAILED FINDINGS OF THE REPORT

3. ABOUT THE REVIEW OF OFFICIAL REPORTS PROJECT

3.1 Problem Statement

This project was meant to address four critical gaps in truth and justice seeking. The first was the inadequate understanding and appreciation of the level of the truth already existing in current official and other reports;

The second relates to the inadequate review, harmonization and presentation of the findings of official and other reports over historical injustices in Kenya. Thirdly, there is inadequate analysis and presentation of both the patterns and perpetrators of impunity across the different regimes, reports and categories of injustices in Kenya.

Finally, are the inadequate interventions to ensure that the cross cutting findings and recommendations are applied to expose and hold to account, the perpetrators of impunity.

3.2 Expected Results of the Project

3.2.1 Goal

To address these gaps, this project has achieved its main goal of: compiling a list of those recommended for further investigation and prosecution in official reports into gross and systemic human rights violations as well as grand corruption.

3.2.2 Objectives

This goal was realized through the following specific objectives:

- Review the official reports and profiles the perpetrators against the human rights violations and economic crimes they are alleged to have committed; and actions taken against them;
- Develop a report providing both the findings and recommendations in order to ensure truth, retribution and reparations within the existing reforms, justice and accountability frameworks at the national and international levels; and,
- Call to account those responsible for human rights violations and economic crimes in Kenya is underpinned by a wide legislative framework of both national and international human rights and anti-corruption instruments. The failure to tackle impunity, therefore, is based more on a lack of political will explicable only by involvement in these violations and economic crimes across political lines.

3.3 National Human Rights and Anti-Corruption Instruments relevant for Anti-Impunity and Public Accountability Initiatives

3.3.1 The National Accord and Reconciliation Act (No. 4 of 2008)

This is an Act of Parliament intended to 'give effect to the Agreement on the Principles of Partnership of the Coalition Government, to foster national accord and reconciliation, and to provide for the formation of a coalition Government' among other things .

Agenda 4 of The National Accord obliged the Kenya government to entrench good governance by addressing past human rights violations, ending impunity, ensuring transparency and accountability, and fostering policy, institutional, legal and constitutional reforms.

3.3.2 The Constitution of Kenya 2010 (CoK 2010).

The Constitution of Kenya 2010 was adopted following the national referendum of August 4 2010 and promulgated on August 27 2010.. From a rights-based perspective, the CoK 2010 makes human rights and other related principles cross cutting instruments of governance.

The Bill of Rights enshrines in the Constitution all the key civil, political, economic, social and cultural rights and provides adequate mechanisms for application, implementation and enforcement. The courts and the Kenya National Human Rights and Equality Commission (KENHREC) will be critical in upholding and protecting these rights.

From an anti-corruption perspective, the CoK 2010 makes integrity, transparency and accountability, among other principles, the key ingredients of governance in Kenya. It also provides for expectations, responsibilities and principles of leadership, integrity and public service under the oversight of the Ethics and Anti-Corruption Commission, the Auditor General, Public Service Commission among other independent offices and state institutions.

3.3.3 Draft National Human Rights Policy (2010).

Drafted within the National Action Plan of the Governance, Law and Order Sector reforms (GJLOS), the National Human Rights Policy 2010 is meant to ensure that human rights are entrenched in all sectors and levels of society. GJLOS is a reform programme launched by the Government in November 2003. It seeks to institute reforms in areas of governance, ethics and integrity including fighting corruption, enhancing access to justice, and reforms within the prisons, police, and judiciary.

3.3.4 Public Officers Ethics Act 2003 (Chapter 183, Laws of Kenya).

This is an Act of Parliament to advance the ethics of public officers by providing for a Code of Conduct and Ethics for public officers and requiring financial declarations from certain public officers.

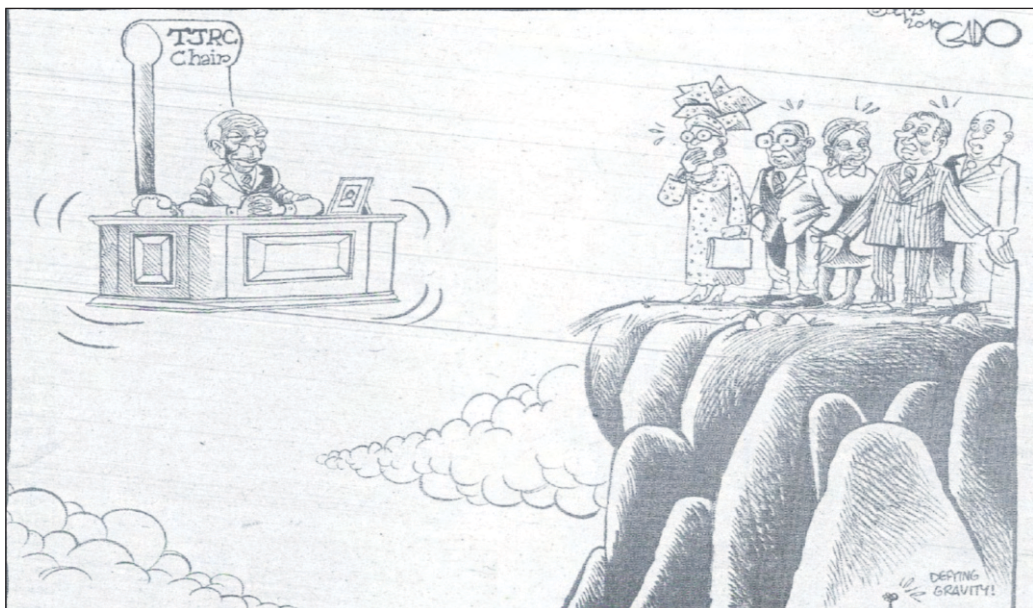
The Act is now strengthened by the CoK 2010 which enshrines at Chapter 6 the values and principles of ethics and integrity expected from public servants such as selection on the basis of personal integrity, competence and suitability; objectivity, impartiality, honesty, accountability, selflessness, discipline and commitment in service to the people. It also provides for sanctions for non-compliance.

3.3.5 Anti-Corruption and Economic Crimes Act 2003 (Chapter 65)

Enacted in 2003 soon after the NARC government came to power on an anti-corruption platform, this Act provide for the prevention, investigation and punishment of corruption, economic crime and related offences. It empowers KACC to take action against any public officer who commits any act that falls within the definition of corruption under the Act.

3.3.6 Truth, Justice and Reconciliation Act (No. 6 of 2008)

The Truth, Justice and Reconciliation Commission (TJRC) was expected to establish the truth and recommend action over past human rights violations and economic crimes in Kenya.



Flawed processes in the search of truth, justice and reconciliation crippled the TJRC mechanism from the beginning. Cartoon courtesy DAILY NATION October 23, 2010.

This would entail, in addition to taking evidence from victims of past human rights abuses and others, considering past official reports and providing recommendations on their implementation. This broad mandate may be affected by the credibility, legitimacy and financial crisis which have dogged the Commission since it was set up.

3.3.7 Other National Instruments

(i) International Crimes Act (No. 16 of 2008).

This is an Act of Parliament to make provision for the punishment of certain international crimes, namely genocide, crimes against humanity and war crimes, and to enable Kenya to co-operate with the International Criminal Court established by the Rome Statute.

(ii) Kenya National Commission on Human Rights Act (No. 9 of 2002).

This Act provided for the establishment of the Kenya National Commission on Human Rights, the national human rights body that has been at the forefront in the promotion and protection of human rights in Kenya.

iii) The Proceeds of Crime and Anti-Money Laundering Act (No. 9 of 2009) This Act provides for a legal mechanism for dealing with the offence of money laundering. It introduces measures for combating the offence and for the identification, tracing, freezing, seizure and confiscation of the proceeds of crime.

iv) The Public Procurement and Disposal Act (No. 3 of 2005) establishes procedures for efficient public procurement and for the disposal of unserviceable, obsolete or surplus stores, assets and equipment by public entities. This legislation is critical for safeguarding the use of public resources by ensuring a transparent process for procuring goods and services by state and state institutions.

These national legal instruments are buttressed by international instruments to which Kenya is a party.

3.4 International Human Rights and Anti-Corruption Instruments

These instruments provide the international obligations of State Parties to protect promote and respect human rights and end corruption at all levels. .

3.4.1 Universal Declaration on Human Rights (UDHR - 1948)²⁵

This was the first international law instrument to provide substantively on human rights.. The UDHR together with the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR) and its two Optional Protocols constitute the International Bill of Human Rights.

3.4.2 International Covenant on Civil and Political Rights (ICCPR-1966)²⁶

The ICCPR takes the provisions of the UDHR further by detailing the most fundamental civil and political rights which State Parties ought to protect, promote and respect. Article 2(3) provides for remedies through the competent judicial, administrative and legislative authorities.

3.4.3 Basic Principles and Guidelines on the Right to a Remedy and Reparation (2005)²⁷

These principles advance the provisions of Article 2(3) of the ICCPR by obligating the State parties to accord prompt, adequate and effective remedies and reparations in the forms of compensation, restitution, rehabilitation, satisfaction and a guarantee on non repetition.

3.4.4 International Covenant on Economic, Social and Cultural Rights (ICESCR-1966)²⁸

Like the ICCPR, the ICESCR reinforces the provisions of the UDHR by detailing the economic, social and cultural rights which State Parties are obligated to fulfill. It requires State Parties to ensure better or maximum utilization of resources (mostly lost through corruption) for progressive realization of these rights.

3.4.5 The Rome Statute

This Statute establishes the International Criminal Court (1998) provides for mechanisms to deal with crimes against humanity, genocide, war crimes and crimes of aggression

3.4.6 United Nations Convention Against Corruption (UNGAC-2003)²⁹

This Convention is intended to promote and strengthen measures to prevent and combat corruption more efficiently and effectively, promote integrity and accountability and ensure proper management of public affairs and property. To combat corruption, it includes measures on prevention, criminalization, international cooperation and asset recovery.

3.4.7 The African Charter on Human and Peoples Rights (ACHPR/Banjul Charter)³⁰

This is an international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent. It entrenches and regionalizes

²⁵ Adopted by the United Nations General Assembly (10 December 1948 at Palais de Chaillot, Paris).

²⁶ Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966-entry into force 23 March 1976, in accordance with Article 4.

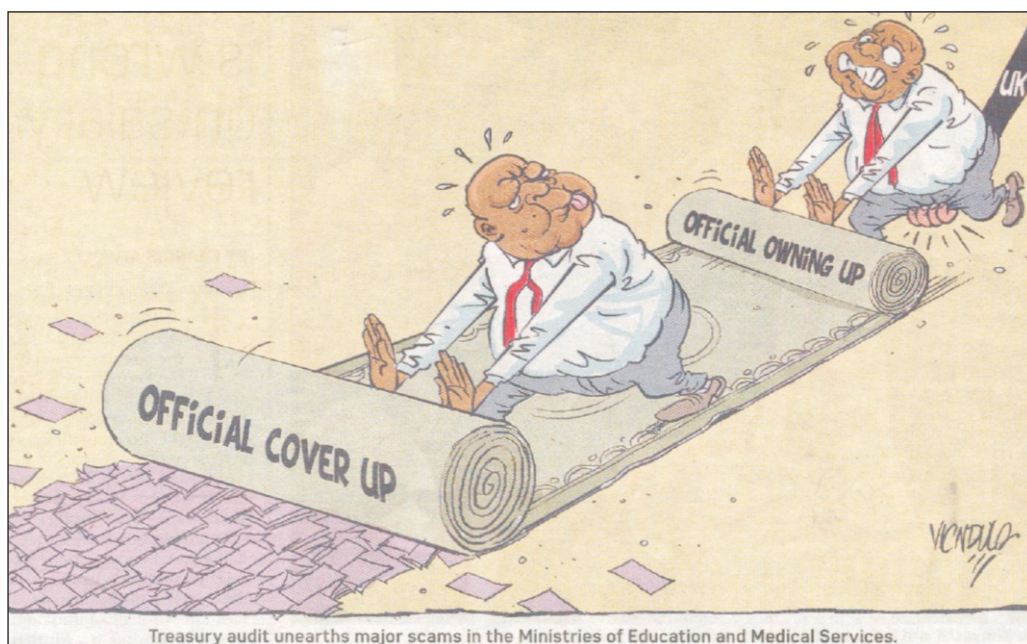
²⁷ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law-Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005

²⁸ International Covenant on Economic, Social and Cultural Rights-Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966-entry into force 3 January 1976, in accordance with article 27

the International Conventions on Human Rights (UDHR, ICCPR, ICESCR) for better implementation and accountability but goes further to recognize and provide for protection of Peoples and Group rights.

3.4.8 African Union Convention on Preventing and Combating Corruption (AUCPAC).³¹

This Convention represents regional consensus on what African states should do in the areas of prevention and criminalization of corruption, and international cooperation and asset recovery. It covers corruption within both the public and private sector and defines corruption to cover a wide range of offences including bribery (domestic or foreign), diversion of property by public officials, trading in influence, illicit enrichment, money laundering and concealment of property.



Cartoon courtesy of *The STAR* June 15, 2011

²⁹ Adopted by the United Nations General Assembly by Resolution 58/4 of October 31, 2003. It entered into force on December 14, 2005.

³⁰ Emerged under the aegis of the Organization of African Unity (since replaced by the African Union) at its 1979 Assembly of the Heads of State and Government.

³¹ Was adopted in Maputo on July 1, 2003

4. SYNOPSIS OF REPORTS REVIEWED

This project has reviewed fifteen (15) official reports on systemic corruption and human rights violations in Kenya. In this section, we set out in brief the contents of each of these reports. The main focus of the analysis of these official reports on economic crimes and human rights violations are the public officers with high-level decision making power, By focusing on these officers, this analysis is able to assign responsibility for the failure to comply with the demands of their office. Efforts have been made to ensure that when an individual's name cuts across different reports, periods, violations and crimes, these are captured to track the systemic nature of impunity and possible culpability. Care has been taken to bring out cases where reports are either embargoed or names have been expunged through court decision.

4.1 The Report by the Parliamentary Select Committee to Investigate Ethnic Clashes in Western and other parts of Kenya 1992 (Kiliku Report).

The 13 member-Parliamentary Select Committee to investigate ethnic clashes in Western and other parts of Kenya 1992 was appointed on May 13, 1992 under the Chairmanship of Hon Joseph K. Kiliku. It commenced its work on May 14, 1992 and submitted its final report to Parliament in September 1992.

The scope of the Committee was to:

- (i) Investigate the root causes of the clashes that rocked the country since 1991;
- (ii) Identify the person(s) who might have perpetrated or participated in the clashes and in this regard,
- (iii) Identify politicians and political parties, organized groups, general public, administration police and security personnel and local and international media involved in or responsible for the violence and
- (iv) Make recommendations that would help to avert such clashes in the future.

The Committee conducted numerous trips to the various parts of the country affected by the clashes and also interviewed more than 836 witnesses. In its report, the Committee analyzed critically the roles played by politicians, political parties and security personnel, among others, and made its recommendations in that regard so as to avoid the recurrence of similar incidents. It did not, however, propose stringent accountability measures against the alleged suspects.

4.2 Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya (The Akiwumi Report)

This Commission was established by Gazette Notice No. 3312 of July 1, 1998. The Commission was mandated to investigate the underlying causes of the clashes, to

investigate the action taken by the law enforcement officers and to assess the level of preparedness and effectiveness of the law enforcers in curbing the clashes.

The Commission was also mandated to recommend the prosecution or further investigation into the conduct of those who might have participated in the clashes, suggest ways and means of eradicating the clashes in the future and to investigate any matter that may be related to the clashes.

The Commission report was presented to President Moi on July 31, 1999. It was not, however, made public until more than three years later, and even then, the report was published by the AG in October 18, 2002 following court action seeking an order for release of report by Roshanali Karmari Pradhan.³²

It is noteworthy that the AG published the report together with a parallel report.³³ The parallel report was calculated to water down the contents of the Akiwumi report by accusing the Commission of among others things depending on extraneous evidence, its failure to lead evidence in open proceedings and bias against the Maasai and Kalenjin community. These accusations were later rendered baseless by the observations of the inquest into the circumstances surrounding the death of Father John Anthony Kaiser (discussed below) that certain names were removed from the Akiwumi report before it was published.

4.3 Kenya National Commission on Human Rights Report into the 2007-2008 Post Election Violence

The report, *On the Brink of the Precipice: A Human Rights Account of Kenya's Post 2007 Election Violence* was prepared by the Kenya National Commission on Human Rights (KNCHR) after investigation into the character and scope of the human rights violations which occurred during the election-related violence in 2007/2008. The specific aims of the investigations were:

- (i) To assess treaty-founded human rights obligation of Kenya as a state as well as the obligations of various non-state actors whose actions or omissions contributed to the violations;
- (ii) Analyze the criminal responsibility of alleged perpetrators;
- (iii) Make recommendations.

The report documented the violations committed during the period and the role of the alleged perpetrators as established following the investigation. The Commission identified breaches of human rights obligations and recommended appropriate remedies for victims. As part of the investigation output, the Commission documented names of perpetrators alleged to have caused the violence. It was presented to the

³² *Mombasa High Court Misc. Civil Application No. 65 of 2002.*

³³ *Entitled: Comments by the Government on Report of the Judicial Commission to Inquire into the Tribal Clashes in Kenya (Akiwumi Report).*

Commission of Inquiry into the Post Election Violence (Waki Commission) and the International Criminal Court (ICC). The Commission has since faced two legal actions from politicians who are concerned that their names could have found their way into the ICC process through this report.



While politicians continue to treat the public to theatrical manipulation of justice processes, the IDPs from the PEV still live in deplorable conditions in displacement camps. Picture by the KHRC team.

The trials before the ICC have made a great deal of progress. On March 8, 2011, the ICC's Pre-Trial Chambers summoned the six Kenyans being investigated for their role in the post election violence to make initial appearance before the court in April 7 2011.³⁴ A hearing to confirm the charges will be held in September 2011 and the next phases of engagement will depend on the evidence adduced against them.

4.4 Inquest into the Death of Fr. Antony John Kaiser (Deceased)

The Chief Magistrate's Court in Nairobi conducted an inquest³⁵ into the circumstances surrounding the death of Father John Anthony Kaiser, a Roman Catholic Priest who met his death on the night of August 23–24, 2000. At the time of his death, the deceased was a Mill Hill Missionary in charge of Lolgorian Parish in Ngong Diocese.

³⁴For details see: International Criminal Court, Pre-Trial Chamber II, "Decision(s) on the Prosecutor's Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgei and Joshua Arap Sang; and Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali, Nos, ICC-01/09-01/11 and ICC-01/09-02/11-March 8, 2011".

The inquest commenced formally under Section 385 of the Criminal Procedure Code at the Naivasha Law Courts before Justin S. Kaburu who was then the Senior Principal Magistrate in Naivasha. However, following his retirement from the Bench, the inquest was moved to Nairobi and proceeded from April 2004 before Maureen Odero, Acting Chief Magistrate. A total of 111 witnesses testified before the inquest before it was finally closed in June 2007. In her ruling, the Ag. Magistrate described an inquest as follows:-

“The powers of a court to hold an inquest are laid down In S.385 to S.387 of the Criminal Procedure Code. An inquest is not a hearing which is adversarial in nature. It takes the form of an enquiry. The duty of an inquest court is to enquire into the cause of the death of a particular person or persons. There is no complainant and no prosecutor. There are only interested parties.”

The State was represented in the inquest by a Mr. James Mungai, Mr. Mbuti Gathenji appeared for Kenya Episcopal Conference (KEC) and the family of the late Fr. Kaiser while, Mr. Omwanza Ombati appeared for Hon. Julius Sunkuli.³⁶ In order to come to a determination as to the cause and circumstances surrounding the death of the late Fr. Kaiser, the Court asked and responded to five broad questions.

- (i) When and how did Fr. Kaiser meet his death?
- (i) Did Fr. Kaiser suffer from a diagnosable mental illness which could have led him to take his own life?
- (ii) Did Fr. Kaiser as has been alleged in certain quarters commit suicide?
- (iii) If the answer to this third question is NO then the court will have to determine whether the evidence availed to it indicated the involvement of any third party in the death of Fr. Kaiser.
- (iv) Lastly, having answered all the above questions, the court will have to determine whether it is possible from the evidence adduced before it to identify positively the person or persons who may have killed Fr. Kaiser or who may have been in any other way involved in his death.

The court's verdict delivered on August 1 2007 was that:

- (i) The late Fr. John Antony Kaiser met his death on the night of 23rd / 24th August 2000. The body of the deceased was recovered at the Morendat Junction along the Naivasha-Nakuru Highway. The cause of death was massive head injury due to a gun shot to his head;
- (ii) There was no compelling or conclusive evidence to show that Fr. Kaiser suffered from a diagnosable mental illness;
- (iii) The court totally rejected the FBI report and in particular rejected the conclusion and findings therein indicating that Fr. Kaiser took his own life;
- (iv) The Court found that there existed sufficient evidence to show third party involvement in the death of the deceased;

- (v) Based on the evidence presented at the inquest, the court concluded that Fr. Kaiser met his death as a result of culpable homicide.
- (vi) Based on the evidence presented to it, the court was not able to establish with any degree of certainty the identity of the person or persons who killed Fr. Kaiser.

While the Court did not come up with names for those responsible for the murder, it made a critical observation with regard to the removal of former President Daniel Arap Moi's name from the Akiwumi report. as follows:

“In 1999 Fr. Kaiser had given his testimony before the Akiwumi Commission at which he blamed certain very senior and influential personalities for fuelling the clashes. It is a matter of public knowledge and is well documented that when Fr. Kaiser named the then President Moi before that Commission, this reference was expunged from the record.”

With regard to Dr. Frank Njenga, the report observed among other things that he owed an apology both to the family of the deceased and to the Mill Hill Missionaries for his role in perpetrating the falsehood that the deceased suffered from a diagnosable mental illness for there was absolutely no basis for such a finding.

4.5 The Judicial Commission of inquiry into the Illegal and Irregular Allocation of Public Land (The Ndung'u Report)

This Commission was established through Gazette Notice No. 4559 of July, 4, 2003. It was chaired by Paul Ndung'u, a senior Nairobi Advocate and was mandated to inquire into the following issues:

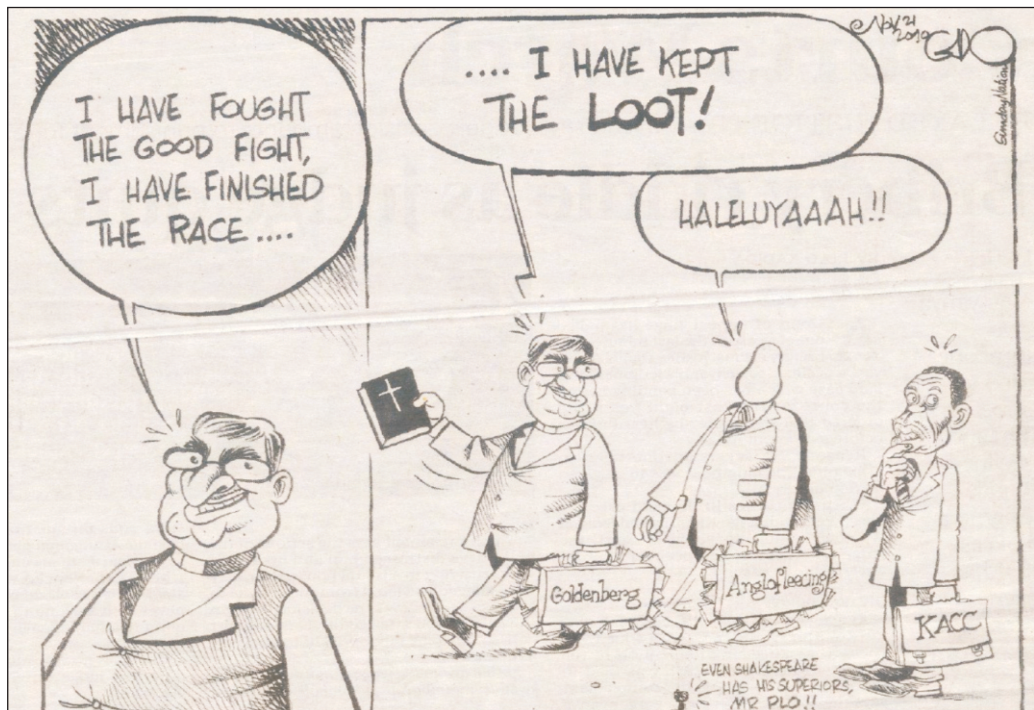
- (i) The legality of allocation of public land to private individuals and/or corporations;
- (ii) Collection of information on the nature and extent of unlawful and irregular allocations;
- (iii) Preparation of a list of all lands unlawfully acquired or irregularly allocated and to whom they were allocated, date of allocation and other particulars to the subsequent dealings in the concerned lands;
- (iv) Ascertaining any persons or corporations to whom such land was allocated;
- (v) Identification of any public official involvement;
- (vi) Recommendation of legal and administrative measures needed for the restoration of such land;
- (vii) Recommendation of legal action in case these lands are not able to be restored to their proper title;
- (viii) Recommendation of criminal investigation or prosecutions of and against the concerned persons;
- (ix) Recommendation of legal and administrative measures which should be taken in the future.

The Commission completed its task after nine (9) months and thereafter presented its report to the President in June, 2004. The report was published on December 16 2006 following massive agitation by civil society and other actors.

4.6 Report of the Judicial Commission of Inquiry Report into the Goldenberg Affair (The Goldenberg Report).

The Goldenberg affair was one of the scandals that rocked this country and led to a loss by tax payers of close to Kshs. 6 billion through illegal transactions involving government officials and other outsiders. It involved a series of business deals involving dubious or non-existent export of gold through Goldenberg International Limited (GIL) and Exchange Bank Ltd between 1991 until 1993 when the scandal was exposed by a whistle blower, David Munyakei, then an employee of Central Bank. The business deals revolved around various economic schemes, export compensation, pre-shipment financing, retention accounts, forex accounts and cheque kiting.

There had been attempts during former President Moi's regime to unearth the illegality of these actions but to no avail. Parliament also attempted to assert its authority by forming committees to look into the matter but there was no tangible outcome. As a result of these successive failures to arrive at the truth, President Kibaki through Gazette Notice No. 1237 and 1238 of February 24, 2003 and Gazette Notice No. 7593 of October 29 2003 appointed commissioners to look into the Goldenberg affair.



Mea culpa; can anyone be pinned down?. Cartoon courtesy of DAILY NATION November 29, 2010.

The mandate of the Commission was wide and, slightly paraphrased, it was to:

- (i) Inquire into the origins of, acceptance and implementation by the CBK of the Rediscounting Facility for Pre-Export Bills of Exchange;
- (ii) Inquire into the rediscounting facility which caused loss to the CBK;
- (iii) Inquire how monies fraudulently paid to the GIL were allegedly used by companies and individuals to fraudulently earn profits by speculating in convertible foreign exchange certificates;
- (iv) Inquire into the effect the Goldenberg- related civil and criminal litigation had on the administration of justice in Kenya;
- (v) Inquire into the beneficiaries of the Goldenberg scandal;
- (vi) Inquire and trace any local or international assets acquired directly or indirectly with the monies fraudulently obtained through Goldenberg;
- (vii) Inquire into the financial detriment the scandal had on the economy of Kenya;
- (viii) Inquire into the identity of those involved and recommend necessary action.

The Commission carried out public hearings and submitted its report to the President in October, 2005. The report outlined the alleged perpetrators and the role they played in the scandal and made various recommendations. A number of legal and administrative actions have been taken against some of the alleged perpetrators. In other cases, court orders for the names of some of those implicated in the scandal and named in the report to be expunged from the report have been granted. For instance, in 2006, the High Court expunged the name of Hon George Saitoti from the list of those accused of involvement in the Goldenberg scandal.³⁷

4.8 The Maize Scandal Report

The audit firm of Price Waterhouse Coopers (PWC) was mandated by the Office of the Prime Minister and the Ministry of Finance to carry out an independent forensic investigation into the alleged irregularities in the implementation of the subsidized maize scheme at the National Cereals and Produce Board (NCPB). . Their task was to investigate and give recommendations to the concerned ministries as to the manner in which the subsidized maize scheme, intended to cushion the poor in Kenya against high food prices, was mismanaged by both government and parastatal officials.

The scheme as conceived by government involved sale of maize from the Strategic Grain Reserve to millers by the NCPB at fixed prices to avoid exploitation from middle men and other business people and the millers would then avail the maize meal for sale at subsidized prices. However, in March 2009 there was a major public outcry arising from the massive mismanagement of the subsidized maize scheme. Officials at NCPB and the Ministries of Agriculture and Finance were accused of involvement in irregular sale of the maize. The PWC audit was commissioned in the face of unrelenting public pressure on government to unearth the goings on in relation to the scheme.

³⁷See the judgment of the Constitutional Court in High Court Misc. Civil Application No. 102 of 2006 Republic vs The Judicial Commission of Inquiry into the Goldenberg Affair & Others ex parte Hon. Professor George Saitoti at page 67.

PWC presented its report in December 22, 2009. Several high profile individuals and senior government officers were found culpable. Some were suspended, others were reportedly being investigated, but largely, little has been done or is likely to be done with regard to the losses resulting from the maize scandal.³⁸

4.9 The Special Audit Report by the Controller and Auditor General on the Purchase of Land for A Cemetery

The City Council of Nairobi wanted to purchase land for a cemetery and the Town Clerk requested the Ministry of Local Government for financial support because the Council did not have funds.

The Ministry asked the Council to procure the land and funds would be availed to them. The criteria agreed was that:

- (i) Land must be within Nairobi Metropolitan region;
- (ii) It must be easily accessible by the public;
- (iii) The soil depth reaches a minimum of 1.8m (6ft) deep.

During the procurement process, these requirements were overlooked and the land acquired did not meet any of them. Efforts by some officials to have the procurement process stopped were met with a lot of resistance and little or no attention was paid to them. The advice of the Director of City Planning on the tender documents and search for land for use as a cemetery was not considered during the entire process of procurement. The tender was awarded to *M/S Naen Rech Company Ltd, the sixth lowest bidder*, without due diligence steps being taken to ensure the status of the company. The entire process was marred by procurement irregularities and fraudulent deals that led to the loss of approximately 290,694,250.00 by the City Council of Nairobi.

4.10 The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi.

This report was compiled by the Parliamentary Departmental Committee on Local Authorities after its own investigations on the procurement of land for a cemetery by the City Council of Nairobi. The Departmental Committee is established pursuant to Standing Order 198(1). Its mandate pursuant to Standing Order 198(3) is to investigate, inquire into, study and make reports and recommendations on the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments in question.

The Office of the Speaker ordered the Committee to investigate and file a report on the procurement of the Cemetery Land by the City Council of Nairobi after a question by private notice was asked by Hon. Linturi to the Minister for Local Government.

³⁸Find the progress made and actions taken against all the alleged perpetrators in Section 5 (on detailed findings.)

The report was tabled in Parliament in January 2010 with detailed information on the role played by each individual and with the Committee's observations and recommendations. It noted in particular that the land was not suitable for a cemetery and there were also massive illegalities and irregularities in the entire procurement process. It also recommended investigation of the matter by the Kenya Anti-Corruption Commission.

4.11 The Triton Audit Report by PriceWaterhouseCoopers (PWC)

Kenya Pipeline Corporation (KPC) is a state corporation under the Ministry of Energy (MoE). KPC stores and transports petroleum product on behalf of oil marketing companies (OMCs) from Mombasa to Nairobi, Nakuru and Eldoret. In July 2009 the OMCs and KPC entered into a Transport and Storage Agreement (TSA) where KPC would store and transport petroleum product for the OMCs and OMCs would in turn meet their obligation under the agreement.

A Collateral Financial Agreement (CFA) with Triton, a small player in the oil industry. Through what appear to be dubious dealings with KPC staff, Triton was allowed it to draw oil from the KPC system without paying for it. In addition, 126.4 million litres worth over \$90 million had allegedly been released to Triton without the consent of financiers.³⁹

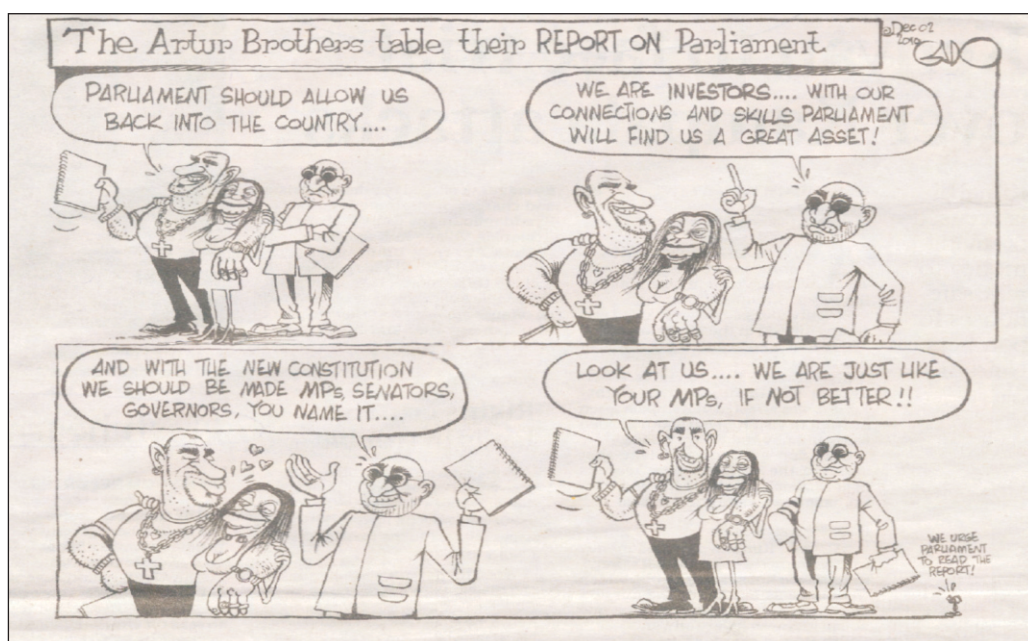
In light of this development, the MoE instructed KPC to engage the services of an independent audit firm (PriceWaterhouseCoopers) to vet the activities of CFA and submit its findings to the ministry. The scope of the report was to investigate:

- (i) The extent of the irregularities and non-compliance with the CFA;
- (ii) With respect to the Triton CFA to investigate the parties involved and extent of their culpability;
- (iii) KPC's legal position, ascertain its level of compliance under the CFA and highlight any breaches or irregularities observed;
- (iv) The appropriateness of the CFA for contractual and business relationship between KPC and the OMCs.

4.12 Report by the Parliamentary Committee on the Artur Brothers

The report was a product of the investigations by a joint parliamentary committee comprising members of the Committee on Administration, National Security and Local Authorities and Administration of Justice and Legal Affairs. The committee was mandated to inquire into the matter through Standing Order No. 151 of June 27, 2006. The Committee was composed of twenty two (22) members and was co- chaired by Hon. Ramadhan S Kajembe and Hon. Paul Muite.

³⁹Analysis of the Triton Oil Scandal: Africa Centre for Open Governance.



A glaring threat to national security occurred with the presence of the Artur brothers but nobody has ever been prosecuted despite two reports on the same being produced. Cartoon courtesy of DAILY NATION December 2, 2010.

The committee was formed in reaction to the report of the Shadrack Kiruki commission formed by the President to look into the affair as Parliament felt that the findings of the commission were manipulated and biased.

The report was presented to the Speaker of the National Assembly on September 20, 2007. However, it was not until December 8, 2010 that the report was publicized and debated in Parliament. Various Public officers (Ministers and administrators) and private individuals were adversely mentioned and recommended for prosecution but to date, no action has been taken against them.

4.13 The Report by the Parliamentary Committee Investigating the Murder of Dr. Robert Ouko (Gor Sunguh Committee Report)

Dr. Robert John Ouko was Kenya's Foreign Minister when, on February 14, 1990, his charred body was discovered at the foot of Got Alila Hills near his home in Koru by a herdsboy. Dr. Ouko had served in many capacities in the public service. Permanent Secretary in the Ministry of External Affairs in 1963 and . He was 58 at his demise and was survived by his widow and seven children. Then President Daniel Moi described Ouko as “...the best foreign minister Kenya has had...” in his address to the public on the death of the minister on February 16, 1990.

His death, which at one point was described in a government statement as a suicide, was met with shock and dismay from many quarters especially those who were pro

democracy and positive change during the one party rule. Events surrounding his death were suspicious by all accounts. First, many of his political foes did not want him re-elected in the 1988 elections⁴⁰, Secondly Ouko was not on the delegation that came back with the President from the United States of America (USA) where they had attended a breakfast meeting with the US President and other dignitaries.⁴¹

There was also apparent rivalry between him and a powerful cabinet minister in Moi's government. Thirdly, he was relieved of his duties by then President Moi and directed to spend this period at his rural home Koru.⁴² Lastly, his security detail was withdrawn, his rural home had power problems for a number of days and his telephone lines were not going through.⁴³

Prior to the investigations by the Gor Sungur Committee, the government had established other tribunals/ committees to investigate the circumstances leading to the death of Dr. Ouko. Investigations by the Kenyan Police assisted by the Scotland Yard were stopped before they were complete, but a report was presented to the government in September, 1990. A Judicial Commission of Inquiry (The Gicheru Commission) was then set up to inquire into the murder, but it was disbanded by the President before completing its mandate. Then Attorney General, Hon. Justice Mathew Guy Muli directed the police to investigate and prosecute those who had been involved in the murder. While then cabinet Minister Nicholas Biwott and Provincial Commissioner Hezekiah Oyugi were briefly arrested and detained, one Jonah Orawo Anguka was charged with the murder of Dr. Ouko.

He was, however, acquitted of the murder charges following a trial before Justice Aganyanya. After this judgment nothing further was done to uncover the mystery until March 26, 2003 when Parliament established an ad hoc committee led by Gor Sunguh (then MP for Kisumu Town East) to investigate and report inter alia on the circumstances leading to the disappearance and death of Dr. Robert Ouko.

The Committee was established by resolution of the House adopted on the 26th March, 2003. It commenced its work on April 7, 2003 and ended its sittings on March 15, 2005 having received evidence from seventy (70) witnesses.

The Committee faced various challenges in its work, including change of membership due to cabinet appointments and other personal issues. The operations of the Committee had been dogged by controversy leading to the resignation of five of its members in protest against the Chairperson's conduct.

⁴⁰Pg 44 Vol 1

⁴¹Pg 46 vol 1

⁴²Pg 48 vol 1

⁴³Pg 49- 52 vol 1

When the report was completed ten, (10) members were still part of the committee but only six (6) signed the report. Upon its completion the report was not tabled before Parliament for adoption. It was not until December 8, 2010 that Hon. Gitobu Imanyara moved a motion for adoption of the report⁴⁴. The matter was debated on December 15, 2010 with the mover Mr. Imanyara laying emphasis on the importance of adopting the report. He asserted that the new constitutional dispensation demanded accountability from those holding public office:

“...the culture of impunity will be followed up. Those who commit acts of murder or atrocities, those who are guilty of gross human rights violations must do so knowing that there is no person so high above that he cannot be caught by the long arm of the law...”

The motion was opposed by among others Prof George Saitoti and Hon. Sally Kosgei, who argued that the report was full of hearsay and untrue allegations and thus adopting it would be unfair to those who had been adversely mentioned. However, those who supported it such as Hon. Martha Karua stated that the report only gave recommendations that further investigations should be commenced to unearth the killers and those who were involved in the murder and thus the report could not in any way be unfair to those mentioned. She further asserted that such a report would help end impunity and bring to account those who were involved in historical injustices.

The report finally tabled in Parliament on December 8, 2010 proposed that key personalities in Retired President Moi's government, who were involved in the disappearance and killing of Dr. Ouko be investigated.⁴⁵ However, the report was rejected by Parliament on December 22, 2010, with members of Parliament accusing the committee of doing shoddy work and using the committee's investigations to settle political scores.

Nominated MP, Hon Amina Abdalla who was a member of the Committee noted during debate on the report in Parliament that:

“When we finally reached the point of making the report, there were disagreement that some recommendations were not supported by evidence that had been reached, and that is why the report was even delayed, members had problems with accuracy.”⁴⁶

For many objective observers, the decision to reject the report was welcome as it raised the bar on what is admissible in the House, and most crucially, recasts the question of whether Parliament really has the capacity to carry out investigations⁴⁷ such as the one the Gor Sunguh committee was engaged in.

⁴⁵“Ouko was killed in Nakuru after executive order, MPs told” in Daily Nation, Thursday, December 9, 2010, p. 12

⁴⁶See “Mps reject Ouko Murder Report” in Daily Nation, Thursday December 23 2010, P. 11.

To others, however, the Gor Sunguh Committee fiasco was just part of the schemes to frustrate all attempts to find and punish those responsible for the macabre murder of Dr. Robert Ouko. Such controversies have dogged such previous initiatives on the Dr. Ouko's murder attempts as the John Troon investigations in 1990 and Evan Gicheru led Commission of Inquiry which was established and disbanded in 1991.

⁴⁷See "Editorial: House Committees doing poor probe jobs", op cit, p. 12

5. CONFRONTING IMPUNITY:

That human rights violations, economic crimes and impunity are alive and well in Kenya is not because there is a dearth of information on who committed or was responsible for these crimes against the people of Kenya. As the reports analysed above and other reports⁴⁸ indicate, what is lacking is a concerted systemic way of dealing with those responsible for the human rights violations and economic crimes. By collating in this report those named as responsible or requiring further investigation for various crimes in Kenya, KHRC aims to provide a mechanism for bridging the gap in knowledge and information and facilitating the process of investigation, prosecution and lustration.

In the table below, we offer detailed findings that capture the names of the alleged perpetrators; the positions held at the time of the commissions of the violations and/or economic crimes, and the public offices (if any) held currently. The report also makes specific reference to the reports and page numbers where these individuals are mentioned, the legal action (if any) taken against them, and the recommendations made either in the report or by KHRC.

⁴⁸Please see the Appendix below for a list of other reports in which economic crimes are detailed or analysed.

5.1 Schedule of Implicated Personalities and Recommended Action

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>David Kipkorir Siele, District Security Intelligence Officer – Nakuru during the clashes in 1997 and 1998</p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Nakuru District in 1997.</i></p> <p>The Akiwumi Report states that David Siele deliberately down played or failed to relay or act on information touching on the volatile state of affairs on the ground when action could have averted the clashes.</p> <p>He is also reported to have withheld vital security intelligence information regarding the invasion of Kihika Kimani's farm, from the District Security Committee which could have enabled it to put in place contingency plans “to counter any threats to security through covert instigation”.</p> <p>The report concluded that the Commission regarded his actions not only as strange but also as connivance at the clashes.</p>	<p>Akiwumi Commission Report, pp 35-38; 152-158</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action.</p>
<p>Petkay Shem Miriti Was the Provincial Security Intelligence Officer in Rift Valley based in Nakuru during</p>	<p>Illegal and Irregular acquisition of public land.</p> <p>The Ndung'u report alleged that he was illegally allocated government a house on L.R No. 209/ 2939 Kileleshwa.</p>	<p>Ndung'u Commission Report Annexes Vol. 1 pg 808</p>	<p>No action</p>	<p>Revoke the Title and repossess the public land</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>the 1997 violence in the province.</p> <p>He later became the MP for Nithi Constituency and Assistant Minister, 2002-2007.</p>				
<p>Wilson A. C. Boinett, Was then Head, Directorate of State Intelligence (DSI also code named Special Branch) from 1995 to 1999.</p> <p>He later became the Director General when DSI was changed to the National Security Intelligence Service (NSIS) in 1999. His term ran from January 19 1999 to January 19, 2006.</p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Kenya, 1997/1998.</i></p> <p><i>The report alleges that he refrained from telling the truth which could have enabled the Commission to possibly understand the persons and circumstances behind the politically instigated violence in 1997 and 1998.</i></p> <p><i>Moreover, he allegedly recommended to the Public Service Commission, the promotion of Special Branch officers like Kipkorir Siele who had been adversely mentioned for their role in the clashes.</i></p>	<p>Akiwumi Report, p.37; 286-287</p>	<p>Retired from NSIS directorship in 2006.</p> <p>No other action</p>	<p>Further investigation to establish criminal liability and take legal action</p>
	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u report alleged that he was illegally allocated government house (Forest Road, LR. No. 209/186)</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 799</p>	<p>No action</p>	<p>Revoke the title and repossess the public land.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Chief Inspector Omar Raisi, was Special Branch Officer in Mombasa</p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Mombasa, 1997/1998.</i></p> <p>The Akiwumi Report accuses him of deliberately producing a shallow and misleading statement with an intention to conceal information.</p> <p>The report also notes that from the evidence he either condoned or took part in the attack on the Likoni Police Station where 6 police officers were killed, 12 injured, firearms and ammunitions stolen, and the station and other buildings burnt</p>	<p>Akiwumi Report, p. 38</p>	<p>Rather than being reprimanded, he was subsequently rewarded with a promotions as captured in p. 38 of the report.</p>	<p>Further investigation to establish criminal liability and take legal action</p>
<p>Hassan Mohamed Haji, Then Acting Provincial Commissioner, Coast Province in 1997</p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Mombasa and Kwale districts in 1997/1998.</i></p> <p>According to the Akiwumi Report, ALL these public officers in Coast province are accused of failing to effectively apply the state security and intelligence apparatus to curb or quell the violence which took place in Mombasa and Kwale districts in 1997.</p>	<p>Akiwumi Report, pp. 38-39;40-45; 233-291</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>
<p>John Namai, then Provincial Criminal Investigations Officer, Coast Province in 1997</p>				

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Francis Gichuki, <i>then Provincial Police Officer, Coast Province in 1997</i></p>				
<p>Hammerton Mbogo <i>Mwavisa, Then OCPD Kwale district in 1997,</i></p>				
<p>Peter Wilson, then <i>District Security Intelligence Officer</i></p>				
<p>Duncan Wachira, <i>then Commissioner of Police (1996-1998).</i></p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Kwale and Mombasa, 1997/1998. This accusation is basically through acts of both omission and commission.</i></p> <p>First, the Akiwumi report indicate that he failed to take any appropriate measures following the report by DSI in September 1996 on Flash-points For Violence-1997 General Elections which had warned of possible violence between the 'upcountry vs. 'Coastal residents' and called for "strengthening of...especially the security organs, which will be the sole authority to take measures on the looming crisis.'</p> <p>Second, The report notes that he seemed to have been more concerned about providing</p>	<p>Akiwumi Report, pp.42-43</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p>cover for some people targeted for investigations into the clashes that occurred at the Coast Province. For instance he instructed John Namai (then Coast PCIO) to ensure that Emmanuel Karisa Maitha at the time a KANU activist charged for offences relating to tribal clashes at the Coast province was released on bail.</p>			
	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u report alleged that he was Illegally allocated a government house in Kileleshwa, LR.No. 209/3221</p>	<p>Ndung'u Commission Report; Annexes Vol.1 pg 801</p>	<p>No action</p>	<p>Revoke the title and repossess the public land.</p>
<p>Jeremiah Cheruiyot, <i>Then Senior Assistant Commissioner of Police when the violence erupted</i></p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Rift Valley Province in 1991-1993</i></p> <p>Both allegedly recruited soldiers for the tribal clashes according to Exhibits 198(B) and 198(C) availed to the Akiwumi Commission</p>	<p>Akiwumi Report, pp.44-45</p>	<p>Report notes that: "They have strangely up to now, never been interrogated by the police about their role in the tribal clashes".</p>	<p>Further investigation to establish criminal liability and take legal action</p>
<p>Sammy Kipketer Cherai, then a Major in the Army and now retired</p>				<p>Further investigation to establish criminal liability and take legal action</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Willy Kamuren, The then Baringo North KANU MP, 1988-1992</p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Rift Valley Province, 1991-1992.</i></p> <p>According to the Akiwumi report, he is alleged to have stated at the Kapsabet rally that Kalenjin were not tribalistic but only rejected people bent on causing chaos. He allegedly told the government critics to move out of the Kalenjin land and quipped:</p> <p>“Let them keep quiet or else we're ready for introduction of Majimboism whereby every person will be required to go back to his motherland. Once we introduce Majimbo in Rift Valley, all outsiders who acquired our land will have to move and then leave the land to our children”.⁴⁹</p>	<p>Akiwumi Report, p. 49</p> <p>According to the Akiwumi report, the same statement was captured in Daily Nation, September 9, 1991</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>
	<p>Again at the next rally held at Kapkatet rally in Kericho district, the Akiwumi report notes that he uttered the following words:⁵⁰</p> <p>“(That)...the Kalenjin, Maasai, Samburu and West Pokot...were ready to protect the Government 'using any weapon at their disposal.’ He also declared that: “...if any FORD member dared to visit any part of the province, they will regret it for the rest of their lives.”</p>	<p>Akiwumi Report, p. 50</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p>Finally, the report notes that when he appeared before the Commission, Willy Kamuren attempted unconvincingly to exonerate himself, by saying that when he spoke of 'weapons', he meant 'voting by using the ballot paper.' This led the Commission to conclude: the less said about this, the better".</p>			
<p>Timothy Mibei, <i>then Minister for Public Works in 1991-1992</i></p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Rift Valley Province, 1991-1992.</i></p> <p>Both the Akiwumi and Kiliku reports state that he was present or chaired the Kapkatet rally at which he is reported to have instructed wananchi in the province to 'visit beer halls and crush any government critic and later make reports to the police that they had finished them.'</p>	<p>Akiwumi Report, pp. 49-50; Kiliku report, p. 9-10.</p> <p>According to the two reports, these statements were captured in the Daily Nation, September 22, 1991.</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>
<p>Paul Chepkok <i>Then MP for Kerio Central and Assistant Minister for Industry in 1990-1992</i></p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Rift Valley Province, 1991-1992.</i></p> <p>Both the Akiwumi and Kiliku reports found that during the Kapkatet rally, he urged the people of the province to arm themselves with panga, rungas, bows and arrows and destroy any FORD member on sight.</p>	<p>Akiwumi Report, pp. 49-50; and Kiliku Report, pp 9-10</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>

⁴⁸This first rally was held in Nandi District on September 7, 1991, nearly two months before the first of tribal clashes occurred at Miteitei farm in Nandi district. It was attended by several KANU leaders from the Rift Valley province.

⁵⁰The rally was held in September 21, 1991, (a fortnight after the Kapsabet rally above), and was attended by 19 KANU MPs from the Rift Valley province.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Nicholas Biwott, then MP for Kerio and Minister for Energy (1988-1992)</p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Rift Valley Province; 1991-1992.</i></p> <p>Both the Kiliku and Akiwumi report found that at the Kapkatet, he stated that FORD members would be 'crushed' and added that KANU youth-wingers and wananchi were ready to fight to the last person to protect the Government of President Moi.</p> <p>He was also reported to have stated that Kalenjins were not cowards and that they were ready to counter attempts to relegate them from leadership. Finally, he, together with Ezekiel Barngetuny among others, allegedly financed warriors involved in the clashes.</p>	<p>Kiliku Report, pp. 9-10; 75-83; , Akiwumi report, p.287</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>
	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u report alleged that he was illegally allocated land in Iten Tambach Town Council (retail vegetable market and parking)</p>	<p>Ndung'u Commission Report ; Annexes Vol. 1 pg 969</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
	<p>Hon. Biwott and Hezekiah Oyugi were the prime suspects in the murder of Dr. Ouko. He was suspected to have been directly or indirectly involved in the disappearance and subsequent death of Ouko</p>	<p>Gor Sungu Report pg 41,61,75,77, 117-119</p>	<p>No action</p>	<p>Government to institute fresh investigation and possible prosecution</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Ezekiel Barngetuny, <i>Then Nominated MP, 1988-1992</i></p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Rift Valley Province; 1991-1992.</i></p> <p>According to Akiwumi and Kiliku reports, he allegedly co-financed warriors involved in the clashes with Nicholas Biwott among others.</p>	<p>Kiliku Report, pp. 9-10; 75-83; and, Akiwumi report, p.287</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>
<p>William Ole Ntimama, <i>then MP for Narok North and Minister for Local Government (1988-1992).</i></p> <p><i>He is currently the MP for Narok North and Minister for Culture and National Heritage.</i></p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Rift Valley Province, 1991-1993.</i></p> <p>The Akiwumi reports alleges that at a Narok Rally Ntimama said:⁵¹ <i>“We have now buried the FORD, multiparty politics and NDP. All the Ministers and KANU leaders you see here have resolved to fight together and follow President Moi together... Majimbo was here at the time of independence and was done away with; if Majimbo ended, multiparty politics should end or else...We will use rungunus if this will be the effective way of ending the talk about multiparty. This I have said on this platform and am repeating it: The violence of saba saba was not a milk drinking party”.</i></p>	<p>Akiwumi Report, pp. 50-51; 167-171. The Akiwumi report also cross references with such dailies as the East African Standard, Daily Nation and Kenya Times, all of August 21 1993.</p> <p>See also related remarks as recorded in Parliamentary Debates of October 19, 1993 as Exhibit 159 among others.</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>

⁵¹The Narok rally was held on September 28, 1991(a week after the Kapkatet one) and attended by KANU cabinet ministers, MPs among other leaders mainly from the Maasai community. Finally, in early 1993, tribal clashes broke out in Enoosupukia which is in Maasailand, between the Maasai and the Kikuyu.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u report alleges that he was illegally allocated more than 5 acres of land under LR No. 118/1/20 out of a settlement schemes carved out of Moi Ndabi</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 897</p>	<p>No action</p>	<p>Revoke the title and repossess the public land.</p>
	<p><i>Gross Human Rights Violations during the politically instigated violence in Rift Valley province, 2007/2008</i></p> <p>The KNCHR Report alleges that he incited violence during the 2007 election campaign.</p>	<p>KNCHR Report-On the Brink of the Precipice... pg 183</p>	<p>Report shared with the Waki Commission and International Criminal Court (ICC) team for further investigations</p>	<p>Waiting for action from the ICC and/or the proposed local tribunal</p>
<p>Kipkalya Kones (deceased) Former MP for Bomet and a Cabinet Minister</p>	<p><i>Gross Human Rights Violations during the politically instigated violence in different parts of Rift Valley, Western and Nyanza Provinces in 1991-1997</i></p>	<p>Kiliku Report p. 8-9; 19-20; 39; 45-52; 58; 61; and Akiwumi Report p. 286-287</p>	<p>No action</p>	<p>Despite his demise, his involvement in the various clashes should be investigated for historical purposes.</p>
	<p><i>Gross Human Rights Violations during the politically instigated violence in different parts of Rift Valley province, December 2007-February 2008</i></p> <p>KNCHR alleges that he planned, incited and financed violence</p>	<p>KNCHR Report-On the Brink of the Precipice...</p>		<p>Report shared with Waki Commission and International Criminal Court team for further investigations</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Wilson Leitich, <i>then Nominated MP, 1988-1992</i></p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u report alleges that he was illegally allocated more than 5 acres of land under LR No. 118/1/20 out of a settlement schemes carved out of Moi Ndabi</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 806,888</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Nakuru district, 1991-1992</i></p> <p>According to Kiliku and Akiwumi reports, at a public meeting attended by the then Nakuru DC John Abduba in April 1992, he is reported to have stated that if residents of Keriso (Kuresoi) remained in KANU, 'there would be no fire' while if they didn't, 'there would be fire'. 'Fire' in this context meant violence or clashes.</p>	<p>Kiliku Report, p. 16 and 19; and; Akiwumi Report p. 287</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>
<p>John Njenga Mungai, <i>then Molo MP-1988-1992</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Nakuru district.</i></p> <p>Allegedly involved in utterances which were directed to incite the Kikuyu community against the Kalenjin</p>	<p>Kiliku Report, pp. 16 and 19</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Daniel Arap Moi, Former MP, Baringo Central, KANU Chairperson and Retired President of the Republic of Kenya (1978-2002).</p>	<p><i>Gross Human Violations during the politically instigated violence in Kenya</i></p> <p>Argued by Magistrate Maureen Odera during the ruling on the Fr. Kaiser's inquest that: <i>"It is a matter of public knowledge and is well documented that when Fr. Kaiser named the then President Moi (as having been involved in fuelling the clashes) before that Commission (Akiwumi), this reference was expunged from the record."</i></p>	<p>Ruling in the Chief Magistrates Court at Nairobi, Inquest Case No. 13 of 2003- Fr John Kaiser (deceased) pg. 14</p>	<p>No action</p>	<p>Fresh investigations should be instituted into the role of the former President Moi in the ethnically instigated clashes and into the death of Fr. John Kaiser.</p>
	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>According to the Ndung'u report, he irregularly acquired forest land and converted it to Kaptagich Tea plantation</p>	<p>Ndung'u Commission Report; Vol 2 Annexes Pg.682</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
<p>Frank Njenga, A prominent Psychiatrist who prepared and presented the psychological autopsy report on Fr. Kaiser to the FBI team and Court Inquest. He is currently the chairperson of the National Campaign Against Drug Abuse Authority (NACADAA)</p>	<p><i>Professional misconduct in the production of a flawed Psychological Autopsy Report (PAR) on the late Fr. Kaiser. His PAR erroneously made the FBI team investigating the Fr. Kaiser murder reach the wrong conclusion on the mental health of Fr. Kaiser and the possible cause of his death.</i></p> <p><i>According to the Inquest ruling, the FBI tabled in court their report as Exhibit 9 concluding that Fr. Kaiser committed suicide. This conclusion according to the court was partly informed by</i></p>	<p>Ruling in the Chief Magistrates Court at Nairobi, Inquest Case No. 13 of 2003 - Fr John Kaiser (deceased) pp. 5-14.</p>	<p>No documented apology yet</p>	<p>Should provide public apology to the family and Mill Hill Mission(MHM)</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p><i>Dr. Njenga's PAR which had concluded that Fr. Kaiser suffered from a clearly diagnosable mental illness which could have led him to committed suicide, an allegation refuted by the court.</i></p> <p><i>Among other observations, the Court termed Dr, Njenga's 'actions as unethical' and his PAR as an unfortunate attempt to justify the conclusion made by the FBI that the deceased committed suicide. In the Court's view, "Dr. Njenga owes an apology both to the family of the deceased and to the Mill Hill Missionaries (MHM) for his role in perpetrating falsehood that the deceased suffered from a diagnosable mental illness. There is absolutely no basis for such a finding."</i></p>			
<p>Julius Ndegwa, <i>then Chief Inspector of Police and Officer Commanding Police Station (OCS), Songhor Police Station in 1991;</i></p> <p><i>Currently, he is the Director of Police Operations based at Nairobi's head office.</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the upsurge of the very first politically instigated violence in Miteitei farm, Tinderet division, Nandi district in 1991.</i></p> <p>According to the Akiwumi report, Julius Ndegwa together with Christopher S. Mwashu did very little to pre-empt and stop violence in Miteitei despite having had prior information. He is also accused of failing to arrest and charge the suspects with arson.</p>	<p>Akiwumi Report, pp. 39-40; 80-81</p>	<p>No action and he has since been promoted to his current position.</p>	<p>Need for investigation over cover-ups and failure to take appropriate action, and take legal action.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p>For instance the report indicates that aware of rising tension between the two rival groups of shareholders of the Miteitei Farmers Company Ltd, he left a few police officers to deal with any possible violence. The report notes that “...when houses started burning, they were unavailable either to avert or stop the burning; nor was the said Julius Ndegwa able to explain where they were and why they were unable to prevent the burning of the houses”.</p>			
<p>Christopher Shitsimi Mwash <i>then District Officer 1, (DO 1) Nandi District in 1991.</i></p>	<p><i>Gross Human Rights Violations during the politically instigated violence in Nandi District between 1991-1992. He was allegedly sent by the local DC, David Kiilu Mativo to quell the impending violence.</i></p> <p>The Akiwumi Report alleges that together with Julius Ndegwa, they did very little to pre-empt and quell violence in Mitetei despite having had prior information.</p> <p>Moreover, the report concludes “he was clearly partisan and seemingly part of the scheme to evict non-Nandis out of the district”.</p>	<p>Akiwumi Report, pp. 39-40;73, 82</p>	<p>No action</p>	<p>The Commission concluded and observed “His role in the clashes should be further investigated with a view to charges of being an accessory being preferred against him.”</p>
<p>David Kiilu Mativo, <i>then District Commissioner (DC) and chair of the District</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the upsurge of the very first politically instigated violence in Miteitei farm, Tinderet division, Nandi district,</i></p>	<p>Akiwumi report; pp. 73, 82, 83; and Kiliku report, p. 53</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<i>Security Committee, Nandi District</i>	<p>1991-1992.</p> <p>According to the Akiwumi and Kiliku reports, he knew in advance that the security situation in Miteitei was volatile. However, “He suspiciously, did not consider it important enough to suspend other business so as to deal with the matter himself. He sent his deputy (Christopher Mwash) who to say the least, fuelled an already bad situation and then ran away”.</p>			
<p>R. K Kirui, <i>then District Officer(DO), Tinderet Division, Nandi District in 1991</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the upsurge of the very first politically instigated violence in Miteitei farm, Tinderet division, Nandi district.</i></p> <p>According to the Akiwumi report, he forcibly took away the shareholders register of Miteitei Farmers Co. Ltd from the Company Secretary, Ibrahim Livanze. The report notes that, “this unlawful act of seizing a register of a limited liability company points to the fact that both the District Officer and the Chief of Miteitei Location were partisan in their handling of the affairs of Miteitei Farm and tacitly approved the burning of houses belonging to the non-Nandi.”</p>	Akiwumi report; p 83	No action	Further investigation to establish criminal liability and take legal action

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Timothy Sirma, then DC, Kericho District, 1991-1992</p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the upsurge of the very first politically instigated violence in Kericho district in 1992.</i></p> <p>According to the Akiwumi and Kiliku reports, he had been informed of the invasion of Buru farm by the Kipsigis and the burning of Luo houses by the Kipsigis but did nothing to stop the violence.</p> <p>The Akiwumi report notes : “In our view, the erection of the structures by the Kipsigis was intended to lay the ground for subsequently, sending the security men to evict the Luo from</p>	<p>Akiwumi report; pp.98-99, 109;and Kiliku report, p. 53</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>
<p>Nicholas Mberia (deceased), then Kericho DC who replaced Timothy Sirma in 1993.</p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the upsurge of the very first politically instigated violence in Kericho district in 1993.</i></p> <p>The Akiwumi report found that he planned and carried out the cruel and inhuman eviction of Luo squatters from Buru farm/Thessalia on December 13, 1993. He followed the Luo squatters to the Thessalia Mission and primary school where they had camped, and evicted them for the second time, on the pretext that the school was about to reopen and the school grounds were required for this purpose.</p>	<p>Akiwumi report; pp. 99-103, 109, 145</p>	<p>No action</p>	<p>Despite his demise, his involvement in the various clashes should be investigated for historical purposes.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p>Finally, the report makes the following observations and conclusions about his behaviour or responses to the clashes:</p> <ul style="list-style-type: none"> • “Mischievous, blatant and uncaring approach to a non-issue and on a matter he had no business to enter into, one between the squatters, the Ministry of Agriculture and the Lands Department”; • “...he will be remembered for intransigent, partisan and illegal role he played in his handling of the Luo squatters at Buru Farm in Thessalia”; • “His behaviour as indeed that of his predecessor Timothy Sirma who was that of an accomplice in the clashes”. • “...he adopted a more or less similar role and attitude in dealing with the Njoro clashes”. 			
<p>Eliud Langat, then Deputy Commissioner of Police and Officer Commanding Police Division(OCPD), Kericho in 1993</p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Kericho district.</i></p> <p>According to the Akiwumi report, he allegedly failed to give leadership in curbing the clashes and instead behaved as though he was under the command of another officer. The commission noted his strange behaviour in leaving behind his junior officers and running to meet a large gang of youth, some of whom were</p>	<p>Akiwumi report; pp.109-110</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p>armed with assorted weapons, and carried matchboxes.</p> <p>He is also accused of being untruthful to the Akiwumi Commission.</p>			
<p>Mohamed Yusuf Hajj, <i>then Provincial Commissioner(PC) in Rift Valley (1992-1998)and currently Dujis MP and Minister for Defence</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Nakuru district in 1992 and 1997.</i>⁵²</p> <p>The Akiwumi report notes that, he together with Ishmael Chelang'a told thousands of victims at Olenguruone on April 28, 1992 to return to their farms even though he knew that the situation was still volatile and that their houses had been burnt down. The Commission concluded that the actions of the provincial administration displayed extreme callousness with regard to the plight of the victims, and possible connivance of the clashes.</p> <p>It also notes that although a comprehensive security action plan was agreed on little was done to implement it to avert ethnic clashes during the 1997 elections.</p>	<p>Akiwumi report; pp.132-133, 149, 181</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>

⁵²See also his role in the burning of houses of non-Maasais living in Lolgorian division of Transmara district on February 23, 1989, page 181

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u report alleges that he was illegally allocated a government house (Off Ngong Road, L.R. No. 209/7999)</p>	<p>Ndung'u Commission Report, Annexes Vol. 1 pg 794</p>	<p>No action</p>	<p>Revoke the title and repossess the public land.</p>
<p>Ishmael Chelang'a, <i>(deceased)</i> <i>then DC Nakuru district</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Nakuru district in 1992</i></p> <p>The Akiwumi report notes that, he together with Mohamed Yusuf Hajj, told thousands of victims at Olenguruone on April 28, 1992 to return to their farms even though he knew that the situation was still volatile and that their houses had been burnt down. The Commission concluded that the actions of the provincial administration displayed extreme callousness with regard to the plight of the victims, and possible connivance of the clashes.</p> <p>It also notes that although a comprehensive security action plan was agreed on little was done to implement it to avert ethnic clashes during the 1997 elections.</p> <p>With the then PC Yusuf Hajj, the late Chelang'a ordered victims of violence in Olenguruone to return to their homes while fully aware that they had been burnt down and security had not</p>	<p>Akiwumi report; pp. 132-133, 136</p>	<p>No action</p>	<p>Despite his demise, his involvement in the various clashes should be investigated for historical purposes.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p>been restored in the area. The Akiwumi Commission also notes that he withdrew security personnel from Molo South during the clashes on the pretext that they had been away for too long from their families without replacement.</p>			
	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u report alleges that he illegally acquired settlement schemes carved out of ADC farms in Jabali of more than 5 acres – L.R. No. 118/1/20.</p> <p>He was irregularly allocated a government house (Oginga Odinga Road) MG/21, MG/22, MG/23, MG24, MG25, MG2, MG 27).</p>	<p>Ndung'u Commission Report; Annexes Vol 1. pg 826,827,895</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
<p>Mutinda Nguguni, <i>then OCPD, Laikipia District in 1998</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Laikipia district in 1998</i></p> <p>According to the Akiwumi report, he “did not take any notable action to stop the clashes or apprehend the raiders. He neither effected any arrest nor assisted in the arrest of any raiders or arsonists.”</p> <p>The report concludes that his behaviour bordered on that of an aider and abetter of the clashes in the district.</p>	<p>Akiwumi report; pp.144-145</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Jeremiah Ndahi (deceased), Then OCS-Ng'arua in Laikipia district 1998</p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Laikipia district in 1998.</i></p> <p>The Akiwumi report notes that his behaviour and that of Jonathan Soi's with regard to the ethnic clashes in Ol Moran Division, Laikipia District and on particular their response to the events of the evening of January 17, 1998 at Kinamba leave no doubt in anybody's mind about the blatant indifference and complacency of the two officers.</p>	<p>Akiwumi report; pp.138-144</p>	<p>No action</p>	<p>Despite his demise, his involvement in the various clashes should be investigated for historical purposes</p>
<p>Jonathan Soi, <i>DO, Ng'arua Division,</i> <i>1998</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Laikipia district.</i></p> <p>The Akiwumi report notes that his behaviour and that of Jeremiah Ndahi's with regard to the ethnic clashes in Ol Moran Division, Laikipia District and on particular their response to the events of the evening of January 17, 1998 at Kinamba leave no doubt in anybody's mind about the blatant indifference and complacency of the two officers.</p>	<p>Akiwumi report; pp. 138-144</p>	<p>No action</p>	<p>Should be investigated regarding his role in the clashes to establish criminal liability and legal action taken.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Kihika Kimani <i>(deceased), then MP for Molo; 1988-1992</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Nakuru district.</i></p> <p>Alleged to have publicly threatened to employ self-help methods to deal with insecurity in Njoro area arguing that the Government had failed to protect him and his constituents.</p>	<p>Akiwumi report; p.146</p>	<p>No action</p>	<p>Despite his demise, his involvement in the clashes should be investigated for historical purposes.</p>
	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u Commission report accuses him of illegally acquiring land in Laikipia County Council (L.R. No. 2517)</p>	<p>Ndung'u Commission Report ; Annexes Vol. 1 pg956</p>	<p>No action</p>	<p>Revoke the title and repossess the public land.</p>
<p>Calistus Okello, then Narok DC, 1993</p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Narok district in 1993</i></p> <p>The Akiwumi report notes that he, together with Emmanuel Mwachiti (the OCPD) deliberately failed to ensure timely and adequate security support and reinforcement to curb the Enoosupukia clashes in October 1993.</p>	<p>Akiwumi report; pp.174-175</p>	<p>No action</p>	<p>Should be investigated regarding his role in the clashes to establish criminal liability and take legal action.</p>
<p>Emmanuel Mwachiti, then OCPD, Narok district, 1993</p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Narok district in 1993.</i></p>	<p>Akiwumi report; pp.174-175</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p>Alleged, that together with Calistus Okello (the local DC), he deliberately failed to ensure timely and adequate security support and reinforcement to curb the Enoosupukia clashes in October 1993.</p>			
	<p>The Gor Sungu report concluded that he was party to the conspiracy to abduct and kill Ouko</p>	<p>Gor Sungu Report, pg.91</p>	<p>No action</p>	<p>Investigate further to establish criminal liability and take legal action.</p>
<p>Wilson Litole, <i>then Transmara DC in 1997</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Transmara district in 1997.</i></p> <p>The Akiwumi report alleges that he was seen on the battle ground in Kilgoris town on November 20, 1997 but took no action to direct the security personnel to stop the violence.</p>	<p>Akiwumi report; p 187</p>	<p>No action</p>	<p>Further investigation to establish criminal liability and take legal action</p>
<p>David Rono, <i>then OCS, Kimilili Police Station in 1991</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Bungoma district in 1991.</i></p> <p>The Akiwumi report accuses him of deliberate failure to ensure apprehension, investigations and prosecution of Saboats who burnt houses at Kaptama sub-location and location in December 28, 1991 among other related incidents.</p>	<p>Akiwumi report; pp.198-199, 222</p>	<p>No action</p>	<p>The report recommends that his role should be investigated with a view to his being charged with aiding and abetting the clashes.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p>The Akiwumi Commission also accuses him of deliberately withholding information from it and concludes that he was clearly partisan during the clashes.</p>			
<p>William Changole, <i>then DC in Bungoma district in 1992</i></p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Bungoma district in 1992</i></p> <p>The Akiwumi and Kiliku reports state that in February 1992, he addressed several barazas warning people against joining FORD-Kenya and confirming that those who had previously attacked the supporters of FORD Kenya had his support.</p> <p>He is also accused of helping build up tension between the Sabaot and the non-Sabaot communities. Here the Bukusu formed the majority of the non-Sabaot.</p> <p>Finally, he is alleged to have made inciting remarks at a public baraza at Chemoge market on December 16, 1991 at which he spoke in the Kalenjin language and urged the Sabaot to remove “madoadoa” and “chui” (leopard) from the midst of their flock.⁵³</p>	<p>Akiwumi report; pp 206-207; and, Kiliku Report p. 36</p>	<p>No action</p>	<p>Report recommends that he be investigated with a view to being disciplined for his role in the clashes.</p>

⁵³While the word 'madoadoa' and 'chui' mean spots and leopards respectively in Kiswahili, then used in the context of politically instigated violence and displacements, it supposed to mean that “the strangers or unwanted people' who deserve to be removed or cast out of the general population or society. This was and still being used to excite ethnic passions and justify the displacement of others in the clashes prone areas in Kenya.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Frederick Kalombo, then OCS, Endeless Police Station in Trans Nzoia district, 1991</p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Trans-Nzoia district in 1991.</i></p> <p>The Akiwumi report alleges that he took no action to prevent the burning of houses of the non-Saboot on Mango and Pole Farms on December 16 and 17 1991 despite having been warned of the impending attacks vide leaflets. The leaflets which indicated that the attacks will be before December 25, 1991.</p>	<p>Akiwumi report; pp.216, 220-221</p>	<p>No action</p>	<p>The report notes that he must be investigated with a view to his being charged with aiding and abetting the clashes. His role should be investigated with a view to establishing criminal liability and taking legal action.</p>
<p>Wilberforce Kisiero, then Mt Elgon MP, and Assistant Minister for Tourism and Wildlife (1988-1992).</p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Trans-Nzoia district, 1991-1992</i></p> <p>The Kiliku and Akiwumi reports note that he (together with John Ngeiywo, Masangi Masabwa, Dismas Chemwolin and William Chebus Temwet) declared during the installation of Isaac Ngoyoni as the first District Commissioner "...that the Saboot community would not allow other tribes to buy land in the new Mt Elgon district".</p>	<p>Akiwumi Report, p.224; and, Kiliku Report, p. 37</p>	<p>No action</p>	<p>The Akiwumi Report recommends that these five suspects should be investigated with a view to being charged with inciting the clashes that took place in Mt. Elgon between the Saboot and non-Saboot. As recommended by the Akiwumi Commission, the roles of the five should be investigated with a view to establishing criminal liability and taking legal action.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Mark Too, then KANU Chairperson, Nandi District</p>	<p><i>Gross Human Rights Violations by his failure to prevent or respond effectively to the politically instigated violence in Nandi district.</i></p> <p>Alleged to have made inflammatory remarks during a harambee meeting at Kaptama Moi Secondary School on July 14, 1989 when he urged the Saboot to remove “madoadoa”(spots) from their midst if they expected assistance. The interpretation according to the Kiliku report was that this meant the removal of non-Sabaot.</p>	<p>Kiliku report, pp. 36 and 39</p>	<p>No action</p>	<p>He should be investigated regarding his role in the clashes to establish criminal liability and take legal action.</p>
<p>Other political leaders on the political violence in Coast province:</p> <p>Emmanuel Karisa Maitha (deceased), then KANU politician and later MP for Kisauni (Democratic Party) and Minister for Local Government and</p> <p>Rashid Shakombo, Minister for National Heritage(2003-2007);</p>	<p><i>Gross Human Rights Violations by abetting the politically instigated violence in Mombasa and Kwale districts in 1997/ 1998</i></p> <p>Accused by the Akiwumi report for having been accomplices in the politically instigated violence in 1997-1998.</p>	<p>Akiwumi report pp. 43; 233-278; 290-291</p>	<p>No action</p>	<p>With regard to Karisa Maitha, despite his demise, his role in the clashes should be investigated for historical purposes. As regards the others implicated, their roles in the clashes should be investigated with a view to establish criminal responsibility and take legal action.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Suleiman Kamolle, Kassim Mwamzandi, Rashid Sajjad, Hisham Mwidau, Swalleh Bin Alfani, Mohammed Mdogo, Juma Hamisi Mwasele, Mwalimu Masudi Mwahima</p>				
<p>Other Political leaders on political violence in Rift Valley, Western and Nyanza provinces.</p> <p>Burudi Nabwera, <i>former Minister of State;</i> Maalim Mohammed, <i>former Minister of State;</i> Kimnai Soi, <i>former MP, Chepalungu;</i> William Kikwai, <i>Former MP; Kipkelion Constituency;</i> Christopher Lomada, <i>former Assistant Minister of Culture and Social Services;</i> Dr. Njoroge Mungai; Julius Sunkuli, <i>former</i></p>	<p><i>Gross Human Violations during the politically instigated violence in different parts of Rift Valley, Western and Nyanza Provinces</i></p> <p>Accused by the Akiwumi and Kiliku reports of having been accomplices in the politically instigated violence in 1992 and 1997.</p>	<p>Kiliku Report p. 8-9; 19-20; 39; 45-52; 58; 61; and Akiwumi Report p. 286-287</p>	<p>No Action</p>	<p>Further investigation to establish criminal liability and take legal action</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p><i>magistrate and MP, Kilgoris constituency;</i> Ferdinand Obure, <i>Former Bomachoge MP,</i> William Morogo Saina, <i>former Mogotio MP,</i> Ezekiel Barngetuny, <i>former nominated MP and chair of Nandi County Council;</i></p>				
<p>Joshua C Kulei, <i>Former personal assistant to former President Moi up to 2002</i></p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u report states that he was illegally allocated a government house in Nairobi (Argwings Kodhek Road, L.R. No. 209/381/1).</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 792,833</p>	<p>No action</p>	<p>Revoke the title and repossess the public</p>
<p>N. K. Mwendwa</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u report states that he was illegally allocated a government house (Nyando Road, LR. No. 209/3096)</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 792</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
<p>Zakayo K. A Cheruiyot, <i>Currently MP for Kuresoi and the former Permanent Secretary for Internal Security under President Daniel arap Moi.</i></p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>According to the Ndung'u report, he was illegally allocated government house (Tabere Crescent LR. No. 209/2944). He also irregularly acquired the Chepkumai/Ngerek land exchange</p>	<p>Ndungu Commission Report; Annexes Vol. 1 pg 793, Annexes Vol. 2 pg 593,677</p>	<p>No action, land not occupied</p>	<p>Revoke the title and repossess the public land</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Wilfred K K Kimalat, <i>Was Permanent Secretary Office of the President of Kenya in 1999</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Report alleges that he was illegally allocated government house (Upper Hill, LR. No. 209/12018); and land in a settlement scheme carved out of ADC farms in Jabali and allocation of more than 5 acres as required.LR. No.118/1/20	Ndungu Commission Report; Annexes Vol. 1 pg 794,895	No action	Revoke the title and repossess the public land
Simeon Lesirma, <i>MP Samburu West, Assistant Minister, Provincial Administration & Internal Security</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Report accuses him of having illegally acquired government house (Upper Hill, LR. No. 209/11944)	Ndungu Commission Report Annexes Vol. 1 pg 794	No action	Revoke the title and repossess the public land
Noah Arap Too, <i>Former Director, Criminal Investigations Department (CID) during Moi's tenure and former Assistant (2004-2007).</i>	<i>Illegal and Irregular acquisition of public land</i> The Ndung'u report states that he was illegally allocated government house (Off Ngong Road, L.R. No. 209/12470)	Ndungu Commission Report, Annexes Vol.1 pg 794	No action	Revoke the title and repossess the public land
	<i>Gross Human Violations during the politically instigated violence in Mombasa, 1997/1998</i> The Akiwumi report accuses him of failing to effectively apply state security machinery to curb or quell the violence.	Akiwumi Report pp.38; 233-291	No action	Undertake further investigations to establish criminal liability and take legal action.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Sheldon W Muchilwa Former MP for Emuhaya Asst. Min For Foreign Affairs, Deceased.</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u Report indicates that he was illegally allocated a government house (State House Avenue, LR. No. 330/11945).</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 795</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
<p>Joseph Kaguthi, former Nyanza and Nairobi PC and NACADA director Commissioner,</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u report states that he illegally acquired a government house (Bernard Estate, LR. No. 330/630).</p>	<p>Ndungu Commission Report; Annexes Vol. 1 pg 795</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
<p>Joseph Kimeu Mulinge</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>Illegally allocated government house (Upper Hill, L.R. No. 209/12107)</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 795</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
<p>Jomo Kenyatta (deceased), First president of the Republic of Kenya (1963- 1978).</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u Report accuses him for the following illegal and irregular acquisitions of land:</p> <ul style="list-style-type: none"> • Government House-Mara Road, L.R. No.209/7997); • Upper Hill LR. No. 209/7998; and • Upper Hill LR. No. 209/7999 (Houses No HG /60,HG/19,HG/81/HG/76). 	<p>Ndung'u Land Report Annexes Vol. 1 pg 796-797</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Fred Waiganjo (deceased), Former Nairobi Provincial Commissioner,	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government house (Forest Road, LR. No. 209/189).	Ndung'u Commission Report; Annexes Vol. 1 pg 797	No action	Revoke the title and repossess the public
Dr Martin Oduor Chief Executive Officer (CEO), KCB	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (Lr No. 209/2959).	Ndungu Commission Report; Annexes Vol. 1 pg 797	No action	Revoke the title and repossess the public
Hon Ronald.G. Ngala (deceased) Former prominent Coast politician,.	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government house (Kandara Road, LR. No. 209/2971).	Ndung'u Commission Report; Annexes Vol. 1 pg 797	No action	Revoke the title and repossess the public
George M. Ndoto Former MP Kitui Central and Cabinet Minister 1988-1992	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government house (Mbooni Road, LR. No. 209/3216).	Ndung'u Commission Report; Annexes Vol. 1 pg 798	No action	Revoke the title and repossess the public
Eliud Mwamunga, Former MP Voi and Planning Minister under Moi's tenure.	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government house (Mandera Road, LR. No. 209/10565).	Ndung'u Commission Report; Annexes Vol. 1 pg 798	No action	Revoke the title and repossess the public

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Bethwel Kiplagat, Former Ambassador, and Permanent Secretary, Ministry of Foreign Affairs. He is the current chairperson of Truth Justice and Reconciliation Commission (TJRC) and Chancellor of Egerton University.</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>According to the Ndung'u report, he was illegally allocated government house in 1988 (Lavington, LR. No. 3734/83).</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 798</p>	<p>Forced to step aside as the chair of TJRC owing to his involvement in historical land and political injustices. Currently a subject of a public tribunal established in November 2010 to investigate these allegations.</p>	<p>Revoke the title and repossess the public land</p> <p>Hope the tribunal will be expeditious and impartial in its resolution of this matter</p>
			<p>Forced to step aside as the chair of TJRC owing to his involvement in historical land and political injustices. Currently a subject for a public tribunal established in November 2010 to investigate these allegations against him.</p>	<p>Hope the tribunal will be expeditious and impartial in its resolution of this matter</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Justice Cecil Miller (deceased), Former High Court Judge) and Chief Justice (1986-1989).</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>According to the Ndung'u report, he was illegally allocated a government house (Dennis Pritt, L.R. No. 209/10836).</p>	<p>Ndung'u Commission Report; Annexes Vol.1 pg 799</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
<p>Prof G. K. Saitoti, MP Kajiado North and former Vice President (1989-2002).</p> <p>He is still the MP for Kajiado North and Minister for Internal Security and Provincial Administration and Ag. Minister for Foreign Affairs.</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>According to the Ndung'u report, he was illegally allocated a government house (Mandera Road, LR. No. 209/3003); and illegal settlement schemes carved out of ADC farms in Nyota complex and allocation of more than 5 acres contrary to the average allocations</p> <p><i>Alleged involvement in Corruption</i></p> <p>The Goldenberg Report (Bosire Report) initially alleged that he granted the GIL company exclusive rights to engage in gold and jewellery export trade and allowed it an additional 15% export compensation, contrary to the Local Manufacturers (Export Compensation) Act. He is also accused of having defended GIL in and outside the parliament.</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 799,893</p> <p>Bosire Report into the Goldenberg Affair -Pp.217-219.</p>	<p>No action</p> <p>The High Court expunged the name of Hon. George Saitoti from the list of those accused of involvement in the Goldenberg scandal in case Misc Civil Application number 102 of 2006, Republic v The Judicial Commission of Inquiry into the Goldenberg Affair & 2 Others Ex parte George Saitoti [2006] at page 67</p>	<p>Revoke the title and repossess the public land</p> <p>Whether Saitoti should face appropriate criminal charges arising from his own actions should be considered</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Lee Njiru, <i>Former Director, Presidential Press Service(PPS) up to 2002. He is currently the Press Secretary to the former President.</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (Mbooni Road, LR. No. 209/3215); (Kileleshwa House No. MG 76); and also 10.49 HA of land-Kiptagich forest Plot No. 12 Reg.13/4/99.	Ndung'u Commission Report; Annexes Vol. 1 pg 799,815	No action	Revoke the title and repossess the public land
Philip M. Kilonzo <i>(deceased), Police Commissioner from 1988 -1993,.</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (Upper Hill, LR. No. 209/11399).	Ndung'u Commission Report; Annexes Vol. 1 pg 799	No action	Revoke the title and repossess the public land
Sammy M. Mbova <i>Former Permanent Secretary</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (Kiambere Road, LR. No. 209/11380).	Ndung'u Commission Report; Annexes Vol. 1 pg 800	No action	Revoke the title and repossess the public land
Joseph Mwangovya <i>Former Supervisor of Elections. 1988-1992</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (LR. No. 209/3220).	Ndung'u Commission Report; Annexes Vol. 1 pg 800, 811	No action	Revoke the title and repossess the public land
Japheth K Masya, <i>Former clerk of the National Assembly</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (Upper Hill, LR. No. 209/339); (Lr No. 209/11643).	Ndung'u Commission Report; Annexes. Vol. 1 pg 800,811	No action	Revoke the title and repossess the public land

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Stephen Ondiek, <i>Former MP Ugenya 2002-2007</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government house a (Kileleshwa, LR.No. 209/3169).	Ndung'u Commission Report; Annexes Vol. 1 pg 802	No action	Revoke the title and repossess the public land
Dr. Bonaya Godana <i>(deceased), Former MP for North Horr, and Cabinet Minister</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (Ole Kejuado Road, LRNo. 209/2962); (Kileleshwa, LR. No. 209/2962)	Ndung'u Commission Report; Annexes Vol. 1 pg 802, 809	No action	Revoke the title and repossess the public land
Justice John Mwera, <i>Judge of the High Court of Kenya.</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government house (Upper Hill, LR. No. 209/13416).	Ndung'u Commission Report; Annexes Vol. 1 pg 804	No action	Revoke the title and repossess the public land
Bernard Chunga, <i>Former Chief Justice</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government house (Upper Hill, LR No. 209/11965) Illegally allocated government house in Kisumu, LR. No. BL/12/336	Ndung'u Commission Report; Annexes Vol. 1 pg 804, 841, 845.	No action	Revoke the title and repossess the public land

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Mary C Mwangangi <i>Former Traffic Commandant.</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government house (LR. No. 209/12612).	Ndung'u Commission Report; Annexes Vol. 1 pg 807.	No action	Revoke the title and repossess the public land
M Kivuvani <i>Deputy Director of Special Branch, 1990. Former Director of Intelligence 1992-1995</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (Kileleshwa, LR. No. 209/3087)	Ndung'u Commission Report; Annexes Vol. 1 pg 809.	No action	Revoke the title and repossess the public land
Zipporah J Kittony, <i>Former chairperson of Maendeleo ya Wanawake</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government house (Kileleshwa, LR. No. 209/13697).	Ndung'u Commission Report; Annexes Vol. 1 pg 809	No action	Revoke the title and repossess the public land
Japheth Mwania, <i>Director of National Youth Service</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (Mugoya estate House No. 1).	Ndung'u Commission Report; Annexes Vol. 1 pg 812	No action	Revoke the title and repossess the public land
John Kipchumba Lokorio, <i>Former State House Comptroller (2002)</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (Mugoya estate House No. 117); (Kileleshwa House No. MG 762); and also 8.5 HA land-Kiptagich forest Plot No. 3 Reg.29/5/00; and 4.41 HA land-Kiptagich forest S/No. 394 Plot No. 553	Ndung'u Commission Report; Annexes Vol. 1 pg 815, Vol 2 Annexes pg.593, 641	No action	Revoke the title and repossess the public land

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
David Kimayo, Deputy Commissioner of Police and currently Director of Police Operations.	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government house (Kileleshwa House No.MG 763), (Kileleshwa HG 763A: Plot No. 79233002); and settlement schemes carved out of ADC Milimani and allocation of more than 5 acres as required.LR. No. 118/1/20; and finally 4.21 HA land-Kiptagich forest S/No. 94 Plot No. 127	Ndung'u Commission Report; Annexes Vol. 1 pg 815-816, Annexes Vol. 1 pg 898, Vol 2 Annexes pg 607	No action	Revoke the title and repossess the public land
Francis Kimemia Permanent Secretary Ministry of Internal Security and Provincial Administration.	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (Kileleshwa House No. HG 749A).	Ndung'u Commission Report; Annexes Vol. pg 817.	No action	Revoke the title and repossess the public land
Kimani Ngunjiri, Prominent Nakuru Politician and former KANU Nakuru branch chairperson.	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house (Masai Avenue Road Block, 10/159/158).	Ndung'u Commission Report; Annexes Vol. 1 pg 825	No action	Revoke the title and repossess the public land
Jimmy Choge, Former MP for Aldai and June Moi, Daughter to the former president Moi	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government housea (21 dwellings, MG/40, MG/41,MG/4, MG49, MG/6,MG/7, MG5,MG8, MG/42, MG/43, MG/44 and MG/38)	Ndung'u Commission Report; Annexes Vol. 1 pg 828	No action	Revoke the title and repossess the public land

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>W. Ndolo, Former Provincial Commissioner (Rift Valley) and immediate former Director for Mitigation and resettlement, Ministry of State for Special Programmes.</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>According to the Ndung'u report, he was illegally allocated a government house in Bungoma, LR. No. BUNG/MOW/791</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 850</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
<p>Hon Grace Mwewa, Former Nominated MP and now a trustee with the Water Service Fund</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>According to the Ndung'u report, she was illegally allocated a government house in Kibwezi constituency, LR. No. 693.</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 876</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
<p>Peter L N Kiilu, Former Provincial Commissioner and current MP for Makueni.</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>According to the Ndung'u report, he was illegally allocated a government house in Kibwezi Constituency, LR. No. 946.</p>	<p>Ndungu Commission Report; Annexes Vol. 1 pg 876</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>
<p>Dr. Jones Kaleli Chairperson Kabarak University</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>According to the Ndung'u report, he was illegally allocated a government house in Kibwezi constituency, LR. No. 225.</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 876</p>	<p>No action</p>	<p>Revoke the title and repossess the public land</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Sammy Kyungu <i>Former Permanent Secretary, Ministry of Transport</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house in Kibwezi constituency, LR. No. 606.	Ndung'u Commission Report; Annexes Vol. 1 pg 876	No action	Revoke the title and repossess the public land
Leonard Mambo Mbotela, <i>Prominent broadcaster</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house in Kibwezi constituency, LR. No. 603.	Ndung'u Commission Report; Annexes Vol. 1 pg 877.	No action	Revoke the title and repossess the public land
James Abila, <i>Head of Presidential Press Unit during President Moi's regime.</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house in Kibwezi constituency, LR. No. 540.	Ndung'u Commission Report; Annexes Vol. 1 pg 877.	No action	Revoke the title and repossess the public land
Mutua Kilaka, <i>Finance Secretary at the Ministry of Finance</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated government house in Kibwezi constituency, LR. No. 523	Ndung'u Commission Report; Annexes Vol. 1 pg 878.	No action	Revoke the title and repossess the public land
Tonny W Ndilinge, <i>Former Kiome MP; Deceased.</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house in Kibwezi constituency, LR. No. 344	Ndung'u Commission Report; Annexes Vol. 1 pg 879.	No action	Revoke the title and repossess the public land

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Dr. Philip Mwanzia, <i>Director-Foreign Service Institute, Ministry of Foreign Affairs.</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated a government house in clear Kibwezi constituency, LR. No. 355.	Ndung'u Commission Report; Annexes Vol. 1 pg 881.	No action	Revoke the title and repossess the public land
J. Misoi, <i>Former MP Keiyo South and current Chairperson, National Elections Board within the Orange Democratic Movement (ODM).</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated land in a settlement scheme carved out of ADC farms in Nakuru and more than 5 acres as required. LR. No. 118/1/20.	Ndung'u Commission Report; Annexes Vol. 1 pg 887	No action	Revoke the title and repossess the public land
William Ruto, <i>Immediate former Higher education Minister and MP for Eldoret North</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated land in a settlement scheme carved out of ADC farms in ZEA; and allocation of more than 5 acres as required. LR. No. 118/1/20.	Ndung'u Commission Report; Annexes Vol. 1 pg 892	No action	Revoke the title and repossess the public land
	<i>Gross Human Violations during the politically instigated violence in different parts of Rift Valley province 2007/2008</i> The KNCHR Report states that he planned, incited and financed the violence	KNCHR Report-On the brink of precipice... See also "Decision(s) on the Prosecutor's Application for Summons to Appear	Report shared with Waki Commission and International Criminal Court (ICC) team and	Matter with the ICC Establish a local tribunal to deal with other lower level suspects

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
		for William Samoei Ruto, Henry Kiprono Kosgei and Joshua Arap Sang Nos, ICC-01/09-01/11 -March 8, 2011”.	the matter is currently before the Pre Trial Chamber II. On March 8 2011, he was summoned by the ICC for the initial appearance before the Chamber On April 7 2011.	
<p>Wilson Chepkwony (deceased), Former PC and State House Comptroller, deceased</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>According to the Ndung'u report, he was illegally allocated land in a settlement scheme carved out of ADC farms in Nyota complex; more than 5 acres as required. LR. No. 118/1/20; and 8.11 HA land-Kiptagich forest Plot No. 2 Reg.17/12/99.</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 893, Annexes Vol. 2 pg 593</p>	<p>No action, originally allocated to Chepkwony, later transferred to the wife</p>	<p>Revoke the title and repossess the public land.</p>
<p>John Cheruiyot, Former MP Tindiret</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>According to the Ndung'u report, he was illegally allocated land in a settlement scheme carved out of ADC farms in Jabali; and more than 5 acres as required.LR. No. 118/1/20.</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg 894</p>		<p>Revoke the title and repossess the public land.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Justice E. O. Okubasu, <i>Appellate Judge</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated land in settlement schemes carved out of ADC farms in Jabali; and more than 5 acres as required. LR. No. 118/1/20.	Ndung'u Commission Report; Annexes Vol. 1 pg 895	No action	Revoke the title and repossess the public land
Reuben Chesire, <i>Former Eldoret North MP (deceased)</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated land in settlement schemes carved out of ADC farms in Jabali; and more than 5 acres as required. LR. No. 118/1/20.	Ndung'u Commission Report; Annexes Vol. 1 pg 896	No action	Revoke the title and repossess the public land
F. K.Sang	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated land in settlement schemes carved out of Moi Ndabi; and more than 5 acres as required.LR. No. 118/1/20.	Ndung'u Commission Report; Annexes Vol. 1 pg 897	No action	Revoke the title and repossess the public land
Maj. Gen N.L. Leshan	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated land in settlement schemes carved out of Moi Ndabi; and more than 5 acres as required. LR.No. 118/1/20.	Ndung'u Commission Report; Annexes Vol. 1 pg 897	No action	Revoke the title and repossess the public land

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Isaac Ruto, <i>Current MP for Chepalungu, Former Minister Vocational Training</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated land in settlement schemes carved out of Ol Jorrai and allocation of more than 5 acres as required. LR.No. 118/1/20; and also 4.21 HA land-Kiptagich forest S/No. 91 Plot No. 124	Ndung'u Commission Report; Annexes Vol. 1 pg 897 Annexes Vol. 2 .606	No action	Revoke the title and repossess the public land
Hon Francis Kaino Mutwol, <i>Former Markwet West MP</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated land in settlement schemes carved out of ADC Milimani and allocation of more than 5 acres as required.LR. No. 118/1/20.	Ndung'u Commission Report; Annexes Vol. 1 pg 897Annexes Vol. 1 pg 899	No action	Revoke the title and repossess the public land
Hon Japhez Lotukoi Ekidor (deceased), <i>Former MP for Turkana North</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated land in settlement schemes carved out of ADC Milimani and allocation of more than 5 acres as required. LR. No. 118/1/20.	Ndung'u Commission Report; Annexes Vol. 1 pg 899	No action	Revoke the title and repossess the public land
Hon. David Sudi <i>Former MP Marakwet East (2002-2007).</i>	<i>Illegal and Irregular acquisition of public land.</i> According to the Ndung'u report, he was illegally allocated land in settlement schemes carved out of ADC Milimani and allocation of more than 5 acres as required. LR. No. 118/1/20.	Ndung'u Commission Report; Annexes Vol 1. pg 900	No action	Revoke the title and repossess the public land

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Prof Gideon Misió <i>Managing director, National Cereal and Produce Board (NCPB).</i></p>	<p><i>Alleged involvement in Corruption</i></p> <p>According to the Maize Scandal Report, he allegedly acted contrary to GOK objectives by knowingly selling maize under the scheme; failing to develop and implement a fair and objective policy to assess and award application for subsidized maize; failing to disclose to the Trustees that NCPB was selling maize in breach of the trustees instruction; and breaching the procurement regulations in relation to maize imports.</p>	<p>The Maize Scandal Report, pg 303;</p> <p>See also The Standard Newspaper 18/5/2010</p>	<p>Suspended then reinstated</p>	<p>KACC to investigate further and prosecute if found to be criminally liable</p>
<p>Robert Langa't , <i>Was the NCPB's former General Manager; Marketing and Operations</i></p>	<p><i>Alleged involvement in Corruption</i></p> <p>According to the Maize Scandal Report, is accused of knowingly participating in the sale of subsidized maize under the scheme; failure to develop and consistently implement a fair and objective policy to assess and award the applications for subsidized maize; and failure to discharge the duties of the chairperson of the committee.</p>	<p>The Maize Scandal Report, pg 304;</p> <p>See also The Standard Newspaper 18/5/2010a</p>	<p>Suspended then reinstated</p>	<p>KACC to investigate further and prosecute if found culpable</p>
<p>Mr Boit, <i>NCPB's Sales and Marketing Manager</i></p>	<p><i>Alleged involvement in Corruption</i></p> <p>According to the Maize Scandal Report, he knowingly participated in the sale of subsidized maize under the scheme, failed to develop and</p>	<p>The Maize Scandal Report, pg 304;</p> <p>See also The Standard Newspaper 18/5/2010</p>	<p>Suspended then reinstated</p>	<p>KACC to investigate further and prosecute if found culpable</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	implement a fair and objective policy to access and award application for the subsidized maize and; and acted to facilitate allocations between traders and millers so as to improperly convey a benefit.			
<p>Mrs. Ann Kamau, <i>Corporation's Secretary and Legal Officer</i></p>	<p><i>Alleged involvement in Corruption</i></p> <p>According to the Maize Scandal Report, she knowingly participated in the award of a contract in breach of the procurement rules and company regulations and failed to discharge and act in proper conduct as a legal officer</p>	<p>The Maize Scandal Report, pg 304</p>	<p>Sacked by the then acting managing director Alfred Busolo</p>	<p>To face prosecution</p>
<p>Cornel Ngelechey, <i>Chief Accountant at the NCPB</i></p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Maize Scandal Report alleges that he failed to discharge his duties as the chief accountant</p>	<p>The Maize Scandal Report, pg 306</p>	<p>Sacked by the then acting managing director Alfred Busolo</p>	<p>To face prosecution</p>
<p>Dr. Romano Kiome, <i>Permanent Secretary, Ministry of Agriculture (MoA)</i></p>	<p><i>Alleged involvement in Corruption</i></p> <p>According to the Maize Scandal Report, he allegedly failed to investigate, insisted on safeguards or suspended release of further maize to NCPB despite being aware of the scheme; ratified post event the over sale of 277,000 bags of SGR stock in excess of what had been approved by the trustees; and as influenced the decision of NCPB by using his position as a trustee and PS in the MoA.</p>	<p>The Maize Scandal Report, pg 314</p> <p>See also The Standard Newspaper 18/5/2010</p>	<p>Suspended then reinstated</p>	<p>Continuous public scrutiny</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Ali D Mohamed, Then Permanent Secretary, Ministry of State for Special Programmes (MoSSP).</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Maize Scandal Report alleges that he failed to investigate, insist on safeguards over or suspend release of maize to NCPB and ratifying post event the over sale of 277,000 bags to SGR stocks by NCPB in excess of what was authorized by the trustees.</p>	<p>The Maize Scandal Report, pg 316</p>	<p>Suspended then reinstated</p>	<p>Continuous public scrutiny</p>
<p>Joseph Kinyua, Permanent Secretary, Ministry of Finance (MoF)</p>	<p><i>Alleged involvement in Corruption</i></p> <p>Maize Scandal Report accuses him for not criticizing or voicing his concern over the scandal</p>	<p>The Maize Scandal Report, pg 317</p>	<p>No action</p>	<p>Continuous public scrutiny</p>
<p>Mohamed Isahakia, Permanent Secretary, Office of Prime Minister</p>	<p><i>Alleged involvement in Corruption</i></p> <p>His role in the scandal is not clear but he might culpable</p>	<p>The Maize Scandal Report, pg 320</p>	<p>Suspended, cleared and reinstated.</p>	<p>Continuous public scrutiny</p>
<p>Caroli Omondi, Principal Administrative Secretary/Chief Staff, Office of the Prime Minister</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Maize Scandal report alleges that he signed the letter approving the upward variation of the price in respect of Agri's second contract for the supply of 60,000MT contrary to the prescribed formal procurement procedures.</p>	<p>The Maize Scandal Report, pg 321</p>	<p>Suspended, cleared and reinstated.</p>	<p>Continuous public scrutiny</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Eric Kotut Governor of Central Bank of Kenya (CBK) - January 1990-July 1993</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Bosire report accuses him for allowing irregularities and fraud so as to benefit GIL and Exchange Bank during his tenure.</p>	<p>Bosire Report; pp. 237-244</p>	<p>No action</p>	<p>investigations to establish if criminally liable and prosecuted</p>
<p>James Kanyotu (deceased) Was the Director of Intelligence (January 1965-January 1992). Also he was the Director of First American Bank</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Bosire report indicates that his name was allegedly used as a promoter of GIL and EBL and was knowingly involved in GIL's activities.</p>	<p>Bosire Report; pp. 25; 257-260</p>	<p>No action</p>	<p>despite his demise, his role in the Goldenburg affair should be investigated for historical purposes..</p>
<p>Kamlesh Damji Pattni Was the Director, promoter and shareholder of GIL's and also Director, promoter and shareholder of Exchange Bank Ltd</p> <p>He is currently a Televangelist with Hope Ministry and chair of Kenya National Democratic Alliance (KENDA)</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Bosire Report states that he is shown on his own admissions and documents to be a perjurer, a forger, a fraudster and a thief within the GIL's scheme.</p>	<p>Report of the Bosire Report pp. 255-257</p>	<p>Hotel repossessed by Central Bank of Kenya and sold to LAICO in 2007/2008 in the midst of many controversies.</p>	<p>Matter pending in court.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Charles Mbindyo, Was the Permanent Secretary Treasury during the material time of GIL scandal</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Bosire Report indicates that he was allegedly a party to the decision to pay ex gratia and for allowing GIL exclusive rights in the exports of gold and diamond jewellery, he stated that this was on an experiment basis</p>	<p>Bosire Report; pp. 220-221</p>	<p>No clear action</p>	<p>Follow up action for accountability</p>
<p>Collins Owayo, then Commissioner for Mines and Geology (Ministry of Environment and Natural Resources</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Bosire report found that he lobbied for Aurum Kenya Ltd to be given sole rights and in addition to be granted 20% export compensation under the local manufactures</p>	<p>Bosire Report, pp. 226-228</p>	<p>No clear action</p>	<p>Follow up action for accountability</p>
<p>Dr. Wilfred Koinange Succeeded Charles Mbindyo as Permanent Secretary, Ministry of Finance in November 1991</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Bosire Report alleges that he effected various payments to GIL as ex gratia; that he actively assisted in GIL's activities and that he benefited from the proceeds.</p>	<p>Bosire report, pp. 223-224</p>	<p>Removed from office and jointly charged with Eliphaz Riungu and Elijah Bii for abuse of public office which led to the loss of Ksh. 5.8 billion.</p>	<p>Matter pending in Court.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Francis Chelelgo Cheruiyot <i>Was Commissioner of Customs and Excise during the scandal</i>	<i>Alleged involvement in Corruption</i> Alleged to have allowed fraudulent export to take place yet he was in a position to stop it	The Bosire report; pp 229-232	No clear action	Follow up action for accountability
Philip Muli Mulili, <i>then Deputy Commissioner of Customs and Excise during the scandal</i>	<i>Alleged involvement in Corruption</i> The report almost exonerates him of any wrong doing but it concludes: “Finally, he was not totally candid to the Public Accounts Committee when it was investigating Goldenberg, but his responsibility for this was for less than that of CBK and he apparently felt that he had some duty to try and protect his department”.	The Bosire report; pp.228-229	No clear action	Follow up action for accountability
Elijah Arap Bii <i>Was at the time of Goldenberg scandal the General Manager of Kenya Commercial Bank(KCB) Ltd</i>	<i>Alleged involvement in Corruption</i> According to the Bosire report, he was the General Manager of KCB Ltd when Dr. Koinange allegedly arranged for the transfer of Kshs.5.86 billion out of the Paymaster General account (PMG) with the CBK, the money was credited into the KCB account with CBK and the money ended up with GIL	The Bosire report; pp. 250-251	Removed from office and jointly charged with Eliphaz Riungu and Dr. Wilfred Koinange for abuse of public office which led to the loss of Ksh. 5.8 billion.	Matter pending in Court.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Elphas Riungu, at the time was the Chief Banking Manager of CBK until February 1992 when he was appointed Deputy Governor</p>	<p><i>Alleged involvement in Corruption</i></p> <p>According to the Bosire Report, he was allegedly a key player in the Goldenberg affair and actively and knowingly supported its illegal operations</p>	<p>Bosire report-pp. 232-237</p>	<p>Removed from office and jointly charged with Dr. Wilfred Koinange and Elijah Bii for abuse of public office which led to the loss of Ksh. 5.8 billion.</p>	<p>Matter pending in Court.</p>
<p>Tom Kilalya Werunga, Was an assistant principal in the Banking Division of CBK</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Bosire report alleges that he acted on letters from Dr. Koinange which authorized unlawful payments from the PMG's account thus aiding and abetting theft</p>	<p>Bosire report-pp 244-246</p>	<p>No clear action</p>	<p>Follow up action for accountability</p>
<p>Joshua Chelelgo Kulei, Was personal assistant to President Moi. Also was both Director and shareholder of Trans National Bank</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Bosire report indicates that he supported and benefited from activities of GIL; and large sums of GIL money and motor vehicles were given to him for KANU's campaigns in the 1992 general election</p>	<p>Bosire report-pp. 246-249</p>	<p>No clear action</p>	<p>Follow up action for accountability</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Michael Wanjihia Was assistant Principal in the Foreign Department of CBK until August, 18 1993</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Bosire report alleges that he signed the totally incorrect letters dated 12th July,1993 to Delphis Bank Ltd stating the US\$ 19 million had been received from the bank, yet the contract had in fact been reversed</p>	<p>Bosire report-pp. 251-253</p>	<p>Dismissed by CBK</p>	<p>Whether criminal charges should be preferred against him should be considered</p>
<p>Joseph `Magari Was Permanent Secretary in the Ministry of Finance after Mbindyo</p>	<p><i>Alleged involvement in Corruption</i></p> <p>The Bosire report alleges that he admitted to having authorized various payments to GIL by way of additional 15% ex gratia. He also admitted the payments were against the law but that he had been ordered by Moi to pay the money.</p>	<p>Bosire report-pp. 221-223</p>	<p>He was removed from office in 2006 and now facing criminal charges in relation to Anglo-Leasing scandal</p>	<p>Criminal action in relation to Goldenberg</p>
<p>Edward Nambisia, Was Customs Officer</p>	<p><i>Alleged involvement in Corruption</i></p> <p>According to the Bosire report, he was frequently involved in exportation of GIL which made the schemes of GIL easier to carry out.</p>	<p>Bosire report-pp. 251</p>	<p>No clear action</p>	<p>Follow up action for accountability</p>
<p>Joab Kilach Was Financial Controller in CBK, 1990 and was then made Director, Banking Supervision Department and finally, Manager, Foreign Department, August 1992.</p>	<p><i>Alleged involvement in Corruption</i></p> <p>According to the Bosire report, he allegedly signed letters to AMEX and Bank of Indonesia (Banque Indoduez Aval) in the full knowledge of the nature of these dealings.</p>	<p>Bosire report-pp. 253-254</p>	<p>He was dismissed</p>	<p>Need further investigation to establish criminal culpability and take legal action if any.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Nehemiah Rotich Former Director of Kenya Wildlife Services. Is currently the Head of Biodiversity and Biotechnology unit UNEP, Division of Environmental Conventions</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u report indicates that he illegally acquired public land -Trans Nzoia District settlement scheme, Plot No.43</p>	<p>Ndung'u Commission Report; Annexes Vol. 1 pg.742</p>	<p>No action</p>	<p>Revoke the title and repossess the public land.</p>
<p>Rodah Bett,</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>Ndung'u report indicates that she illegally acquired public land in Eldoret marked for industrial development</p>	<p>Ndungu Commission Report Annexes Vol. 1 pg.682</p>	<p>Not occupied</p>	<p>Revoke the title and repossess the public land.</p>
<p>Franklin Bett Currently MP Buret Constituency and Minister for Roads</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>Ndung'u report indicates that he illegally acquired Forest land- West Mau forest, Kerisoi</p> <p><i>Gross Human Violations during the politically instigated violence in different parts of Rift Valley province 2007/2008</i></p> <p>According to the KNCHR Report, he allegedly planned, incited and incited violence during the 2007/ 2008 post election in Kenya</p>	<p>Ndung'u Commission Report Annexes Vol. 1 pg. 680</p> <p>KNCHR Report-On the brink of precipiceA human rights account of Kenya's post-2007 election violence pg 177</p>	<p>Mau repossession in progress</p> <p>Report shared with Waki Commission and International Criminal Court team for further investigations</p>	<p>Revoke the title and repossess the public land.</p> <p>Conclude investigations and take legal action where necessary</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Sally Kosgei, <i>Was Head of Civil Service and Secretary to the Cabinet up to 2003.</i></p> <p><i>She is the MP Aldai Constituency; Minister for Agriculture and acting Minister for Higher Education</i></p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u Commission report alleges that she illegally acquired Chepkumai/Ngerek land exchange. There is conflict in exchange as Ngerek community was left out</p>	<p>Ndung'u Commission Report Annexes Vol. 2 pg.677</p>	<p>land not occupied</p>	<p>Revoke the title and repossess the public land.</p>
	<p>According to the KNCHR Report, she allegedly planned, incited and incited violence during the 2007/ 2008 post election in Kenya</p>	<p>KNCHR Report-On the brink of precipice pg 182</p>	<p>Report shared with Waki Commission and International Criminal Court team for further investigations</p>	<p>Conclude investigations</p>
<p>Henry Kosgei, <i>MP Tinderet constituency and Minister for Industrialization</i></p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u Commission report alleges that he illegal acquired public land under Chepkumai/Ngerek land exchange</p>	<p>Ndungu Land Report Annexes Vol. 2 pg.677</p>	<p>Not occupied</p>	<p>Revoke the title and repossess the public land.</p>
	<p><i>Gross Human Violations during the politically instigated violence in different parts of Rift Valley province in 1992; and 2007/2008</i></p> <p>According to the KNCHR Report, he allegedly planned, incited and incited violence during the</p>	<p>KNCHR Report-On the brink of precipice...pg 183</p> <p>See also "Decision(s)</p>	<p>Report shared with Waki Commission and International Criminal Court</p>	<p>Matter with the ICC</p> <p>Establish an effective local tribunal to deal with the lower level</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p>2007/ 2008 post election in Kenya</p> <p>Moreover, the ICC in its latest summons accuses him together with Willian Ruto above and Joshua Sang of Kass FM of creating a network of perpetrators from existing structures in the Rift Valley; consisting of pro-ODM political figures, media representatives, financier, tribal elders, and former members and leaders of the police and military.</p> <p>The Akiwumi report alleges that he together others (Ezekiel Barngetuny and John Cheruiyot) sparked ethnic clashes between Kalenjins and non-Kalenjins in Tinderet by preaching 'majimbo' which literally meant, each community would be forced by all means to return to its ancestral district in the run up to the 1992 General election</p>	<p>on the Prosecutor's Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgei and Joshua Arap Sang Nos, ICC-01/09-01/11 -March 8, 2011".</p> <p>Akiwumi report, p. 78</p>	<p>team for further investigations</p> <p>In March 8 2011, he was summoned by the ICC for the initial appearance before the Chamber in April 7 2011.</p> <p>No action taken on the Akiwumi Commission Report</p>	<p>perpetrators of the 2007-2007 violence</p>
<p>Joseph.J.Kamotho Former MP Mathioya constituency and a prominent Minister in Moi's regime</p>	<p><i>Illegal and Irregular acquisition of public land.</i></p> <p>The Ndung'u Commission report alleges that he illegally acquired land in Karura forest</p>	<p>Ndung'u Commission Report Annexes Vol. 2 pg.675</p>	<p>Area not developed</p>	<p>Revoke the title and repossess the public land.</p>
<p>Hosea Kiplagat Former Chairperson, Co-operative Bank of Kenya Ltd</p>	<p>Illegal and Irregular acquisition of public land.</p> <p>The Ndung'u Commission report states that he illegally acquired land in Ngong forest</p>	<p>Ndung'u Commission Report Annexes Vol. 2 pg.673</p>	<p>Land sold to NSSF</p>	<p>Revoke the title and repossess the public land.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Kuria Kanyingi <i>Former MP for Limuru constituency</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report states that he illegally acquired of land in Kiambu forest	Ndung'u Commission Report Annexes Vol. 2 pg.671	Land partially occupied	Revoke the title and repossess the public land.
Col. Jonathan Kipkemoi Rono <i>Former aid de camp to former president Moi. Currently Millitary officer</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report states that he illegally acquired 8.42 HA land-Kiptagich forest Plot No. 4 Reg.21/5/99	Ndung'u Commission Report Land Report Annexes Vol. 2 pg.593	No action	Revoke the title and repossess the public land.
Joseph G. Halake, <i>Senior Assistant Director of Survey. Ministry of Land</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndun'gu Commission report states that he illegally acquired 10 HA land-Kiptagich forest Plot No.14 Reg.13/4/99	Ndung'u Land Commission Report Annexes Vol. 2 pg. 594	Land later transferred to Sian Enterprises LTD and closed on combination	Revoke the title and repossess the public land.
Francis Kasungu Baya <i>Former PS Ministry of Lands and Settlement, P.C. Rift Valley- Currently Director Coast Development Authority</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report states that he illegally acquired 7.9 HA land-Kiptagich forest Plot No.16 Reg.13/4/99	Ndung'u Commission Report Annexes Vol. 2 Pg. 595	Land later tranfered to Sian Enterprises LTD and closed on combination 617	Revoke the title and repossess the public land.
Alfred K. Cherwon <i>Former Director of Land Adjudication and settlement</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report states that he illegally acquired 7.9 HA land-Kiptagich forest Plot No.17 Reg.13/4/99	Ndung'u Commission Report Annexes Vol. 2 pg.595	Land later tranfered to Sian Enterprises LTD and closed on combination 617	Revoke the title and repossess the public land.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
J.C.L.Litunda <i>Former D.C Nakuru</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndun'gu Commission report states that he illegally acquired 7.9 HA land-Kiptagich forest Plot No.19 Reg.13/4/99	Ndung'u Commission Report Annexes Vol. 2 pg.595	Land later transferred to Sian Enterprises LTD and closed on combination 617	Revoke the title and repossess the public land.
Joseph Dalldosso Lotodo <i>Former MP Baringo East</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report states that he illegally acquired 6.8 HA land-Kiptagich forest Plot No. 24 Reg.17/12/02	Ndung'u Commission Report Annexes Vol. 2 pg.596	Title issued on 13/1/03	Revoke the title and repossess the public land.
Wilson Koitaba Lalabur <i>Rtd.Military officer, Former MD National Cereals Board</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report states that he illegally acquired 7.37 HA land-Kiptagich forest Plot No. 27 Reg.13/4/99	Ndung'u Commission Report Annexes Vol. 2 pg.596	No action	Revoke the title and repossess the public land.
William Cheruiyot Morogo <i>Former MP Mogotio Constituency and Minister for Public and Housing</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 8.41 HA land-Kiptagich forest Plot No. 30 Reg.19/10/99	Ndung'u Commission Report Annexes Vol. 2 pg.596	No action	Revoke the title and repossess the public land.
Musa Sirma <i>Former MP Eldama Ravine</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 8.42 HA land-Kiptagich forest Plot No. 28	Ndung'u Commission Report Annexes Vol. 2 pg.596	No action	Revoke the title and repossess the public land.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Francis Sang <i>Former CID Director</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 8.42 HA land-Kiptagich forest Plot No. 28	Ndung'u Commission Report Annexes Vol. 2 pg.597	No action	Revoke the title and repossess the public land.
Augustine K Cheserem <i>Former Managing Director (MD), the then Kenya Post and Telecommunication Corporation</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 7.91 HA land-Kiptagich forest Plot No. 37	Ndung'u Commission Report Annexes Vol. 2 pg.597	Reg. 19/2/2001	Revoke the title and repossess the public land.
Edward Sambili <i>Former Deputy Governor Central Bank of Kenya-Currently Permanent Secretary, Ministry of Planning and National Development</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 7.05 HA land-Kiptagich forest Plot No. 49	Ndung'u Commission Report Annexes Vol. 2 pg.599	Reg. 9/2/2001	Revoke the title and repossess the public land.
Margaret Jepkoech Kamar <i>Former MP East Africa Legislative Council- Currently MP Eldoret East constituency</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that she illegally acquired 4.21 HA land-Kiptagich forest Plot No.92	Ndung'u Commission Report Annexes Vol. 2 pg.603	Reg. on 24/12/99 and title issued on the same day	Revoke the title and repossess the public land.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Joshua Terer <i>Former Ambassador and Former PS</i>	<i>Illegal and Irregular acquisition of public land.</i> <i>The Ndung'u Commission report alleges that he illegally acquired 8.42 HA land-Kiptagich forest Plot No. 100,101</i>	Ndung'u Commission Report Annexes Vol. 2 pg.604	No action	Revoke the title and repossess the public land.
Mark Bor <i>Former PS Ministry of Local Government</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest Plot No. 103,104	Ndung'u Land Report Annexes Vol. 2 pg. 604, 605	No action	Revoke the title and repossess the public land.
Doris Choge <i>Daughter of former President Moi</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that she illegally acquired 4.21 HA land-Kiptagich forest Plot No. 113	Ndung'u Land Report Annexes Vol. 2 pg. 605	No action	Revoke the title and repossess the public land.
Joseph Kipkemoi Rotich <i>Former Deputy Director of Presidential Press Service</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 86 Plot No. 119	Ndung'u Commission Report Annexes Vol. 2 pg.606	Reg.11.10.01	Revoke the title and repossess the public land.
Benjamin K Sogomo <i>Former Permanent Secretary, Ministry of Co-operatives and also Former Secretary Teachers Service Commission(TSC)</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 98 Plot No. 131	Ndung'u Commission Report Annexes Vol. 2 pg.607	Reg.31.1.00	Revoke the title and repossess the public land.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Solomon Boit <i>Former Secretary Public Service Commission</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 100 Plot No. 133	Ndung'u Commission Report Annexes Vol. 2 pg.607	Reg. 4.9.00	Revoke the title and repossess the public land.
Stephen Kipkebut Former DC, Kwale district,	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 105 Plot No. 138	Ndung'u Commission Report Annexes Vol. 2 pg. 608	Reg.17.9.99	Revoke the title and repossess the public land.
Isaac Kipchumba Rotich Lelkutwa <i>Former Provincial Settlement Officer, Rift Valley</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 106 Plot No. 154	Ndung'u Commission Report Annexes Vol. 2 pg.609	No action	Revoke the title and repossess the public land.
David Kipkemoi Korir <i>Former Prncial Police Officer (PPO) Nyanza</i>	Illegal and Irregular acquisition of public land. The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 119 Plot No. 156	Ndung'u Commission Report Annexes Vol.2 pg. 609	No action	Revoke the title and repossess the public land.
Reuben Rotich <i>Then Deputy Secretary Ministry of Local Government</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 121Plot No. 158	Ndung'u Commission Report Annexes Vol. 2 pg.610	No action	Revoke the title and repossess the public land.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Francis Kipyegon Arap Sigei, <i>Former PC, Nairobi</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 122Plot No. 159	Ndung'u Commission Report Annexes Vol. 2 pg.610	No action	Revoke the title and repossess the public land.
Philip K Toroitich, <i>Son of former President Moi</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 354 Plot No. 453	Ndung'u Commission Report Annexes Vol. 2 pg.636	No action (Double registration)	Revoke the title and repossess the public land.
H.H Nyapola, <i>Then Director of Survey, Ministry of Land and Settlement</i>	<i>Illegal and Irregular acquisition of public land.</i> Illegal acquisition of 2.11 HA land-Kiptagich forest S/No. 377 Plot No. 476	Ndung'u Commission Report pg. 639	No action	Revoke the title and repossess the public land.
Shukri Baramade, <i>Then Provincial Security Intelligence Officer, Coast Province in 1997 He was later promoted to be the Director of Internal Division of the NSIS and later the Director of the National Intelligence Academy in 2003. He has since retired and is the chair of the Kenya Ports Authority</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.41 HA land-Kiptagich forest S/No. 384 Plot No. 543	Ndung'u Commission Report Annexes Vol. 2 pg.640	No action	Revoke the title and repossess the public land.
	<i>Gross Human Violations during the politically instigated violence in Mombasa, 1997/1998</i> <i>The Akiwumi report states that he failed to effectively apply the provincial state security and intelligence apparatus to curb or quell the violence in Kwale and Mombasa in 1997/1998</i>	Akiwumi report pp. 38-39;40-45; 233-291	No action to date	Carry out further investigations to establish possible involvements in the violence and take legal necessary action.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Josiah Kipkirui Sang, <i>Former PS Lands Ministry</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 2.11 HA land-Kiptagich forest S/No. 409 Plot No. 568	Ndung'u Commission Report Annexes Vol. 2 pg.643	No action	Revoke the title and repossess the public land.
Zablon Mabea Agwata, <i>Senior Commissioner of Lands</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 491 Plot No. 679	Ndung'u Commission Report Annexes Vol. 2 pg.652	No action	Revoke the title and repossess the public land.
David Mbuto, <i>Then Provincial Surveyor, Nakuru</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 497 Plot No. 693	Ndung'u Commission Report Annexes Vol. 2 pg.653	No action	Revoke the title and repossess the public land.
Benjamin Rotich <i>Then Deputy PC Rift Valley</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 550 Plot No. 788	Ndung'u Commission Report Annexes Vol. 2 pg.658	No action	Revoke the title and repossess the public land.
Harry Haggai, <i>Director of Survey</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 579 Plot No. 828	Ndung'u Commission Report Annexes Vol. 2 pg.661	No action	Revoke the title and repossess the public land.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Tom Owuor, <i>Executive Director, Kenya Federation of Employers</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired of 4.21 HA land-Kiptagich forest S/No. 584 Plot No. 834	Ndung'u Commission Report Annexes Vol. 2 pg.661	No action	Revoke the title and repossess the public land.
Peter Otieno Raburu, <i>Former PC</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 603 Plot No. 872	Ndung'u Commission Report Annexes Vol. 2 pg.663	No action	Revoke the title and repossess the public land.
Joseph Korir, <i>Former MP Mogotio</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired 4.21 HA land-Kiptagich forest S/No. 606, 607	Ndung'u Commission Report Annexes Vol. 2 pg.664	No action	Revoke the title and repossess the public land.
John Mark Kibiwott, <i>Son of the former President Moi</i>	<i>Illegal and Irregular acquisition of public land.</i> The Ndung'u Commission report alleges that he illegally acquired land-Kiptagich forest	Ndung'u Commission Report Annexes Vol. 2 pg.665	No action	Revoke the title and repossess the public land.
John Michuki, <i>MP for Kangema, Minister for Internal Security(2003-2007) and Current Minister for Environment</i>	<i>Illegal raid of the Standard Media Group in 2006, the role and gross misconduct by the so called 'Artur Brothers'.</i> The Parliamentary Committee Report states that he acknowledged that the raid was a 'government operation'.	Parliamentary Committee Report into the Conduct of Arturs Brothers and Associates, pg 21, 25	No action	To resign and face prosecution

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Stanley Murage, <i>The n Permanent Secretary and Special Advisor to the President on Strategy</i></p>	<p><i>Illegal raid of the Standard Media Group in 2006, the role and gross misconduct by the so called 'Artur Brothers'.</i></p> <p>The Parliamentary Committee Report alleges that he together with Joseph Ndathi were involved in irregular clearance of the Artur Bothers at the airport, was a key person involved in the raid at the Standard Newspapers</p>	<p>Parliamentary Committee Report into the Conduct of Artur Brothers and Associates, pg 15,25</p>	<p>No action</p>	<p>appropriate legal action should be taken</p>
<p>Joseph Ndathi <i>Immigration Department</i></p>	<p><i>Illegal raid of the Standard Media Group in 2006, the role and gross misconduct by the so called 'Artur Brothers'.</i></p> <p>The Parliamentary Committee Report states that he together with Stanley Murage were involved in irregular clearance of the Artur Bothers at the airport, was a key person involved in the raid at the Standard Newspapers</p>	<p>Parliamentary Committee Report into the Conduct of Artur Brothers and Associates, pg 15,25</p>	<p>No action</p>	<p>To face prosecution</p>
<p>Ambassador, Francis Muthaura, <i>Head of Civil Service and Secretary to the Cabinet</i></p>	<p><i>Illegal raid of the Standard Media Group in 2006, the role and gross misconduct by the so called 'Artur Brothers'.</i></p> <p>The Parliamentary Committee Report states that he was in the meeting which recommended the deportation of the Artur Brother, was well informed of the presence of the Artur Brothers in the country.</p>	<p>Parliamentary Committee Report into the Conduct of Artur Brothers and Associates, pg 35</p>	<p>No action</p>	<p>Further investigation and prosecution and/or resignation</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p><i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i></p> <p>According to the investigations by the ICC, he together with Major General Hussein Ali (then Commissioner of Police) are alleged to have used the police to perpetrate attacks against ODM supporters in Kisumu and Kibera between the end of December 2007 and mid January 2008 to suppress any protests by them</p>	<p>“Decision(s) on the Prosecutor's Application Summons to Appear for and Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali, Nos, ICC-01/09-02/11-March 8, 2011”.</p>	<p>Together with 2 others he was summoned on March 8 2011 for initial appearance at the ICC's Pre-Trial chamber II on April 7 2011</p>	<p>Matter with ICC</p> <p>Establish an effective local tribunal to deal with the lower level perpetrators of the 2007-2007 violence</p>
<p>Major General Hussein Ali <i>Commissioner of Police (2003-2009), Currently the Postmaster General Postal Corporation of Kenya</i></p>	<p>According to the investigations by the ICC, he together with Francis Muthaura (above) are alleged to have used the police to perpetrate attacks against ODM supporters in Kisumu and Kibera between the end of December 2007 and mid January 2008 to suppress any protests by them</p> <p>Adversely mentioned in KNCHR Report (The Cry of Blood) on extra-judicial killings in Kenya</p>	<p>“Decision(s) on the Prosecutor's Application for Summons to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali, Nos, ICC-01/09-02/11-March 8, 2011”.</p> <p>KNCHR Report on Extra-judicial killings in Kenya (The Cry of Blood)</p>	<p>Together with 2 others we summoned in March 8 2011 for initial appearance at the ICC's Pre-Trial chamber II in April 7 2011</p> <p>He was finally transferred to the Postal Corporation of Kenya owing to public pressure. KNCHR Report on Extra-judicial killings in Kenya (The Cry of Blood)</p>	<p>Matter with ICC</p> <p>Establish an effective local tribunal to deal with the lower level perpetrators of the 2007-2007 violence</p> <p>further investigations to establish criminal liability and take legal action</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Joseph Kamau, <i>then CID director</i></p>	<p>Alleged to have been in the company of the Artur Bothers at the government spokesperson's office, was well briefed of the presence of the said brother and his juniors were seen at the airport confronting the customs officers</p>	<p>Parliamentary Committee Report into the Conduct of Arturs Brothers and Associates, pg 24,25,35</p>	<p>Was sacked</p>	<p>Should be investigated and prosecuted</p>
<p>Hon Uhuru Kenyatta <i>MP Gatundu North, Minister of Finance and National Chairperson, KANU</i></p>	<p><i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i></p> <p>The KNCHR report alleges that he planned and financed</p>	<p>KNCHR Report-On the Brink of the Precipice...pg 184</p>	<p>Report shared with Waki Commission and International Criminal Court team for further investigations.</p> <p>He instituted Judicial Review proceedings for orders of certiorari to remove his name from the report. The court declined to give the orders (Misc Civil Appn 86 of 2009).</p>	<p>Conduct further investigations.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
	<p>According to the investigations by the ICC, he together with Major General Hussein Ali (then Commissioner of Police) are alleged to have used the police to perpetrate attacks against ODM supporters in Kisumu and Kibera between the end of December 2007 and mid January 2008.</p>	<p>“Decision(s) on the Prosecutor's Application for Summons to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali, Nos, ICC-01/09-02/11-March 8, 2011”.</p>	<p>Together with 2 others was summoned on March 8 2011 for initial appearance at the ICC's Pre-Trial chamber II on April 7 2011</p>	<p>Matter with ICC</p> <p>Establish an effective local tribunal to deal with the lower level perpetrators of the 2007-2007 violence</p>
<p>Mary Wambui, <i>PNU Activist</i></p>	<p><i>Illegal raid on the Standard Media Group in 2006, her role in the raid and the gross misconduct by the so called 'Artur Brothers'.</i></p> <p>The Parliamentary Committee Report indicates that the vehicles used by the 'brothers' were registered in her name.</p>	<p>Parliamentary Committee Report into the Conduct of Artur Brothers and Associates, pg 34</p>	<p>No action</p>	<p>Investigate and prosecute if found criminally liable.</p>
<p>Winnie Wambui, <i>Daughter of Mary Wambui</i></p>	<p><i>Illegal raid on the Standard Media Group in 2006, the role and gross misconduct by the so called 'Artur Brothers'.</i></p> <p>The Parliamentary Committee Report states that she carried out business with the 'brother' under a company known as Kensington Holdings Ltd</p>	<p>Parliamentary Committee Report into the Conduct of Artur Brothers and Associates, pg 19</p>	<p>No action</p>	<p>Investigate and prosecute if found criminally liable.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Samuel Kirui <i>former PS Ministry of Local Government</i>	<i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i> The KNCHR report alleges that he planned, incited and financed political violence	KNCHR Report-On the Brink of the Precipice pg	Report shared with Waki Commission and International Criminal Court team for further investigations	Conduct further investigations to establish criminal liability and take legal action.
Hon. Boaz Kaino <i>MP Markwet West Constituency</i>	<i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i> The KNCHR report states that he incited violence	KNCHR Report-On the Brink of the Precipice pg 182	Report shared with Waki Commission and International Criminal Court team for further investigations	Conduct further investigations to establish criminal liability and take legal action.
Hon. Fred Kapondi <i>MP Mt Elgon Constituency.</i>	<i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i> The KNCHR report charges him with inciting violence when he addressed a rally in Ziwa and called for the expulsion of Luhyas in Transnzoia.	KNCHR Report-On the Brink of the Precipicepg 182	Report shared with Waki Commission and International Criminal Court team for further investigations	Conduct further investigations to establish criminal liability and take legal action.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Hon. Omondi Anyanga MP Nyakatike Constituency</p>	<p><i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i></p> <p>The KNCHR report charges him with participation and funding of the violence.</p>	<p>KNCHR Report-On The Brink Of Precipice... pg 183</p>	<p>Report shared with Waki Commission and International Criminal Court team for further investigations</p>	<p>Conduct further investigations to establish criminal liability and take legal action.</p>
<p>Hon. John Pesa MP Migori Constituency</p>	<p><i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i></p> <p>The KNCHR report charges him with incitement to violence</p>	<p>KNCHR Report-On The Brink Of Precipicepg 184</p>	<p>Report shared with Waki Commission and International Criminal Court team for further investigations</p>	<p>Conduct further investigations to establish criminal liability and take legal action.</p>
<p>Hon. Ramadhan Kajembe MP Changamwe Constituency</p>	<p><i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i></p> <p>The KNCHR report charges him with incitement and participation in violence</p>	<p>KNCHR Report-On The Brink Of Precipice...Pg 184</p>	<p>Report shared with Waki Commission and International Criminal Court team for further investigations</p>	<p>Conduct further investigations to establish criminal liability and take legal action.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Hon. Peter Mwathi <i>MP Limuru Constituency</i>	<i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i> The KNCHR report charges him with incitement to violence.	KNCHR Report - On The Brink Of Precipice; pg 184	Report shared with Waki Commission and International Criminal Court team for further investigations	Conduct further investigations to establish criminal liability and take legal action. Matter with ICC Establish an effective local tribunal to deal with the lower level perpetrators of the 2007-2007 violence
Hon Kabando wa Kabando <i>MP Mukurweini</i>	<i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i> The KNCHR report states that he planned and financed the violence	KNCHR Report - On The Brink Of Precipice...Pg 184	Report shared with Waki Commission and International Criminal Court team for further investigations	Conduct further investigations to establish criminal liability and take legal action.
Hon. Stanley Githunguri <i>MP Kiambaa</i>	<i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i> The KNCHR report states that he incited and funded the violence	KNCHR Report-On The Brink Of Precipice.. pg 185	Report shared with Waki Commission and International Criminal Court team for further investigations	Conduct further investigations to establish criminal liability and take legal action.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Hon. Peter Mwathi <i>MP Limuru Constituency</i></p>	<p><i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i></p> <p>The KNCHR report charges him with incitement to violence.</p>	<p>KNCHR Report - On The Brink Of Precipice; pg 184</p>	<p>Report shared with Waki Commission and International Criminal Court team for further investigations</p>	<p>Conduct further investigations to establish criminal liability and take legal action. Matter with ICC Establish an effective local tribunal to deal with the lower level perpetrators of the 2007-2007 violence</p>
<p>Hon. Najib Balala <i>MP Mvita Constituency and Minister for Tourism</i></p>	<p><i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i></p> <p>The KNCHR report charges him with that he incitement and funding violence</p>	<p>KNCHR Report-On The Brink Of Precipice...pg 185</p>	<p>Report shared with the Waki Commission and International Criminal Court team for further investigations</p>	<p>Conduct further investigations to establish criminal liability and take legal action.</p>
<p>Hon. Chris Okemo <i>MP Nambale Constituency</i></p>	<p><i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i></p> <p>The KNCHR report charges him with incitement to violence.</p>	<p>KNCHR Report - On The Brink Of Precipice... pg 185</p>	<p>Report shared with the Waki Commission and International Criminal Court team for further investigations</p>	<p>Conduct further investigations.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Hon. Elizabeth Ongoro <i>MP Kasarani Constituency</i>	the KNCHR report charges her with financing and planning the violence, stating that she supplied money for petrol used to burn houses in Kijiji Cha Chewa	KNCHR Report - On The Brink Of Precipice pg 185	Report shared with Waki Commission and International Criminal Court team for further investigations	Conduct further investigations to establish criminal liability and take legal action.
Paul Olando <i>Then Provincial Commissioner Nyanza, currently Permanent Secretary, Ministry of State for Special Programmes (MoSSP).</i>	<i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i> The KNCHR report alleges that he ordered the use of excessive force	KNCHR Report - On The Brink Of Precipice; pg 186	Report shared with the Waki Commission and International Criminal Court team for further investigations	Conduct further investigations to establish criminal liability and take legal action.
Grace Kaindi <i>Provincial Police Officer Nyanza</i>	<i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i> The KNCHR report alleges that he ordered the use of excessive force	KNCHR Report-On The Brink Of Precipice...pg 186	Report shared with Waki Commission and International Criminal Court team for further investigations	Conduct further investigations to establish criminal liability and take legal action.

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Scaver Mbogo Provincial Criminal Investigating Officer Nyanza</p>	<p><i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i></p> <p>The KNCHR report alleges that he ordered the use of excessive force</p>	<p>KNCHR Report - On The Brink Of Precipice pg 186</p>	<p>Report shared with Waki Commission and International Criminal Court team for further investigations</p>	<p>Conduct further investigations to establish criminal liability and take legal action.</p>
<p>Mr. Omwanga National Security Intelligence Service (NSIS) Officer Nyanza</p>	<p><i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i></p> <p>The KNCHR report alleges that he incited and planned violence</p>	<p>KNCHR Report - On The Brink Of Precipice pg 186</p>	<p>Report shared with Waki Commission and International Criminal Court team for further investigations</p>	<p>Conduct further investigations to establish criminal liability and take legal action.</p>
<p>David Manyara Former MP Nakuru Town.</p>	<p><i>Gross Human Violations during the politically instigated violence in different parts in 2007/2008</i></p> <p>The KNCHR report charges that mobilized and led around 300 members of Mungiki to Ponda Mali Estate of Nakuru around January 15, 2008; also alleged to have bought pangas from Woolmat Supermarket in preparation for attacks.</p>	<p>KNCHR Report-On the brink of precipice....pg 225</p>	<p>Report shared with Waki Commission and International Criminal Court team for further investigations</p>	<p>Conduct further investigations.</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Dave Mwangi former Permanent Secretary, Office of the President</p>	<p><i>Alleged involvement in corruption</i></p> <p>According to the Cemetery report, he was allegedly involved in the purchase of land for cemetery by City Council of Nairobi.</p>	<p>The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi. Pg 45,46</p>	<p>Stepped down from his position</p>	<p>Matter ongoing in court</p>
<p>Sammy Kirui, Then Permanent Secretary Ministry of Local Government</p>	<p><i>Alleged involvement in corruption</i></p> <p>According to the Cemetery report, he was allegedly involved in the purchase of land for cemetery by City Council of Nairobi.</p>	<p>The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi. pg 41</p>		<p>Matter ongoing in court</p>
<p>John Gakuo, Former Town Clerk-Nairobi and Current Project Coordinator Nairobi River.</p>	<p><i>Alleged involvement in corruption</i></p> <p>According to the Cemetery report, he was allegedly involved in the purchase of land for cemetery by City Council of Nairobi.</p>	<p>The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi. pg 49</p>	<p>Charged in connection with the Cemetery land scandal. Suspended to pave way for investigations</p>	<p>Matter ongoing in court</p>
<p>Kanyi Nyambura, Director of Planning- Ministry of Local Government</p>	<p><i>Alleged involvement in corruption</i></p> <p>According to the Cemetery report, he was allegedly involved in the purchase of land for cemetery by City Council of Nairobi.</p>	<p>The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi Pg 52</p>	<p>Charged in connection with the Cemetery land scandal. Suspended to pave way for investigations</p>	<p>Matter ongoing in court</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>Alexander Musee, The Deputy Director Procurement- Ministry of Local Government</p>	<p><i>Alleged involvement in corruption</i></p> <p>According to the Cemetery report, he was allegedly involved in the purchase of land for cemetery by City Council of Nairobi.</p>	<p>The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi, pg 50.</p>	<p>Charged in connection with the Cemetery land scandal. Suspended to pave way for investigations</p>	<p>Matter ongoing in court</p>
<p>I.N. Ngacha, The Chief Internal Auditor City Hall</p>	<p><i>Alleged involvement in corruption</i></p> <p>According to the Cemetery report, he chaired the evaluation team that endorsed a false report which was the basis of the whole fraud.</p>	<p>The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi, Pg 43,51</p>	<p>Charged in connection with the Cemetery land scandal. Suspended to pave way for investigations</p>	<p>Matter ongoing in court</p>
<p>Paul Chapia Onduso, Lawyer</p>	<p><i>Alleged involvement in corruption</i></p> <p>According to the Cemetery report, he was allegedly involved in the purchase of land for cemetery by City Council of Nairobi.</p>	<p>The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi pg 53</p>	<p>Charged in connection with the Cemetery land scandal.</p>	<p>Matter ongoing in court</p>

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
Davies Odera Osiema, <i>Lawyer</i>	<i>Alleged involvement in corruption</i> According to the Cemetery report, he was allegedly involved in the purchase of land for cemetery by City Council of Nairobi.	The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi Pg 48	Charged in connection with the Cemetery land scandal. Suspended to pave way for investigations	Matter ongoing in court
Bonface Okerosi Misera <i>Director of Procurement, Local Government Ministry</i>	<i>Alleged involvement in corruption</i> The Cemetery report indicates that his negligence of duty enabled the fraud to be perpetrated.	The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi Pg 43,52	Charged in connection with the Cemetery land scandal, and also suspended to pave way for investigations	Matter ongoing in court
Karisa Iha <i>Deputy Director Legal Affairs</i>	<i>Alleged involvement in corruption</i> The Cemetery report indicates he declared land to be suitable knowing very well it was not.	The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi. Pg 43,50	Charged in connection with the Cemetery land scandal.	Matter ongoing in court
Dr. Nguku <i>Medical Officer of Health</i>	<i>Alleged involvement in corruption</i> The Cemetery report indicates that he was involved in the purchase of land for cemetery by City Council of Nairobi	The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi. Pg 43	Charged in connection with the Cemetery land scandal, and also suspended to pave way for investigations	Be interdicted and investigated

Name And Position	Alleged Violation or Economic Crime	Reference	Action Taken	Recommendation
<p>R.K. Rotich <i>Director City Planning</i></p>	<p><i>Alleged involvement in corruption</i></p> <p>The Cemetery report indicates that he was the chair of the tender committee that awarded the irregular tender</p>	<p>The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi. Pg 49</p>	<p>Should be investigated and charged with the appropriate offence.</p>	
<p>N. Otido <i>Deputy Town Clerk</i></p>	<p><i>Alleged involvement in corruption</i></p> <p>The Parliamentary Report on the Cemetery land indicates that was Chair of the Tender Committee that awarded the irregular tender and he signed the sale agreement and the transfer document for the Mavoko land which is unsuitable for a cemetery.</p>	<p>The Departmental Committee on Local Authorities Report on the Procurement of Cemetery Land By the City Council of Nairobi. Pg 42,52</p>	<p>Charged in connection with the Cemetery land scandal. Suspended to pave way for investigations</p>	<p>Matter pending in court</p>
<p>Geoffrey Majiwa <i>Then Mayor of Nairobi</i></p>	<p><i>Alleged involvement in corruption</i></p> <p>According to the media briefs by the Kenya Anti-Corruption Commission (KACC), he demanded a bribe in order to waive a fine of tax invasion against a mineral water bottle company along Mlolongo. He also attempted to bribe KACC officers to release him.</p>	<p>Kenya Anti Corruption Commission media briefs</p>	<p>Charged in Anti corruption Court.</p>	

APPENDIX

Other Critical Reports and Sources for Future Consideration:

1. Periodical press briefings by KACC for instance:

- “KACC arrests Sammy Kirui Permanent Secretary Ministry of Local Government, John Gakuo Former Town Clerk and 15 other suspects who will be arraigned in court to face corruption related charges -28th April 2010”;
- “Dickson Wakesa, Assistant Commissioner of KRA to be taken to court by KACC-25th March 2010”;
- “Davy Koech and others(Dunstan Magu Ngumo, Renison Arap Kirui, William Kipyego Seurei, Joel Achiba Duda and Battan Mecca Khaemba) to be arraigned in court on corruption charges involving Ksh.421 million belonging to KEMRI-8th January 2010”;
- “KACC arrests Hon. Justice Said Juma Chitembwe at his residence in Mombasa and Rachael Khavaya Lumbasyo, a former managing trustee with NSSF-28th December 2009”;
- “War on Corruption” and “Another Minister on KACC radar over devolved funds” in Daily Nation, Wednesday, January 12, 2011, pp 2 and 11.

2. Reports by Mars Group Media and media on corruption cases in Kenya for instance:

- Wetangula report on Embassies:
<http://blog.marsgroupkenya.org/?p=2435>
- Kombo List of Shame:
http://www.marsgroupkenya.org/pdfs/july_07/Kombo-Report-List-of-Shame%28appendix2%29Part%20I.pdf
- PIC 10th Report:
http://www.marsgroupkenya.org/pdfs/Oct_07/PIC_Reports_adversely_mentioned/PIC_10th_REPORT.pdf
- PIC 12th Report:
http://www.marsgroupkenya.org/pdfs/Oct_07/PIC_Reports_adversely_mentioned/12th_pic_report.pdf#3949
- PIC 13th Report:
http://www.marsgroupkenya.org/pdfs/Oct_07/PIC_Reports_adversely_mentioned/13th_PIC_Report_People_Mentioned_1.pdf#3950
- PIC 14th Report:
http://www.marsgroupkenya.org/pdfs/Oct_07/PIC_Reports_adversely_mentioned/PIC_Report_14_List_of_Mentioned%20Names.pdf#3948

- PIC 15th Report:
http://www.marsgroupkenya.org/pdfs/Oct_07/PIC_Reports_adversely_mentioned/15th_report_table.pdf#3951
3. Safaricom Sale PIC Report:
http://www.marsgroupkenya.org/pdfs/Oct_07/15TH%20PIC%20REPORT/Safaricom_Ltd.pdf
4. Finally, some of the reports considered above are available on line at Mars Groups website:
- Triton report :
http://www.marsgroupkenya.org/documents/index.php?option=com_docman&task=cat_view&gid=38&limit=5&limitstart=0&order=name&dir=ASC&Itemid=2
 - Anglo leasing:
http://www.marsgroupkenya.org/Reports/Government/PAC_Report_March_2006.pdf
 - Maize scandal report:
http://www.marsgroupkenya.org/documents/index.php?option=com_docman&task=cat_view&gid=37&limit=5&limitstart=0&order=name&dir=ASC&Itemid=2
 - Acquisition of cemetery land report:
http://www.marsgroupkenya.org/pdfs/2010/03/Special_Audit_Report_on_the_Purchase_of_Cemetery_by_Nairobi_City_Council_KNAO_12th_February_2010.pdf

<http://www.nation.co.ke/News/Ten%20to%20face%20charges%20in%20cemetery%20scandal/-/1056/908074/-/7a7pe9/-/index.html>;

http://www.standardmedia.co.ke/InsidePage.php?id=2000008645&cid=418&usg=AFQjCNGmjXvUsYZ9rOEMPd7_IeMu3daLUg
 - Grand Regency report:
http://www.marsgroupkenya.org/pdfs/2010/01/THE_COCKER_REPORT.pdf

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4. Comments by the Government on the Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya (Akiwumi Report).
5. Howse, R. The Concept of Odious Debt in Public International Law.
6. Kagwe, T. (February 2007). GJLOS: Chasing the Wind? A Human Rights Appraisal.
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11. (March 2006)Kenya National Assembly Public Accounts Committee Report on Special Audit on Procurement of Passport Issuing Equipment by the Department of Immigration, Office of the Vice President and Ministry of Home Affairs.
12. Republic of Kenya Special Audit Report of the Controller and Auditor General on the Purchase of Land for Cemetry by City Council of Nairobi
13. Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land (June 2004)
14. The Report of the Judicial Commission of Inquiry into the Goldenberg Affair (October 2005)
15. Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya July 31, 1999
16. Report of the Commission of Inquiry into the Sale of the Grand Regency Hotel, November 2008)
17. Report of the Select Committee Investigating the Circumstances Leading to the Death of the Late Dr. The Hon. Robert John Ouko EGH, MP, Vol. 1-3 March 2005
18. Republic V Judicial Commission of Inquiry Into the Goldenberg Affairs & 2 Others Exparte George Saitoti (2006) eKLR.
19. Roshanali Karmari Pradhan v The Attorney General Mombasa High Court Misc. Civil Application No. 65 of 2002
20. Nairobi Inquest Case No.13 of 2003: Fr. Anthony John Kaiser (Deceased)
21. The Truth Justice and Reconciliation Commission Act
22. The Anti Corruption and Economic Crimes Act
23. The Public Officers Ethics Act
24. The Kenya National Commission on Human Rights Act

25. The International Crimes Act
26. The Public Procurement and Disposal Act
27. The National Accord and Reconciliation Act
28. the International Covenant on Economic Social and Cultural Rights
29. the International Covenant on Civil and Political Rights
30. The Universal Declaration on Human Rights
31. The African Charter on Human and Peoples Rights
32. The Rome Statute
33. The United Nations
34. The Basic Principles and Guidelines on the Right to a Remedy and Reparation
35. The African Union Convention on Preventing and Combating Corruption
36. The United Nations Convention Against Corruption